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Contents

Federal Register

Vol. 79, No. 101

Tuesday, May 27, 2014

Agency for Toxic Substances and Disease Registry
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 30146–30147

Agriculture Department
See Forest Service
See Grain Inspection, Packers and Stockyards Administration
See Rural Utilities Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 30073
Meetings:
Strategic Economic and Community Development; Farm Bill Implementation Listening Session, 30073–30074

Antitrust Division
NOTICES
Changes Under National Cooperative Research and Production Act:
U.S. Photovoltaic Manufacturing Consortium, Inc., 30165

Antitrust
See Antitrust Division

Bonneville Power Administration
NOTICES
Environmental Impact Statements; Availability, etc.:
Crystal Springs Hatchery Program, 30112–30114

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 30147–30148

Coast Guard
RULES
Safety Zones:
Biotechnology Industry Organization; San Diego, CA, 30043
Special Local Regulations and Safety Zones:
Recurring Marine Events and Fireworks Displays Within the Fifth Coast Guard District, 30025–30043
PROPOSED RULES
Petition for Rulemaking:
Special Load Line Exemption for Lake Michigan, 30061–30062

Commerce Department
See Foreign-Trade Zones Board
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Community Living Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Certification of Maintenance of Effort on Help America Vote Act, 30148–30149

Defense Department
NOTICES
Meetings:
Defense Health Board, Public Health Subcommittee, 30086–30087
Defense Intelligence Agency National Intelligence University Board of Visitors, 30087–30088
Military Family Readiness Council Federal Advisory Committee, 30087
Revised Non-Foreign Overseas Per Diem Rates, 30088–30097

Delaware River Basin Commission
NOTICES
Public Hearings, 30097–30098

Education Department
PROPOSED RULES
Proposed Priorities:
National Institute on Disability and Rehabilitation Research; Rehabilitation Research and Training Centers, 30056–30060
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Federal Direct Loan Program and Federal Family Education Loan Program Teacher Loan Forgiveness Forms, 30098
Applications for New Awards;
Charter Schools Program Grants to Non-State Educational Agency Eligible Applicants for Planning, Program Design, and Initial Implementation and for Dissemination, 30099–30109

Employment and Training Administration
NOTICES
Worker Adjustment Assistance Eligibility; Investigations, 30166
Worker Adjustment Assistance Eligibility; Amended Certifications:
International Paper Company, et al.; Courtland, AL, 30167
Soy Basics, LLC; New Hampton, IA, 30167
Startek USA, Inc., Jonesboro, AR, 30167–30168
Worker Adjustment Assistance Eligibility; Determinations:
AXA Equitable Life Insurance Company; Charlotte, NC, 30168
Ocwen Loan Servicing, LLC, et al.; Waterloo, IA, 30168–30169

Energy Department
See Bonneville Power Administration
See Federal Energy Regulatory Commission
NOTICES
Applications To Import and Export Natural Gas, etc.:
Venture Global LNG, LLC, 30109–30112

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee; Removal of Obsolete Regulations, 30045–30052
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 30117–30132
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Alternative Affirmative Defense Requirements for Ultra-Low Sulfur Diesel, 30133–30134
SmartWay Transport Partnership, 30132–30133
Determinations:
Massachusetts Marine Sanitation Device Standard, 30134–30135
Meetings:
Clean Air Scientific Advisory Committee Augmented Sulfur Oxides Primary NAAQS Review Panel, 30137–30138
Human Studies Review Board, 30135–30137

Executive Office of the President
See Presidential Documents

Farm Credit Administration
RULES
Disclosure to Shareholders; CFR Correction, 30005

Federal Aviation Administration
RULES
Airworthiness Directives:
Airbus Helicopters (Type Certificate Previously Held by Eurocopter France) Helicopters, 30015–30017
The Boeing Company Airplanes, 30005–30015
Modification of Air Traffic Service Routes:
North Central United States, 30017–30019
Modification of the Philadelphia, PA, Class B Airspace Area, 30019–30021
PROPOSED RULES
Amendment of Class D Airspace:
Wichita, McConnell AFB, KS, 30054–30055

Federal Communications Commission
RULES
Frequency Allocations and Radio Treaty Matters; General Rules and Regulations; CFR Correction, 30053
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 30138–30139
Meetings:
North American Numbering Council, 30139–30140
Radio Broadcasting Services:
AM or FM; Proposals To Change the Community of License, 30140

Federal Deposit Insurance Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Retail Foreign Exchange Transactions, 30140–30141
Updated Listing of Financial Institutions in Liquidation, 30141

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 30114–30116

Federal Maritime Commission
NOTICES
Ocean Transportation Intermediary License Reissuances, 30141
Ocean Transportation Intermediary License Revocations and Terminations, 30142

Federal Motor Carrier Safety Administration
PROPOSED RULES
Medical Examiner's Certification Integration; Privacy Impact Assessment, 30062–30064

Federal Reserve System
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 30142
Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction, 30142

Federal Trade Commission
NOTICES
Proposed Consent Agreements:
Marker Volkl GmbH and Tecnica Group, SpA., 30143–30145

Financial Stability Oversight Council
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Designation of Financial Market Utilities, 30145–30146

Fish and Wildlife Service
RULES
Implemention of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, 30400–30429

Food and Drug Administration
PROPOSED RULES
Food Labeling:
Nutrition and Supplement Facts Labels; Revision, 30055–30056
Serving Sizes of Foods That Can Reasonably Be Consumed at One-Eating Occasion; etc., 30056

Foreign-Trade Zones Board
NOTICES
Expansions of Trade Zones:
Foreign-Trade Zone 84, Houston, TX, 30077–30078
Production Authority Applications:
Foreign-Trade Zone 38; Kravet Inc.; Anderson, SC, 30078–30079
Reorganizations Under Alternative Site Framework:
Foreign-Trade Zone 15, Kansas City, MO, 30079
Foreign-Trade Zone 39; Dallas/Fort Worth, TX, 30079

Forest Service
NOTICES
Environmental Impact Statements; Availability, etc.:
Forest Plan Amendment; Tongass National Forest; A K, 30074–30075

General Services Administration
NOTICES
Meetings:
Commission to Eliminate Child Abuse and Neglect Fatalities; Corrections, 30146

Geological Survey
NOTICES
Meetings:
Advisory Committee on Climate Change and Natural Resource Science, 30157–30158

Grain Inspection, Packers and Stockyards Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 30076

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Community Living Administration
See Food and Drug Administration
See National Institutes of Health
RULES
Patient Protection and Affordable Care Act:
Exchange and Insurance Market Standards for 2015 and Beyond, 30240–30353

Homeland Security Department
See Coast Guard
See U.S. Customs and Border Protection
NOTICES
Meetings:
National Infrastructure Advisory Council, 30155–30156

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Requirement for Contractors To Provide Certificates of Insurance for Capital Program Projects, 30156–30157

Industry and Security Bureau
RULES
Revisions to the Export Administration Regulations Based on the 2013 Missile Technology Control Regime Plenary Agreements, 30021–30025
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Additional Protocol Report Forms, 30080
Import, End-User, and Delivery Verification Certificates, 30079–30080

Interior Department
See Fish and Wildlife Service
See Geological Survey
See Land Management Bureau
See National Park Service

International Trade Administration
NOTICES
Antidumping Duty Administrative Reviews; Results, Extensions, Amendments, etc.:
Frontseating Service Valves From the People's Republic of China, 30081–30082
Antidumping Duty and Countervailing Duty Determinations; Results, Extensions, Amendments, etc.:
Calcium Hypochlorite From the People's Republic of China, 30082–30084
Antidumping Duty Investigations; Results, Extensions, Amendments, etc.:
Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China and Taiwan, 30084–30085
Meetings:
Renewable Energy and Energy Efficiency Advisory Committee, 30085

International Trade Commission
NOTICES
Antidumping Duty Orders; Results, Extensions, Amendments, etc.:
Electrolytic Manganese Dioxide From Australia and China, 30163–30164

Justice Department
See Antitrust Division
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Supplementary Homicide Report, 30164–30165

Labor Department
See Employment and Training Administration
See Mine Safety and Health Administration
See Occupational Safety and Health Administration
See Workers Compensation Programs Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Employment and Training Data Validation Requirement, 30165–30166

Land Management Bureau
NOTICES
Alaska Native Claims Selection, 30158
Privacy Act; Systems of Records, 30158–30161
Requests for Nominations:
Las Cruces District Resource Advisory Council, NM, 30161–30162
Northern California Resource Advisory Council, 30161

Legal Services Corporation
RULES
Restrictions on Legal Assistance to Aliens; Corrections, 30052–30053

Maritime Administration
NOTICES
Requests for Administrative Waivers of the Coastwise Trade Laws:
Vessel DEVOCEAN, 30226
Vessel LIVIN' WRIGHT, 30227
Vessel SALINA 48, 30225–30226
Vessel SPITFIRE, 30226–30227
Vessel SUNNY 1, 30227–30228
Vessel SUNSET SEAKER, 30228

Mine Safety and Health Administration
NOTICES
Petitions:
Mandatory Safety Standards; Modifications, 30169–30181

National Archives and Records Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 30183–30184
Meetings:
Office of Government Information Services, Freedom of Information Act Advisory Committee, 30184

National Highway Traffic Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 30228–30231
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Automobile Parts Content Labeling, 30231–30232
Federal Vehicle Theft Prevention Standards;
Jaguar Land Rover North America LLC; Exemption, 30232–30234
Meetings:
Early Warning Reporting, Foreign Defect Reporting, and Motor Vehicle and Equipment Recall Reporting Training Sessions, 30234–30235

National Institutes of Health
NOTICES
Meetings:
Advisory Committee to the Director, 30150
Center for Scientific Review, 30151, 30153–30155
National Heart, Lung, and Blood Institute, 30149–30150
National Institute of Allergy and Infectious Diseases, 30149, 30152
National Institute of Diabetes and Digestive and Kidney Diseases, 30152–30153
National Institute of Environmental Health Sciences, 30152
National Institute of Mental Health, 30150–30151
National Institute of Nursing Research, 30151
National Institute on Drug Abuse, 30150–30151
National Institute on Minority Health and Health Disparities, 30153
Public Hearings:
National Center for Complementary and Alternative Medicine Proposed Name Change, 30155

National Oceanic and Atmospheric Administration
PROPOSED RULES
Atlantic Highly Migratory Species:
Environmental Assessment for Amendment 6 to the 2006 Consolidated Fishery Management Plan, 30064–30065
Fisheries of the Northeastern U. S.:
Monkfish; Framework Adjustment 8, 30065–30072
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Pacific Islands Region Vessel and Gear Identification Requirements, 30085–30086

National Park Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Programmatic Clearance for NPS-Sponsored Public Surveys, 30162–30163

National Science Foundation
NOTICES
Antarctic Conservation Act Permit Applications, 30184

Nuclear Regulatory Commission
NOTICES
Facility Operating and Combined Licenses:
Applications and Amendments Involving Proposed No Significant Hazards Considerations, 30184–30191
License Modifications:
Exelon Generation Company, LLC, Clinton Power Station Independent Spent Fuel Storage Installation, 30197–30202
Tennessee Valley Authority, Watts Bar Nuclear Plant Independent Spent Fuel Storage Installation, 30191–30196
Meetings; Sunshine Act, 30196–30197

Occupational Safety and Health Administration
NOTICES
Nationally Recognized Testing Laboratories:
TUV SUD Product Services GmbH; Application for Expansion, 30181–30183

Personnel Management Office
NOTICES
Privacy Act; Systems of Records, 30202–30204

Presidential Documents
PROCLAMATIONS
Special Observances:
National Maritime Day (Proc. 9130), 30003–30004

Rural Utilities Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals; Correction, 30077

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 30204
Self-Regulatory Organizations; Proposed Rule Changes:
Chicago Board Options Exchange, Inc., 30210–30215
Financial Industry Regulatory Authority, Inc., 30206–30209, 30217–30221
NYSE Arca, Inc., 30209–30210
NYSE MKT LLC, 30205–30206, 30215–30216
Trading Suspension Orders:
Angel Acquisition Corp. n/k/a BioGeron, Inc., 30222
First Power and Light, Inc. n/k/a Volt Solar Systems, Inc., 30222
International Development and Environmental Holdings, 30221

Small Business Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 30222
Disaster Declarations:
Tennessee, 30223
Texas, 30222–30223
Washington, 30223–30224

State Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
U.S. National Commission for UNESCO Laura W. Bush Traveling Fellowship, 30224

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Transportation Department
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See Maritime Administration

See National Highway Traffic Safety Administration
NOTICES
Request for Nominations:
National Advisory Council on Indian Education, 30224–30225

Treasury Department
RULES
African Growth and Opportunity Act:
Generalized System of Preferences and Trade Benefits, 30356–30398
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 30235–30237

U.S. Customs and Border Protection
RULES
African Growth and Opportunity Act:
Generalized System of Preferences and Trade Benefits, 30356–30398

Veterans Affairs Department
RULES
Copayments for Medications in 2014, 30043–30044

Workers Compensation Programs Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Rehabilitation Action Repor, 30183

Separate Parts In This Issue

Part II
Health and Human Services Department, 30240–30353

Part III
Homeland Security Department, U.S. Customs and Border Protection, 30356–30398
Treasury Department, 30356–30398

Part IV
Interior Department, Fish and Wildlife Service, 30400–30429

Reader Aids

Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:

9130 30003

12 CFR

620 30005

14 CFR

39 (3 documents) 30005, 30008, 30015

71 (2 documents) 30017, 30019

Proposed Rules:

71 30054

15 CFR

772 30021

774 30021

19 CFR

10 30356

163 30356

178 30356

21 CFR

Proposed Rules:

101 (2 documents) 30055, 30056

33 CFR

100 30025

165 (2 documents) 30025, 30043

34 CFR

Proposed Rules:

Ch. III 30056

38 CFR

17 30043

40 CFR

52 30045

45 CFR

144 30240

146 30240

147 30240

148 30240

153 30240

154 30240

155 30240

156 30240

158 30240

1626 30052

46 CFR

Proposed Rules:

45 30061

47 CFR

2 30053

49 CFR

Proposed Rules:

383 30062

384 30062

391 30062

50 CFR

Ch. I 30400

13 30400

17 30400

23 30400

Proposed Rules:

635 30064

648 30065

Federal Register
Vol. 79, No. 101
Tuesday, May 27, 2014

Presidential Documents

Title 3—

The President

Proclamation 9130 of May 19, 2014

National Maritime Day, 2014

By the President of the United States of America

A Proclamation

America's open seas have long been a source of prosperity and strength, and since before our Nation's founding, the men and women of the United States Merchant Marine have defended them. From securing Atlantic routes during the naval battles of the Revolutionary War to supplying our Armed Forces around the world in the 21st century and delivering American goods to overseas markets in times of peace, they have always played a vital role in our Nation's success. During National Maritime Day, we celebrate this proud history and salute the mariners who have safeguarded our way of life.

Today's Merchant Marine upholds its generations-long role as our ''fourth arm of defense.'' Yet they also go beyond this mission, transporting food where there is hunger and carrying much-needed supplies to those in distress. Thanks to our dedicated mariners, people around the world continue to see the American flag as a symbol of hope.

To create middle-class jobs and maintain our leading position in an ever-changing world, we must provide new marketplaces for our businesses to compete. As we expand commerce, we do so with confidence that the United States Merchant Marine will keep our supply lines secure. Because just as America's workers and innovators can rise to any challenge, our mariners have demonstrated time and again that they can meet any test. Today, let us reaffirm our support for their essential mission.

The Congress, by a joint resolution approved May 20, 1933, has designated May 22 of each year as ''National Maritime Day,'' and has authorized and requested the President to issue annually a proclamation calling for its appropriate observance.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim May 22, 2014, as National Maritime Day. I call upon the people of the United States to mark this observance and to display the flag of the United States at their homes and in their communities. I also request that all ships sailing under the American flag dress ship on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of May, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

[FR Doc. 2014–12345
Filed 5–23–14; 8:45 am]
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Rules and Regulations

Federal Register

Vol. 79, No. 101

Tuesday, May 27, 2014

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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FARM CREDIT ADMINISTRATION

12 CFR Part 620

Disclosure to Shareholders

CFR Correction

In Title 12 of the Code of Federal Regulations, Parts 600 to 899, revised as of January 1, 2014, on page 242, in § 620.2, paragraph (e) is reinstated to read as follows:

§ 620.2 Preparing and filing reports.

* * * * *

(e) All items of essentially the same character as items required to be reported in the reports of condition and performance pursuant to part 621 of this chapter shall be prepared in accordance with the rules set forth in part 621.

* * * * *

[FR Doc. 2014–12307 Filed 5–23–14; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0618; Directorate Identifier 2007–NM–355–AD; Amendment 39–17844; AD 2014–09–09]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes. This AD was prompted by reports of two in-service occurrences on Model 737–400 airplanes of total loss of boost pump pressure of the fuel feed system, followed by loss of fuel system suction feed capability on one engine, and in-flight shutdown of the engine. This AD requires revising the maintenance program to incorporate a revision to the Airworthiness Limitations Section of the maintenance planning data (MPD) document. We are issuing this AD to detect and correct failure of the engine fuel suction feed of the fuel system, which, in the event of total loss of the fuel boost pumps, could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

DATES: This AD is effective July 1, 2014.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2008–0618; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6438; fax: 425–917–6590; email: *suzanne.lucier@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a second supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes. The second SNPRM published in the **Federal Register** on July 30, 2013 (78 FR 45898). The second SNPRM proposed to add Model 777F series airplanes to the applicability.

We preceded the second SNPRM with the first SNPRM, which published in the **Federal Register** on March 7, 2013 (78 FR 14722). The first SNPRM proposed to revise the maintenance program to incorporate a revision to the Airworthiness Limitations Section of the maintenance planning data (MPD) document.

We preceded the first SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on June 6, 2008 (73 FR 32253). The NPRM was prompted by reports of two in-service occurrences on Model 737–400 airplanes of total loss of boost pump pressure of the fuel feed system, followed by loss of fuel system suction feed capability on one engine, and in-flight shutdown of the engine. The subject area on Model 777 airplanes is almost identical to that area on Model 737–400 airplanes; therefore, Model 777 airplanes may be subject to the unsafe condition revealed on Model 737–400 airplanes. The NPRM proposed to require performing repetitive operational tests of the engine fuel suction feed of the fuel system, and other related testing if necessary.

We are issuing this AD to detect and correct failure of the engine fuel suction feed of the fuel system, which, in the event of total loss of the fuel boost pumps, could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the second SNPRM (78 FR 45898, July 30, 2013) and the FAA's response to each comment. FedEx concurs with the proposed requirements.

Request To Allow the Use of Later Revisions of the Maintenance Planning Document (MPD)

United Airlines (UAL) asked that we allow using the latest MPD revision of

May 2013 for accomplishing the required actions. UAL stated that paragraph (l) of the second SNPRM (78 FR 45898, July 30, 2013) provides credit for doing the actions required by paragraph (g) of the second SNPRM before the effective date of the AD, if the actions were done using Revision February 2012 of the MPD. UAL suggested that credit for Revision May 2013 of the MPD also be included in paragraph (l) of the second SNPRM.

We agree to give credit for the latest revision of Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622W001–9, which is Revision dated June 2013; provided the revised ''interval'' specified in Appendix 1 of this AD is incorporated into the existing maintenance program within 90 days after the effective date of this AD. We have revised paragraph (i) of this AD accordingly.

Request To Clarify Reason for the Unsafe Condition

Boeing asked that we clarify the reason for the unsafe condition identified in the second SNPRM (78 FR 45898, July 30, 2013). Boeing asked that we provide additional clarification that there are no reports of any in-service events on Model 777 airplanes.

We acknowledge the commenter's concern, but do not find it necessary to clarify the unsafe condition further. We clarified the reason for the unsafe condition in the first SNPRM (78 FR 45898, July 30, 2013) per a similar request from Boeing regarding the fact that there had been no events on Model 777 airplanes. In light of this, we find that further clarification is not necessary. We have made no change to the final rule in this regard.

Change to Final Rule

We removed the on-condition costs specified in the ''Costs of Compliance'' section of this final rule because there are no on-condition actions.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD as proposed.

Costs of Compliance

We estimate that this AD affects 676 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Cost per product	Cost on U.S. operators
Maintenance Program Revision	1 work-hour × $85 per hour = $85	$85 per test	$57,460, per test.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–09–09 The Boeing Company: Amendment 39–17844; Docket No. FAA–2008–0618; Directorate Identifier 2007–NM–355–AD.

(a) Effective Date

This AD is effective July 1, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 2800, Aircraft Fuel System.

(e) Unsafe Condition

This AD was prompted by reports of two in-service occurrences on Model 737–400 airplanes of total loss of boost pump pressure of the fuel feed system, followed by loss of fuel system suction feed capability on one engine, and in-flight shutdown of the engine. We are issuing this AD to detect and correct failure of the engine fuel suction feed of the fuel system, which, in the event of total loss of the fuel boost pumps, could result in dual engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

(f) Compliance

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

(g) Maintenance Program Revision

Within 90 days after the effective date of this AD: Revise the maintenance program to incorporate the airworthiness limitation

(AWL) identified in Appendix 1 of this AD, AWL No. 28–AWL–101, Engine Fuel Suction Feed Operational Test. The initial compliance time for accomplishing AWL No. 28–AWL–101 is within 7,500 flight hours or 3 years after the effective date of this AD, whichever is first.

(h) No Alternative Actions, Intervals, and/or Critical Design Configuration Control Limitations (CDCCLs)

After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (e.g., tests), intervals, or CDCCLs may be used unless the actions, intervals, or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

(i) Credit for Actions Accomplished in Accordance With Previous Service Information

This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using AWL No. 28–AWL–101, Engine Fuel Suction Feed Operational Test, of Section D.2., Engine Suction Fuel System, of Section 9, Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D622W001–9, Revision February 2012, or Revision June 2013, of the Boeing 777 Maintenance Planning Data (MPD) Document, provided the revised ''interval'' specified in Appendix 1 of this AD is incorporated into the existing maintenance program within 90 days after the effective date of this AD.

(j) 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 the Related Information section 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.

(k) Related Information

(1) For more information about this AD, contact Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6438; fax: 425–917–6590; email: *suzanne.lucier@faa.gov*.

(2) For service information identified in this AD that is not incorporated by reference, 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*.

(l) Material Incorporated by Reference

None.

Appendix 1 of AD 2014–09–09

AWL No.	Task	Interval	Applicability	Description
28–AWL–101	ALI	7,500 FH or 3 years, whichever is first.	ALL	Engine Fuel Suction Feed Operational Test. An Engine Fuel Suction Feed Operational Test must be accomplished successfully on each engine individually. This test is required in order to protect against engine flameout during suction feed operations, and must meet the following requirements (refer to Boeing AMM 28–22–00): Fuel Tank Quantity Limitations: Engine No. 1 a. The Center Tank Fuel Quantity must not exceed 5,000 lbs (2,270 kg). b. The Main Tank No. 1 Fuel Quantity must be between 1,400 lbs–1,600 lbs (600 kg–800 kg). NOTE: Excess fuel can be transferred to Main Tank No. 2. Engine No. 2 a. The Center Tank Fuel Quantity must not exceed 5,000 lbs (2,270 kg). b. The Main Tank No. 2 Fuel Quantity must be between 1,400 lbs–1,600 lbs (600 kg–800 kg). NOTE: Excess fuel can be transferred to Main Tank No. 1. Test Procedural Limitations: 1. The Fuel Cross-Feed Valve must be CLOSED. 2. The APU Selector Switch must be OFF. 3. Idle Engine Warm-up time of minimum two minutes with Boost Pump ON. 4. Idle Engine Suction Feed (Boost Pump OFF) operation for a minimum of five minutes. NOTE: APU may be used to start the engines provided the Fuel Tank Quantity and Test Procedural Limitations are met. The test is considered a success if engine operation is maintained during the five-minute period and engine parameters (N1, N2, and Fuel Flow) do not decay relative to those observed with Boost Pump ON. A suction feed system that fails the operational test must be repaired or maintained, and successfully pass the Engine Suction Feed Operational Test prior to further flight.

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

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–12093 Filed 5–23–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1103; Directorate Identifier 2012–NM–131–AD; Amendment 39–17842; AD 2014–09–07]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes. This AD was prompted by reports of cracking of the forward bulkhead web, web stiffeners, attachment angles, and thermal anti-ice (TAI) spray ring assemblies of the engine air intake cowl. This AD requires replacing the forward bulkhead assembly, TAI spray ring assembly, and attachment fittings of the air intake cowl. We are issuing this AD to prevent the failure of air intake cowl components due to cracking, which could result in the air intake cowl separating from the engine and striking critical airplane control surfaces that could result in a loss of airplane control; severe engine damage and loss of thrust; or large parts striking a person or property on the ground.

DATES: This AD is effective July 1, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 1, 2014.

ADDRESSES: For Rolls-Royce service information identified in this AD, contact Rolls-Royce plc, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; telephone 011 44 1332 242424; fax 011 44 1332 249936; email *http://www.rolls-royce.com/contact/civil_team.jsp;* Internet *https://www.aeromanager.com.* For Bombardier service information identified in this AD, contact Short Brothers PLC, Airworthiness, P.O. Box 241, Airport Road, Belfast, BT3 9DZ Northern Ireland; telephone +44(0)2890–462469; fax +44(0)2890–468444; Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2012–1103; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kevin Nguyen, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6501; fax: (425) 917–6590; email: *kevin.nguyen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes. The NPRM published in the **Federal Register** on October 19, 2012 (77 FR 64242). The NPRM was prompted by reports of cracking of the forward bulkhead web, web stiffeners, attachment angles, and thermal anti-ice (TAI) spray ring assemblies of the engine air intake cowl. The NPRM proposed to require replacing the forward bulkhead assembly, TAI spray ring assembly, and attachment fittings of the air intake cowl. We are issuing this AD to prevent the failure of air intake cowl components due to cracking, which could result in the air intake cowl separating from the engine and striking critical airplane control surfaces that could result in a loss of airplane control; severe engine damage and loss of thrust; or large parts striking a person or property on the ground.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (77 FR 64242, October 19, 2012) and the FAA's response to each comment.

Requests To Delay Final Rule Pending Modification as Terminating Action

FedEx, American Airlines (AAL), and United Airlines (UAL) requested that we delay issuance of this final rule until the manufacturer can release service information that contains instructions for a modification as terminating action for the repetitive replacements proposed in the NPRM (77 FR 69242, October 19, 2012). In lieu of that, FedEx and AAL requested we include a modification as terminating action. FedEx and AAL stated that it would be more beneficial to accomplish the terminating modification rather than doing the interim replacements of the air intake cowl bulkhead assemblies or parts. UAL noted that airlines are working with Boeing to obtain improvements to the current design, which includes a three-part solution to most structural design deficiencies.

FedEx explained that Rolls-Royce was scheduled to release service information including a terminating modification for the repetitive replacements during the first quarter of 2013. UAL stated repetitive replacement of the forward bulkhead is expensive and does not solve the inherent design problem.

We partially agree. We agree that a terminating modification, if available, should be included as part of this final rule, because eliminating the in-service safety issue is a preferred choice over repetitive replacement of assemblies or parts.

However, we disagree with delaying issuance of this final rule until service information containing procedures for a terminating modification becomes available. We have not received an exact date for release of the planned Rolls-Royce service information. We have determined that to delay this final rule would be inappropriate, since we have determined that such a delay would not adequately address the unsafe condition in a timely manner and that replacing the forward bulkhead assembly components must be done to ensure continued safety. When the terminating modification becomes available, we might consider additional rulemaking. Operators may apply for approval of an alternative method of compliance (AMOC) for these actions in accordance with the provisions of paragraph (l) of

this AD. We have not changed this final rule in this regard.

Request To Reference Latest Service Information and Allow Credit

Rolls-Royce Group PLC (Rolls-Royce) requested that we refer to the latest service information: Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, Revision 1, dated September 28, 2012, which was issued to correct minor typographical errors. Rolls-Royce also requested that we allow credit for actions done previously using Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, dated October 14, 2011.

We agree to reference the latest service information and to allow credit for using certain previous revisions. We have updated paragraphs (g) and (h) of this final rule to reference Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, excluding Appendix 1 and including Appendices 2, 3, and 4, Revision 2, dated June 20, 2013, which corrects a certain air intake cowl serial number; and to reference Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, Revision 3, dated February 4, 2014, which corrects certain part numbers. We also have revised paragraph (i) of this final rule to allow credit for certain actions done before the effective date of this AD using Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, dated October 14, 2011; or Revision 1, dated September 28, 2012. We also have revised paragraph (i) of this final rule to allow credit for certain actions done before the effective date of this AD using Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, Revision 1, dated August 15, 2012; and Revision 2, dated December 5, 2012.

Requests To Delay Final Rule Until Service Information is Corrected

FedEx requested that this final rule be delayed until a part number in certain service information is corrected. FedEx stated that Appendix 3 of Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, dated October 14, 2011, called out part number LJ35477 for both ''Angle ATT FWD Outer'' and ''Angle Attachment FWD Outer.'' However, the correct part number for the latter part is LJ35478.

We do not agree to delay issuance of this final rule. However, we note that the part number error has already been corrected in Appendix 3 of Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, Revision 1, dated September 28, 2012; and Revision 2, dated June 20, 2013. We have updated paragraphs (g), (h), (j), and (k) of this final rule to reference Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, excluding Appendix 1 and including Appendices 2, 3, and 4, Revision 2, dated June 20, 2013; and Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, Revision 3, dated February 4, 2014; as the appropriate sources of service information for removing and replacing, with new parts, the forward bulkhead assembly, TAI spray ring assembly, and attachment fittings of the air intake cowl. Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, Revision 3, dated February 4, 2014, also includes corrected part number information: Part number LJ35479, with quantity two, was corrected to LJ50537 and LJ50538, with one quantity each; part number LJ35482 was corrected to LJ50535; and part number LJ35483 was corrected to LJ50536.

AAL and FedEx requested that certain service information be updated to allow the use of alternative rivets (fasteners) in place of obsolete ''MS20426DD'' fasteners. The commenters stated that service information should include suitable alternatives; however, the commenters did not propose suitable alternative fastener information.

We have confirmed with the parts manufacturer that the subject rivets (fasteners) are not obsolete, as indicated by the commenters. In addition, while we agree that it would be beneficial if the service information were to include acceptable alternative fastener information, in light of the urgency of the identified unsafe condition, we do not find it appropriate to delay this final rule to wait for additional revised service information. We included paragraph (l) in this final rule to provide operators a means to request approval of the use of an alternative fastener if sufficient data are presented that demonstrate the rivet (fastener) is a suitable alternative. We have not changed this final rule in this regard.

Request To Issue Component AD Instead of Airplane AD

FedEx requested that the applicability in paragraph (c) of the NPRM (77 FR 69242, October 19, 2012) be revised to reference component part numbers and serial numbers, rather than specific airplanes. FedEx stated that the NPRM should apply to components rather than airplanes because the applicability of the NPRM, as written, will create confusion and will inhibit operator AD tracking capabilities.

We disagree with the commenter's request. According to FAA policy, if an unsafe condition results from the installation of a particular component in only one particular make and model of airplane, the AD would apply to the airplane model, not the component. The reason for this is simple: If the AD applies to the airplane model equipped with the item, operators of those airplanes will be notified directly of the unsafe condition and the action required to correct it. While we assume that operators can identify the airplane models they operate, they may not be aware of specific items installed on the airplanes. Therefore, specifying the airplane models in the applicability as the subject of the AD prevents an operator's ''unknowing failure to comply'' with the AD. In this case, the air intake cowls of the affected design with the identified unsafe condition are known to be confined to Model 757 airplanes; therefore, it is appropriate for the FAA to issue an airplane AD, not a component AD. We have not changed this final rule in this regard.

Request To Clarify Applicability Regarding Pratt & Whitney Engines

US Airways requested the NPRM (77 FR 69242, October 19, 2012) be revised to clarify actions for airplanes equipped with Pratt & Whitney engines.

We clarify that the applicability statement in paragraph (c) of this final rule only identifies Boeing Model 757–200, –200PF, –200CB, and –300 series airplanes equipped with certain Rolls-Royce engines. This final rule does not apply to airplanes equipped with Pratt & Whitney engines. No change has been made to this final rule in this regard.

Request To Revise a Calendar-Based to a Cycle-Based Compliance Time

UPS requested that the compliance times in the NPRM (77 FR 69242, October 19, 2012) be revised from calendar-based to cycle-based time for the replacement requirement. UPS noted that the NPRM requires replacement of forward bulkhead assemblies of air intake cowls at calendar date intervals based solely on the date of manufacture. UPS stated this requirement imposes unnecessary hardship and higher costs to low-utilization operators. UPS stated that since the issue is one of metal fatigue, a high-utilization operator will subject the same components to multiple times the fatigue exposures as a low-utilization operator over the same period.

UPS also stated that spare intake cowls that have never been in service—and therefore have not seen metal fatigue—are subject to the same calendar-based replacement intervals, and that this severely degrades the value

and usability of intake cowls over time. UPS stated a cycle-based compliance time would provide all operators the ability to maximize utilization cycles on the affected intake cowls and defer the high costs of replacement.

We disagree with the commenter's request to provide a cycle-based compliance time because UPS did not provide any data to support a particular cycle-based compliance time. Boeing and Rolls-Royce provided risk analyses and recommended corrective action based on a prescribed calendar-based compliance time. At the time we developed the NPRM (77 FR 69242, October 19, 2012), Boeing and Rolls-Royce stated there were no reliable data to support a risk analysis based on cycle and time usage, e.g., tracking (1) ownership of air intake cowls, (2) which airplane a particular engine air intake cowl had been installed on, (3) which engine a particular air intake cowl had been installed on, and (4) the cycle or time usage on a certain air intake cowl. Thus, Boeing and Rolls-Royce decided to manage the interim solution as a fleet risk, requiring replacements at a specific time based on the air intake cowl serial number.

However, if any operator has complete data on its air intake cowl usage and substantiating data to justify a cycle-based compliance time, then that operator may apply for approval of an AMOC in accordance with the provisions of paragraph (l) of this AD. We have not changed this final rule in this regard.

Requests for Extension of Compliance Time

FedEx and US Airways requested we extend the proposed compliance time from 12 months to 24 months. Both suggested this revised compliance time be applied for the cowls having the oldest serial numbers (4001 through 4121). US Airways stated that the older cowls are likely to have had a recent shop visit in which damaged components have been detected and repaired. Both stated that neither the manufacturer nor overhaul vendors could provide kits or manpower to accomplish the tasks.

We infer that the commenters are referring to paragraph (h)(1) of the NPRM (77 FR 69242, October 19, 2012). We disagree with the requests to extend the specified compliance time since Rolls-Royce and Bombardier have verified that adequate parts and repair facility capacity are available to support the compliance time of this final rule. Paragraph (l) of this AD provides operators the opportunity to request approval of an AMOC if data are presented that prove an alternative compliance time will provide an acceptable level of safety. We have not changed this final rule in this regard.

Request To Use Supplemental Type Certificate (STC) Completion Date as Initial Accomplishment of Forward Bulkhead Replacement

AAL stated if the operator suspects the Bombardier Aerospace E4X STC was applied to the nose cowl, but the data plate does not reflect it, the operator should contact Bombardier to determine if that particular serial number nose cowl had the STC applied. AAL stated if the STC was done, then that date can be used as the initial accomplishment of the forward bulkhead replacement.

We disagree with the request. We infer from AAL's statement that AAL incorrectly assumes that Bombardier Aerospace STC ST02102NY (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/256325188c3b1f2f8625705f004dd977/$FILE/ST02102NY.pdf*) specifies the replacement of the forward bulkhead assembly. Bombardier Aerospace STC ST02102NY specifies replacement of the metal intake barrel liner in the 535E4 Dyna-Rohr inlet series with a composite intake barrel liner; and also specifies the embodiment of new double thickness insulation blankets, additional intake barrel support brackets, a 50,000 series engine ring, lipskin main diffuser and joints, primary assembly inner rear angles and joints, and a bonding strap, among other associated changes. Bombardier Aerospace STC ST02102NY does not replace the forward bulkhead assembly of the air intake cowl.

However, for operators having sufficient repair records for the replacement of a forward bulkhead assembly, paragraph (l) of this AD provides the opportunity to request approval of an AMOC if data are presented to show that the work accomplished is equivalent to the applicable replacement required by this final rule. We have not changed this final rule in this regard.

Requests To Clarify Compliance Time on Previously Reworked Air Intake Cowls

Rolls-Royce and Boeing requested the compliance time specified in paragraph (g) of the NPRM (77 FR 69242, October 19, 2012) be modified by removing the phrase ''or within 12 months after the effective date of this AD, whichever is later'' and replacing it with a different compliance time.

Boeing stated that the risk assessment used to develop the compliance times did not account for any previous air intake cowl replacement and assumed all air intake cowls would be replaced by a phased compliance time.

Rolls-Royce stated that air intake cowls that previously had parts replaced with the applicable kits would only need to be replaced again within 144 months since the last replacement, or according to the phased compliance times specified in paragraph (h) of the NPRM (77 FR 69242, October 19, 2012), whichever is later. Rolls-Royce stated the compliance times specified in paragraph (g) of the NPRM would penalize the operators that had previously performed the required actions.

We agree with the commenters' requests to revise the specified compliance time. Operators that had previously replaced air intake cowl parts should not be penalized by having to comply with this AD sooner than operators that had not done any replacement. For consistency with the compliance time recommended by the manufacturer, we have removed the phrase ''or within 12 months after the effective date of this AD, whichever is later'' in paragraph (g) of this final rule and replaced it with the phrase ''or according to the applicable time specified in paragraphs (h)(1) through (h)(12) of this AD, whichever is later.''

Requests To Allow Repairs Using Original Equipment Manufacturer (OEM) Data

AAL and FedEx requested the NPRM (77 FR 69242, October 19, 2012) contain a statement about future repairs allowing operators the ability to do structural repairs of the forward bulkhead using OEM/owner/operator manuals and specifications using OEM/owner/operator manufactured replacement parts in the event of a premature forward bulkhead failure.

Clarification is needed regarding allowing operators to do future structural repairs of the forward bulkhead. We infer from the comments that the commenters are requesting to perform bulkhead repairs without the need to apply for approval of AMOCs to do those repairs. After accomplishing the actions required by this AD, future maintenance and/or preventive maintenance under 14 CFR part 43 is permitted provided the maintenance does not result in changing the AD-mandated configuration (reference 14 CFR 39.7).

For repairs that do change the AD-mandated configuration, paragraph (l)(3) of this AD allows repair methods to be approved by Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been

authorized by the Manager, Seattle Aircraft Certification Office (ACO), to make those findings. We have not changed this AD in this regard.

Requests for Correction of Typographical Error

Boeing, FedEx, AAL, and US Airways requested we correct ''535EX'' cowls to ''535E4X'' cowls for referring to air intake cowls that have been modified using Bombardier Aerospace STC ST02102NY (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/256325188c3b1f2f8625705f004dd977/$FILE/ST02102NY.pdf*) in paragraphs (g), (h), and (i) of the NPRM (77 FR 69242, October 19, 2012). FedEx stated this typo also exists in the Relevant Service Information section of the preamble of the NPRM.

We agree. We have changed paragraphs (g), (g)(1), and (h) of this final rule to refer to ''535E4X'' cowls. In addition, we removed the introductory phrase that appeared in paragraph (i) of the NPRM (77 FR 69242, October 19, 2012), which included the incorrect cowl reference. However, because the Relevant Service Information section is not restated in the preamble of this final rule, we have not made any change to the preamble of this final rule in that regard.

Requests for a Way To Clearly Identify Air Intake Cowls

AAL and FedEx requested a clear means of identifying E4X air intake cowls on which Bombardier Aerospace STC ST02102NY (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/256325188c3b1f2f8625705f004dd977/$FILE/ST02102NY.pdf*) has been applied to the air intake cowl. AAL and FedEx stated, in two cases where Bombardier Aerospace STC ST02102NY was applied to AAL's air intake cowl, the data plate should have been labeled ''CSRSCH1001,'' but it was not. AAL stated that, if the data plate does not reflect it, the operator should contact Bombardier to determine if a particular serial number nose cowl had the STC applied.

We infer from AAL's and FedEx's statements that, if air intake cowls modified by Bombardier Aerospace STC ST02102NY (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/256325188c3b1f2f8625705f004dd977/$FILE/ST02102NY.pdf*) are not clearly identified, an operator could inadvertently use the wrong service bulletin. If the data plate does not clearly identify the air intake cowl as an E4X cowl, an operator must determine the correct identification through the airplane's records. We agree with AAL's comment that contacting the holder of the STC might be an appropriate means to determine if the air intake cowl is one that had the STC applied. No change has been made to this final rule in this regard.

Request To Allow Use of Undrilled Parts

AAL requested that the referenced service information be revised to allow the use of undrilled parts in place of certain drilled parts. AAL noted that Bombardier has delivered kits that included the correct part with no pilot holes.

We do not agree to delay issuance of this final rule until revised service information can be approved and released. However, we agree with the commenter's request to allow use of undrilled parts. After our discussion with the manufacturers, we have determined the following parts are acceptable for use: undrilled attachment angles and attachment angle joints having a part number with a suffix 'U'; undrilled attachment angles, attachment angle joints, diaphragm segments and reinforcing plate that have a trim allowance left, having a part number with a suffix 'S'; and rib stiffeners, with pilot holes and trim allowance left, that have a part number with a suffix 'S.' These separate/loose kit parts used for accomplishment of this final rule must be undrilled or with just the pilot holes present prior to modification. While accomplishing the repair, the final size holes must be drilled and, where applicable, the parts must be trimmed with reference to the removed parts or to the retained existing structure.

We have added a new paragraph (k) to this final rule to allow the use of certain undrilled parts, undrilled parts with trim allowance remaining, or parts with pilot holes and trim allowance remaining that are supplied as separate/loose kit parts, and that have a part number with an 'S' or 'U' suffix in place of the plain part number specified in Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, excluding Appendix 1 and including Appendices 2, 3, and 4, Revision 2, dated June 20, 2013; and Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, Revision 3, dated February 4, 2014. We have redesignated subsequent paragraphs accordingly.

Requests for Removing Non-Existent Engine Reference

Boeing and Rolls-Royce requested we remove the reference to ''–535E4X'' engines from paragraph (c) of the NPRM (77 FR 69242, October 19, 2012).

We agree with the commenters' request. There are no engines with a –535E4X designation. Therefore, we have removed the reference to –535E4X engines from paragraph (c) of this final rule.

Request To Reference Air Intake Cowl Part Numbers and Serial Numbers

Boeing requested we revise the NPRM (77 FR 69242, October 19, 2012) to reference the inlet cowl part number and serial number series instead of the Dyna-Rohr standard and the Bombardier standard when referring to the different inlet configurations in paragraphs (g)(2) and (g)(3) of the NPRM. Boeing stated this provides positive identification of the inlet configurations.

We disagree with the request. Proper identification of part and serial numbers will avoid confusion for compliance with this final rule. However, inserting all the specific part and serial numbers in this final rule would duplicate required information that is already contained in the referenced service information. No change has been made to this final rule in this regard.

Request To Revise Certain Terminology

US Airways requested we change the word ''replace'' to the word ''repair'' in the identification of affected airplanes in paragraph (g) of the NPRM (77 FR 69242, October 19, 2012). Also, US Airways requested we change the terms ''replacement of the air intake cowl,'' ''replacement,'' and ''replace,'' in multiple locations of the NPRM to ''accomplishment of the applicable service bulletin on the inlet cowl.''

US Airways stated that the word ''repair'' is a more accurate description of the action taken on the inlet cowl to incorporate the referenced service information. US Airways stated that clarifying the wording would aid operators in tracking accomplishment of the NPRM (77 FR 69242, October 19, 2012), and added that the wording change would prevent confusion between requiring the replacement of the forward bulkhead parts versus replacement of the inlet cowl itself.

We partially agree. We disagree with changing the term ''replaced'' to ''repaired'' because that change in terminology is inaccurate. We agree that this final rule should be modified because accomplishment of the applicable service information on an air intake cowl addresses the unsafe condition. We, therefore, have revised paragraphs (g) and (h) of this final rule by adding the words, ''replace the air intake cowl with a cowl which has had

the forward bulkhead assembly, TAI spray ring assembly, and associated attachment fittings of the air intake cowl replaced using a kit or new parts,'' to provide a more accurate description of what is required.

Request for Credit Using Unpublished Service Information

UAL requested credit for work for previous inspections and repairs on affected cowls using Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG242 (no revision or date given). UAL stated this service information recommends an extension of 72 months for the initial repetitive replacement. UAL stated that over fifty percent of its inlets have been repaired or overhauled, and most air intake cowl inlets have had the bulkhead inspected and cracks repaired by replacement of individual structural parts.

We disagree. The only applicable and allowable service information for Model 757 airplanes with Rolls-Royce engines is Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698. Rolls-Royce has informed us that Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG242 was never officially published. We have not reviewed that service information to determine whether it is equivalent to Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698. Thus, we cannot provide credit for work that was accomplished using Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG242. For operators having sufficient repair records for the bulkhead assembly of an air intake cowl, paragraph (l) of this AD provides the opportunity to request approval of an AMOC if data are presented that show that previous work accomplished was equivalent to the work specified by Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698. We have not changed this final rule in this regard.

Request for Credit Through Extension of Compliance Time

FedEx requested credit for any previous inspections or repairs by being allowed an extension of the compliance time proposed in the NPRM (77 FR 69242, October 19, 2012). FedEx stated that all of its inlet cowls had been inspected and any damage to inlet cowl bulkheads had been repaired during regular maintenance intervals.

We disagree with the commenter's request because we do not know if previous repairs or inspections are equivalent to the requirements specified by this final rule. For operators having sufficient repair records for the bulkhead assembly of an air intake cowl, paragraph (l) of this AD provides the opportunity to request approval of an AMOC if data are presented that show that previous work accomplished is equivalent to the work specified in Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698. We have not changed this final rule in this regard.

Request To Revise Service Bulletin Citation

Rolls-Royce requested we revise the NPRM (77 FR 69242, October 19, 2012) to refer to the Rolls-Royce RB.211–71–AG698 publication as ''Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698.''

We agree with the commenter's request because the service information includes the words ''Alert Non-Modification'' in the title. We have revised the title of the Rolls-Royce service information throughout this final rule accordingly. We have also changed the reference to the Bombardier RB211–E4–A1003 publication to ''Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003,'' in a similar manner, throughout this final rule.

Requests To Allow the Use of Later Revisions of Service Information

FedEx and AAL requested that the NPRM (77 FR 69242, October 19, 2012) contain a general statement allowing the use of subsequent FAA-approved revisions of the service information as acceptable methods of compliance for the NPRM.

We disagree with the commenters' request. Allowing the use of later revisions of service documents in an AD is not allowed by the Office of the Federal Register regulations for approving materials incorporated by reference. Affected operators may, however, request approval to use a later revision of referenced service information as an AMOC in accordance with the procedures specified in paragraph (l) of this final rule. We have not changed this final rule in this regard.

Requests To Resolve Issues Relating to Warranty Coverage and Published Cost Data

AAL and FedEx requested that warranty considerations be included in the Costs of Compliance of the NPRM (77 FR 69242, October 19, 2012) to remove the economic burden of the NPRM on the operators. AAL, UAL, and FedEx stated that the bulkhead is a flawed design. UAL stated that to replace the flawed bulkhead every 144 months with a bulkhead of the same flawed design is expensive and does not solve the inherent design problem. FedEx and AAL noted that the cost of parts kits purchased from Bombardier is unreasonably high, and that Bombardier charges higher costs for kits if an operator does not use Bombardier's services and facilities to perform the work. FedEx added that the NPRM (77 FR 69242, October 19, 2012) addresses a safety issue and that parts costs should not be governed by business tactics or profits.

We find that no change to the final rule is necessary in this regard. Warranties are not regulated by the FAA. We use manufacturer-quoted parts costs provided in referenced service information in our calculation of the Costs of Compliance. We are not aware of any warranty remedies for the actions required by this final rule.

Statement Regarding the Installation of Winglets

Aviation Partners Boeing (APB) stated that accomplishing the supplemental type certificate STC ST01518SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/48e13cdfbbc32cf4862576a4005d308b/$FILE/ST01518SE.pdf*) does not affect the actions specified in the NPRM (77 FR 64242, October 19, 2012).

We concur with the commenter. We have redesignated paragraph (c) of the NPRM as (c)(1) and added new paragraph (c)(2) to this final rule to state that the designation of (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/48e13cdfbbc32cf4862576a4005d308b/$FILE/ST01518SE.pdf*) does not affect the ability to accomplish the actions required by this final rule. Therefore, for airplanes on which STC ST01518SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

Explanation of Change Made to This Final Rule

We have changed paragraph (i) of this final rule to allow credit for actions done before the effective date of this AD using Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, dated October 14, 2011; and Revision 1, dated September 28, 2012.

Since we issued the NPRM (77 FR 69242, October 19, 2012), we have received updated service information from Bombardier. Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, Revision 3, dated February 4, 2014, corrects part number

errors contained in previous service information.

We also revised paragraph (i) of this AD to allow credit for actions done previously using Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, dated June 27, 2012; Revision 1, dated August 15, 2012; and Revision 2, dated December 5, 2012, provided that where this service information specifies part number LJ35479, quantity of two, part numbers LJ50537 and LJ50538, quantity of one each, be used. Also, where this service information specifies part number LJ35482, use part number LJ50535, and where this service information specifies part number LJ35483, use part number LJ50536.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (77 FR 64242, October 19, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 64242, October 19, 2012).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Interim Action

We consider this AD interim action due to on-going investigation into the nature, cause, and extent of the cracking. If final action is later identified, based on the results of the investigation, we might consider further rulemaking then.

Costs of Compliance

We estimate that this AD affects 332 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace left-side air intake cowl components.	Up to 252 work-hours × $85 per hour = $21,420 per replacement.	Up to $158,760	Up to $180,180 per replacement.	Up to $59,819,760.
Replace right-side air intake cowl components.	Up to 252 work-hours × $85 per hour = $21,420 per replacement.	Up to $158,760	Up to $180,180 per replacement.	Up to $59,819,760.

Authority for this Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–09–07 The Boeing Company: Amendment 39–17842; Docket No. FAA–2012–1103; Directorate Identifier 2012–NM–131–AD.

(a) Effective Date

This AD is effective July 1, 2014.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes, certificated in any category, equipped with Rolls-Royce RB211–535E4, –535E4–B, and –535E4–C engines; or with Rolls-Royce RB211–535E4, –535E4–B, and –535E4–C engines that have air intake cowls that were modified by Bombardier Aerospace Supplemental Type Certificate (STC) ST02102NY (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/256325188c3b1f2f8625705f004dd977/$FILE/ST02102NY.pdf*), commonly known as 535E4X cowls.

(2) Installation of supplemental type certificate (STC) ST01518SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/48e13cdfbbc32cf4862576a4005d308b/$FILE/ST01518SE.pdf*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01518SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

Air Transport Association (ATA) of America Code 71, Powerplant.

(e) Unsafe Condition

This AD was prompted by reports of cracking of the forward bulkhead web, web stiffeners, attachment angles, and thermal

anti-ice (TAI) spray ring assemblies of the engine air intake cowl. We are issuing this AD to prevent the failure of air intake cowl components due to cracking, which could result in the air intake cowl separating from the engine and striking critical airplane control surfaces that could result in a loss of airplane control; severe engine damage, and loss of thrust; or large parts striking a person or property on the ground.

(f) Compliance

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

(g) Replacement of Air Intake Cowl Forward Bulkhead Assemblies Previously Disassembled

For airplanes on which the air intake cowls were replaced before the effective date of this AD using a kit or parts identified in paragraph (g)(1), (g)(2), or (g)(3) of this AD: Within 144 months since replacement of the air intake cowl, or according to the applicable time specified in paragraphs (h)(1) through (h)(l2) of this AD, whichever is later, replace the air intake cowl with a cowl which has had the forward bulkhead assembly, TAI spray ring assembly, and associated attachment fittings of the air intake cowl replaced using a kit or new parts, in accordance with the Accomplishment Instructions of Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, Revision 3, dated February 4, 2014 (for engines with air intake cowls modified by Bombardier Aerospace STC ST02102NY (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/256325188c3b1f2f8625705f004dd977/$FILE/ST02102NY.pdf,* commonly known as a 535E4X cowls); or Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, excluding Appendix 1 and including Appendices 2, 3, and 4, Revision 2, dated June 20, 2013 (for engines having Dyna-Rohr or Bombardier standard air intake cowls). Repeat the replacement thereafter at intervals not to exceed 144 months.

(1) RB211–E4A1003KIT, or all the parts listed in Appendix 3 of Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, Revision 3, dated February 4, 2014 (for engines with air intake cowls modified by Bombardier Aerospace STC ST02102NY (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/256325188c3b1f2f8625705f004dd977/$FILE/ST02102NY.pdf,* commonly known as a 535E4X cowls).

(2) RB211–71–AG698–E4KIT, or all the parts listed in Appendix 3 of Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, Revision 2, dated June 20, 2013 (for engines with Dyna-Rohr standard air intake cowls).

(3) RB211–71–AG698–E4BKIT, or all the parts listed in Appendix 4 of Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, Revision 2, dated June 20, 2013 (for engines with Bombardier standard air intake cowls).

(h) Replacement of In-Service Air Intake Cowl Complete Forward Bulkhead Assemblies

For airplanes other than those identified in paragraph (g) of this AD: At the applicable time specified in paragraphs (h)(1) through (h)(12) of this AD, replace the air intake cowl with a cowl which has had the forward bulkhead assembly, TAI spray ring assembly, and associated attachment fittings of the air intake cowl replaced using a kit or new parts, in accordance with the Accomplishment Instructions of Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, Revision 3, dated February 4, 2014 (for engines with air intake cowls modified by Bombardier Aerospace STC ST02102NY (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/256325188c3b1f2f8625705f004dd977/$FILE/ST02102NY.pdf,* commonly known as a 535E4X cowls); or Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, excluding Appendix 1 and including Appendices 2, 3, and 4, Revision 2, dated June 20, 2013 (for engines with Dyna-Rohr or Bombardier standard air intake cowls). Repeat the replacement thereafter at intervals not to exceed 144 months.

(1) For airplanes with air intake cowls having serial numbers 4001 through 4121 inclusive: Replace within 12 months after the effective date of this AD.

(2) For airplanes with air intake cowls having serial numbers 4122 through 4241 inclusive: Replace within 24 months after the effective date of this AD.

(3) For airplanes with air intake cowls having serial numbers 4242 through 4361 inclusive: Replace within 36 months after the effective date of this AD.

(4) For airplanes with air intake cowls having serial numbers 4362 through 4481 inclusive: Replace within 48 months after the effective date of this AD.

(5) For airplanes with air intake cowls having serial numbers 4482 through 4484 inclusive: Replace within 60 months after the effective date of this AD.

(6) For airplanes with air intake cowls having serial numbers 9001 through 9117 inclusive: Replace within 60 months after the effective date of this AD.

(7) For airplanes with air intake cowls having serial numbers 9118 through 9237 inclusive: Replace within 72 months after the effective date of this AD.

(8) For airplanes with air intake cowls having serial numbers 9238 through 9357 inclusive: Replace within 84 months after the effective date of this AD.

(9) For airplanes with air intake cowls having serial numbers 9358 through 9477 inclusive: Replace within 96 months after the effective date of this AD.

(10) For airplanes with air intake cowls having serial numbers 9478 through 9597 inclusive: Replace within 108 months after the effective date of this AD.

(11) For airplanes with air intake cowls having serial numbers 9598 through 9717 inclusive: Replace within 120 months after the effective date of this AD.

(12) For airplanes with air intake cowls having serial numbers 9718 through 9786 inclusive: Replace within 132 months after the effective date of this AD.

(i) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using the applicable service information specified in paragraphs (i)(1)(i) through (i)(1)(v) of this AD, which are not incorporated by reference in this AD.

(i) Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, dated October 14, 2011.

(ii) Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, Revision 1, dated September 28, 2012.

(iii) Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, dated June 27, 2012, except as required by paragraph (i)(2) of this AD.

(iv) Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, Revision 1, dated August 15, 2012, except as required by paragraph (i)(2) of this AD.

(v) Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, Revision 2, dated December 5, 2012, except as required by paragraph (i)(2) of this AD.

(2) Where Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, dated June 27, 2012; Revision 1, dated, August 15, 2012; or Revision 2, dated December 5, 2012; specifies part number LJ35479, quantity of two, use part numbers LJ50537 and LJ50538, quantity of one each. Where Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, dated June 27, 2012; Revision 1, dated, August 15, 2012; or Revision 2, dated December 5, 2012; specifies part number LJ35482, use part number LJ50535; and where the service information specifies part number LJ35483, use part number LJ50536.

(j) No Reporting Requirement

Although Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, Revision 3, dated February 4, 2014; and Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, excluding Appendix 1 and including Appendices 2, 3, and 4, Revision 2, dated June 20, 2013; specify to submit certain information to the manufacturer, this AD does not include that requirement.

(k) Exception to Service Information Regarding Use of Parts

Where Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, excluding Appendix 1 and including Appendices 2, 3, and 4, Revision 2, dated June 20, 2013; and Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, Revision 3, dated February 4, 2014; specify part numbers that lack a suffix, this AD allows the use of parts specified in paragraphs (k)(1) through (k)(3) of this AD, but does not allow use of pre-drilled parts when they are sold or delivered as separate parts and are not part of a forward bulkhead assembly kit. The parts used for accomplishment of this AD must be undrilled, or must only have pilot holes present prior to the repair accomplishment. While accomplishing the repair, the final size holes must be drilled and, where applicable,

the parts must be trimmed with reference to the removed parts or to the retained existing structure, in accordance with the Accomplishment Instructions of Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, excluding Appendix 1 and including Appendices 2, 3, and 4, Revision 2, dated June 20, 2013; and Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, Revision 3, dated February 4, 2014.

(1) Undrilled attachment angles and attachment angle joints having a part number with a suffix 'U.'

(2) Undrilled attachment angles, attachment angle joints, diaphragm segments and reinforcing plate that have a trim allowance left, having a part number with a suffix 'S.'

(3) Rib stiffeners, with pilot holes and trim allowance left, having a part number with a suffix 'S.'

(l) 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 (m)(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.

(m) Related Information

(1) For more information about this AD, contact Kevin Nguyen, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6501; fax: (425) 917–6590; email: *kevin.nguyen@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference may be obtained at the addresses specified in paragraphs (n)(3), (n)(4), and (n)(5) of this AD.

(n) Material Incorporated by Reference

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

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

(i) Bombardier Alert Non-Modification Service Bulletin RB211–E4–A1003, Revision 3, dated February 4, 2014.

(ii) Rolls-Royce Alert Non-Modification Service Bulletin RB.211–71–AG698, excluding Appendix 1 and including Appendices 2, 3, and 4, Revision 2, dated June 20, 2013. (The revision level of this document is identified in the transmittal pages only.)

(3) For Rolls-Royce service information identified in this AD, contact Rolls-Royce plc, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; telephone 011 44 1332 242424; fax 011 44 1332 249936; email *http://www.rolls-royce.com/contact/civil_team.jsp;* Internet *https://www.aeromanager.com.*

(4) For Bombardier service information identified in this AD, contact Short Brothers, Airworthiness, P.O. Box 241, Airport Road, Belfast, BT3 9DZ, Northern Ireland; telephone +44(0)2890–462469; fax +44(0)2890–468444; Internet *http://www.bombardier.com.*

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

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

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

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–09835 Filed 5–23–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0306; Directorate Identifier 2013–SW–046–AD; Amendment 39–17850; AD 2014–10–03]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters (Type Certificate Previously Held By Eurocopter France) Helicopters

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Helicopters Model AS332L1 and Model EC225LP helicopters. This AD requires relocating the power supply circuit breaker source of one engine's multi-purpose air intake (MPAI). This AD is prompted by a report that power loss to the MPAI could open the engine air intakes, which could result in engine ice ingestion during flight in icing conditions. These actions are intended to prevent ice ingestion by both engines, which could result in complete loss of engine thrust, and possible loss of control of the helicopter.

DATES: This AD becomes effective June 11, 2014.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of June 11, 2014.

We must receive comments on this AD by July 28, 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 AD, the European Aviation Safety Agency (EASA) AD, any incorporated by reference service information, 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 AD, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: George Schwab, Aviation Safety

Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *george.schwab@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments prior to it becoming effective. However, 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 resulted from adopting this AD. The most helpful comments reference a specific portion of the AD, 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 them 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 rulemaking during the comment period. We will consider all the comments we receive and may conduct additional rulemaking based on those comments.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2013–0173, dated August 1, 2013, to correct an unsafe condition for certain serial-numbered Eurocopter France (now Airbus Helicopters) Model AS 332 L1 and Model EC 225 LP helicopters. EASA advises that after a power generation failure, some helicopters equipped with electrical MPAIs would lose electrical power to the engine electro-valves that control inflation of the MPAI seals that close the engine air intakes. This power supply loss results in deflation or non-inflation of the MPAI seals on both engine air intakes. During flight in icing conditions, this condition could result in ice ingestion by the engines and a dual engine flame-out. To correct this unsafe condition, EASA AD No. 2013–0173 requires accomplishing Eurocopter modification (MOD) 332P083736.05 for Model AS 332 L1 helicopters, and MOD 332P083736.01 or MOD 332P083736.02, depending on the helicopter serial number, for Model EC225 LP helicopters. These MODs describe procedures for relocating the power supply circuit breaker of one engine's MPAI to an electrical bus that cannot be shut off in the event of battery powered emergency flight.

FAA's Determination

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

Related Service Information

Eurocopter issued Alert Service Bulletin (ASB) No. AS332–30.00.74 for Model AS332L1 helicopters and ASB No. EC225–30A032 for Model EC225LP helicopters, both Revision 0 and dated July 31, 2013. ASB AS332–30.00.74 contains the procedures for Eurocopter MOD 332P083736.05, and ASB EC225–30A032 contains the procedures for Eurocopter MOD 332P083736.01 and MOD 332P083736.02. Each ASB specifies relocating one of the two electric MPAI power supply circuit breakers to a bus bar that cannot lose power during emergency flight under battery power only.

AD Requirements

Before flying into known icing conditions, this AD requires complying with the manufacturer's service information to relocate an engine MPAI power supply circuit breaker. This AD also requires performing a functional test of each MPAI after relocating the MPAI power supply circuit breaker.

Differences Between This AD and the EASA AD

The EASA AD requires compliance within 110 flight hours. This AD requires compliance before any flight into known icing conditions, as the unsafe condition does not exist unless icing conditions are encountered concurrently with a dual generator or dual transformer-rectifier unit failure.

Costs of Compliance

There are no costs of compliance with this AD because there are no helicopters affected by this AD on the U.S. Registry.

FAA's Justification and Determination of the Effective Date

There are no helicopters affected by this AD on the U.S. Registry. Therefore, we believe it is unlikely that we will receive any adverse comments or useful information about this AD from U.S. Operators.

Since an unsafe condition exists that requires the immediate adoption of this AD, we determined that notice and opportunity for public comment before issuing this AD are unnecessary because there are none of these products on the U.S. Registry and that good cause exists for making this amendment effective in less than 30 days.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify that this AD:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–10–03 Airbus Helicopters (Type Certificate previously held by Eurocopter France): Amendment 39–17850; Docket No. FAA–2014–0306; Directorate Identifier 2013–SW–046–AD.

(a) Applicability

This AD applies to Model AS332L1 helicopters, serial number (S/N) 2774, and Model EC225LP helicopters, S/N 2600, 2623, 2645, 2656, 2659, 2663, 2666, 2670, 2673, 2685, 2691, 2692, 2693, 2702, 2715, 2716, 2721, 2725, 2739, 2744, 2747, 2753, 2756, 2759, 2767, 2779, and 2794, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as engine ice ingestion during flight, which could result in complete loss of engine thrust and possible loss of control of the helicopter.

(c) Effective Date

This AD becomes effective June 11, 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

Before flight into known icing conditions:

(1) For Model AS332L1 helicopter, S/N 2774, relocate the engine 1 Multi-Purpose Air Intake (MPAI) power supply circuit breaker as described in the Accomplishment Instructions, paragraph 3.B.2., and Figures 1, 2, and 3 of Eurocopter Alert Service Bulletin (ASB) No. AS332–30.00.74, Revision 0, dated July 31, 2013.

(2) For Model EC225LP helicopters, S/N 2600, 2623, 2645, 2656, 2659, 2663, 2666, 2670, 2673, and 2693, relocate the engine 2 MPAI power supply circuit breaker as described in the Accomplishment Instructions, paragraph 3.B.2.a., and Figures 1 and 2 of Eurocopter ASB No. EC225–30A032, Revision 0, dated July 31, 2013.

(3) For Model EC225LP helicopters, S/N 2685, 2691, 2692, 2702, 2715, 2716, 2721, 2725, 2739, 2744, 2747, 2753, 2756, 2759, 2767, 2779, and 2794, relocate the engine 2 MPAI power supply circuit breaker as described in the Accomplishment Instructions, paragraph 3.B.2.b., and Figures 1 and 3 of Eurocopter ASB No. EC225–30A032.

(4) For all model helicopters, perform a functional test of each MPAI after relocating the MPAI power supply circuit breaker.

(f) Special Flight Permits

Special flight permits are prohibited for flights into known icing conditions.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: George Schwab, Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *george.schwab@faa.gov.*

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

(h) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2013–0173, dated August 1, 2013. You may view the EASA AD on the internet at *http://www.regulations.gov* in Docket No. FAA–2014–0306.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 3097: Ice/Rain Protection System Wiring.

(j) Material Incorporated by Reference

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

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

(i) Eurocopter Alert Service Bulletin No. AS332–30.00.74, Revision 0, dated July 31, 2013.

(ii) Eurocopter Alert Service Bulletin No. EC225–30A032, Revision 0, dated July 31, 2013.

(3) For Eurocopter service information identified in this AD, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued in Fort Worth, Texas, on May 6, 2014.

Kim Smith,

Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2014–11528 Filed 5–23–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–1062; Airspace Docket No. 13–ACE–3]

RIN 2120–AA66

Modification of Air Traffic Service (ATS) Routes; North Central United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies three Jet Routes (J–45, J–151, and J–233) and a high altitude area navigation (RNAV) route (Q–19). The FAA is taking this action due to a service restriction of the Des Moines, IA (DSM), VHF Omnidirectional Range (VOR)/Tactical Air Navigation (VORTAC) facility that provides navigation guidance for a portion of the ATS routes identified.

DATES: *Effective Date:* 0901 UTC, July 24, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

On Wednesday, January 22, 2014, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify J–45, J–151, J–233, and Q–19 in the vicinity of the DSM VORTAC, Des Moines, IA (79 FR 3545). Interested parties were invited to participate in this rulemaking effort by submitting written comments on this proposal to the FAA. No comments were received in response to the NPRM.

Differences From the NPRM

Subsequent to publication of the NPRM, an error in the J–233 route

description format was identified. Airway and route legal descriptions are published in FAA Order 7400.9X, Airspace Designations and Reporting Points. Current format guidelines for these legal descriptions require that the order of points in a description be listed from ''south-to-north'' or from ''west-to-east,'' as applicable. The description for J–233 in the NPRM listed the points from ''north-to-south,'' in error. The rule simply reverses the order of the points listed for J–233 to a ''south-to-north'' format for standardization. The route structure is unchanged from that proposed in the NPRM.

The Rule

This action amends Title 14, Code of Federal Regulations (14 CFR) part 71 by modifying Jet Routes J–45, J–151, and J–233, and high altitude RNAV route Q–19. The DSM, VOR radial restrictions have made this action necessary. The route modifications are outlined below.

J–45: J–45 extends between Virginia Key, FL, and Aberdeen, SD. The route segment between the St Louis, MO (STL), and DSM VORTACs is relocated over the Kirksville, MO (IRK), VORTAC and extended approximately four nautical miles (NM) to restore navigable route structure using serviceable DSM VOR radials.

J–151: J–151 extends between Cross City, FL, and Whitehall, MT. The route segment between STL and O'Neil, NE (ONL), VORTACs is realigned over the IRK and Omaha, NE (OVR), VORTACs, providing a nearly direct routing from STL to ONL and reducing the route segment by 12.5 NM.

J–233: J–233 extends between STL and Waterloo, IA (ALO). The route is realigned over the IRK VORTAC to resolve an extended service volume flight check failure impacting the navigable use of the route.

Q–19: Q–19 extends between Nashville, TN (BNA), and the PLESS fix, overlying a portion of J–45. The route is extended northwest from the PLESS fix over the STL VORTAC to the DSM VORTAC, retaining a direct routing capability between STL and DSM for aircraft capable of flying RNAV routes.

The navigation aid radials cited in the proposed Jet Route and high altitude RNAV route descriptions below, are stated relative to True north.

Jet Routes are published in paragraph 2004 and high altitude RNAV routes (Q) are published in paragraph 2006, respectively, of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Jet Routes and high altitude RNAV route listed in this document will be subsequently published in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the route structure as necessary to preserve the safe and efficient flow of air traffic within the NAS.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 2004 Jet Routes.

J–45 [Amended]

From Virginia Key, FL; INT Virginia Key 014° and Treasure, FL, 143° radials; Treasure; INT Treasure 330° and Ormond Beach, FL, 183° radials; Ormond Beach; Craig, FL; Alma, GA; Macon, GA; Atlanta, GA; Nashville, TN; St Louis, MO; Kirksville, MO; Des Moines, IA; Sioux Falls, SD; to Aberdeen, SD.

* * * * *

J–151 [Amended]

From Cross City, FL; Vulcan, AL; Farmington, MO; St. Louis, MO; Kirksville, MO; Omaha, NE; O'Neil, NE; Rapid City, SD; Billings, MT; INT Billings 266° and Whitehall, MT, 103° radials; to Whitehall.

* * * * *

J–233 [Amended]

From St. Louis, MO; Kirksville, MO; to Waterloo, IA.

* * * * *

Paragraph 2006 United States Area Navigation Routes.

Q–19 Nashville, TN (BNA) to Aberdeen, SD (ABR) [Amended]

Nashville, TN (BNA)	VORTAC	(Lat. 36°08′13″ N., long. 86°41′05″ W.)
PLESS, IL	Fix	(Lat. 37°48′35″ N., long. 88°57′48″ W.)
St. Louis, MO (STL)	VORTAC	(Lat. 38°51′38″ N., long. 90°28′57″ W.)
Des Moines, IA (DSM)	VORTAC	(Lat. 41°26′15″ N., long. 93°38′55″ W.)

Sioux Falls, SD (FSD)	VORTAC	(Lat. 43°38′58″ N., long. 96°46′52″ W.)
Aberdeen, SD (ABR)	VOR/DME	(Lat. 45°25′02″ N., long. 98°22′07″ W.)

* * * * *

Issued in Washington, DC, on May 19, 2014.

Gary A. Norek,

Manager, Airspace Policy and Regulations Group.

[FR Doc. 2014–11999 Filed 5–23–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0922; Airspace Docket No. 13–AWA–5]

RIN 2120–AA66

Modification of the Philadelphia, PA, Class B Airspace Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the description of Area G of the Philadelphia Class B airspace area to correct a design error that resulted in the Class B airspace boundary being published 2.1 nautical miles (NM) larger on the southeast side of the area than intended. There are no other changes to the Philadelphia Class B airspace area.

DATES: Effective date 0901 UTC, July 24, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

The FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify Area G of the Philadelphia, PA, Class B airspace area (78 FR 76779, December 19, 2013). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 to correct two points used to define the boundaries of Area G in the description of the Philadelphia Class B airspace area. Specifically, the point that reads ''. . .the intersection of the PHL 20-mile radius and the 136° bearing from PHL. . .'' is changed to read ''. . .the intersection of the 17.9-mile radius and the 138° bearing from PHL. . . .'' This point appears in two places in the Area G description. In addition, the point that reads ''. . .the intersection of the PHL 20-mile radius and the 120° bearing from PHL. . .'' is changed to read ''. . .the intersection of the 20-mile radius and the 118° bearing from PHL. . . .'' This point appears once in the Area G description. This change results in a small reduction in the lateral dimensions of Class B airspace, southeast of Philadelphia International Airport, near the Cross Keys Airport, NJ (17N). This action does not modify any other parts of the Philadelphia Class B airspace area.

Class B airspace areas are published in paragraph 3000 of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class B airspace area listed in this document will be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it makes editorial corrections to an existing Class B airspace description to maintain accuracy.

Regulatory Evaluation Summary

Changes to federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Public Law 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this

final rule. The reasoning for this determination follows:

In conducting these analyses, the FAA has determined that this final rule:

(1) Imposes minimal incremental costs and provides benefits;

(2) Is not an economically ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866;

(3) Is not significant as defined in DOT's Regulatory Policies and Procedures;

(4) Will not have a significant economic impact on a substantial number of small entities;

(5) Will not have a significant effect on international trade; and

(6) Will not impose an unfunded mandate on state, local, or tribal governments, or on the private sector by exceeding the monetary threshold identified.

These analyses are summarized below.

The Action

This final rule action modifies the Philadelphia, PA, Class B airspace area by reducing the size of Area G in the description of the Philadelphia Class B airspace area.

Benefits of the Final Rule Action

Reducing the size of the Class B airspace area increases the airspace available to aircraft that do not need to use Class B airspace.

Costs of the Action

The final rule action has no costs.

Outcome of the Final Rule

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. There the FAA has determined that this final rule is not a ''significant regulatory action ''as defined in Section 3(f) of Executive 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures.

The FAA received no comments on the regulatory evaluation for the NPRM.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This final rule is a routine matter that only affects air traffic procedures and air navigation and has no costs.

The FAA received no comments on the Initial Regulatory Determination, accepts the determination of no significant economic impact. Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA received no comments on the proposed determination of no impact. Therefore, the FAA has determined that this final rule will have no impact on international trade because it reduces Class B airspace in the Philadelphia area.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $151.0 million in lieu of $100 million. This final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 3000 Subpart B—Class B Airspace.

* * * * *

AEA PA B Philadelphia, PA [Amended]

Philadelphia International Airport, PA
(Primary Airport)
(Lat. 39°52′20″ N., long. 75°14′27″ W.)
Northeast Philadelphia Airport, PA

(Lat. 40°04′55″ N., long. 75°00′38″ W.)
Cross Keys Airport, NJ
(Lat. 39°42′20″ N., long. 75°01′59″ W.)

Boundaries.

By removing the current description of Area G and adding in its place:

Area G. That airspace extending upward from 3,500 feet MSL to and including 7,000 feet MSL within a 20-mile radius of PHL, excluding that airspace south of a line beginning at the intersection of the PHL 20-mile radius and the 158° bearing from PHL, thence direct to the intersection of the PHL 17.9-mile radius and the 138° bearing from PHL, and that airspace bounded by a line beginning at the intersection of the PHL 17.9-mile radius and the 138° bearing from PHL, thence direct to the intersection of the PHL 15-mile radius and the 141° bearing from PHL, thence direct to the intersection of the Cross Keys Airport (17N) 1.5-mile radius and the 212° bearing from 17N, thence clockwise via the 1.5-mile radius of 17N to the 257° bearing from 17N, thence direct to the intersection of the 17N 1.5-mile radius and the 341° bearing from 17N, thence clockwise via the 1.5-mile radius of 17N to the 011° bearing from 17N, thence direct to the intersection of the PHL 15-mile radius and the 127° bearing from PHL, thence direct to the intersection of the PHL 20-mile radius and the 118° bearing from PHL, and Areas A, B, C, D, E and F.

Issued in Washington, DC, on May 19, 2014.

Gary A. Norek,

Manager, Airspace Policy and Regulations Group.

[FR Doc. 2014–11995 Filed 5–23–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 772 and 774

[Docket No. 131121983–4407–01]

RIN 0694–AG02

Revisions to the Export Administration Regulations Based on the 2013 Missile Technology Control Regime Plenary Agreements

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) to reflect changes to the Missile Technology Control Regime (MTCR) Annex that were agreed to by MTCR member countries at the October 2013 Plenary in Rome, Italy, and at the 2013 Technical Experts Meeting in Bonn, Germany. This final rule revises eight Export Control Classification Numbers (ECCNs), adds one new ECCN and lastly revises two defined terms (the definition of ''payload'' and ''repeatability'') to implement the changes that were agreed to at the meetings.

DATES: This rule is effective: May 27, 2014.

FOR FURTHER INFORMATION CONTACT: Sharon Bragonje, Nuclear and Missile Technology Controls Division, Bureau of Industry and Security, Phone: (202) 482–0434; Email: *sharon.bragonje@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The MTCR is an export control arrangement among 34 nations, including most of the world's suppliers of advanced missiles and missile-related equipment, materials, software and technology. The regime establishes a common list of controlled items (the Annex) and a common export control policy (the Guidelines) that member countries implement in accordance with their national export controls. The MTCR seeks to limit the risk of proliferation of weapons of mass destruction by controlling exports of goods and technologies that could make a contribution to delivery systems (other than manned aircraft) for such weapons.

In 1992, the MTCR's original focus on missiles for nuclear weapons delivery was expanded to include the proliferation of missiles for the delivery of all types of weapons of mass destruction (WMD), i.e., nuclear, chemical and biological weapons. Such proliferation has been identified as a threat to international peace and security. One way to counter this threat is to maintain vigilance over the transfer of missile equipment, material, and related technologies usable for systems capable of delivering WMD. MTCR members voluntarily pledge to adopt the regime's export Guidelines and to restrict the export of items contained in the regime's Annex. The implementation of the regime's Guidelines is effectuated through the national export control laws and policies of the regime members.

Amendments to the Export Administration Regulations

This final rule revises the EAR to reflect changes to the MTCR Annex agreed to at the October 2013 Plenary in Rome, Italy, and at the 2013 Technical Experts Meeting in Bonn, Germany. Corresponding MTCR Annex references are provided below for the MTCR Annex changes agreed to at the meetings. In the explanation below for the revisions made in this rule, BIS identifies these changes as follows: ''Rome 2013 Plenary'' and ''Bonn 2013 TEM'' to assist the public in understanding the origin of each change included in this final rule.

In section 772.1 (Definitions of Terms as Used in the Export Administration Regulations) this final rule amends the definition of the term ''payload'' (MTCR Annex Change, Definitions: ''Payload,'' Bonn 2013 TEM). The definition of ''payload'' is revised by adding the phrase ''and separation systems'' to the end of the description for space launch vehicles in Technical Note (b.2). This control changes the definition of ''payload'' for space launch vehicles to specifically identify separation systems. This is a clarification and will not change any scope of control. This change is not expected to have any impact on the number of license applications received by BIS.

In addition, in section 772.1, this final rule amends the definition of the term ''repeatability'' (MTCR Annex Change, Category II: Item 9.A.3., Rome 2013 Plenary). This final rule adds the phrase ''for Inertial Sensor Terminology'' after the phrase ''IEEE Standard'' to add more description regarding the standard being referenced. In addition, after the standard number 528–2001, this final rule adds the phrase ''in the Definitions section paragraph 2.214 titled repeatability (gyro, accelerometer).'' These changes are not substantive and are limited to assisting the public in more easily identifying the standards being referenced in the ''repeatability'' definition. This change is not expected to have any impact on the number of license applications received by BIS.

In addition, this rule amends the Commerce Control List (CCL) to reflect changes to the MTCR Annex. Specifically, the following nine ECCNs are affected:

ECCN 1B102 is amended by revising ''items'' paragraph (a) in the List of Items Controlled section by correcting a typographical error in the phrase ''metal power'' to make it read ''metal powder.'' This final rule also revises paragraph (a) by adding the term ''spheroidal'' to clarify that those types of materials are also within the scope of this paragraph. Lastly, this final rule revises the cross reference to the United States Munitions List (USML) to make the cross reference more specific and to conform to recent changes to the manner in which items controlled for MT reasons are identified on the USML (MTCR Annex Change, Category II: Item 4.B.3.d., Bonn 2013 TEM). This change is a follow-up conforming change to the CCL to reflect the previous inclusion of the term ''spheroidal'' in ECCNs 1C011 and 1C111 in the 2012 MTCR Plenary

Agreements rule published on July 16, 2013 (78 FR 42430), which made it clear that metal powders are not perfectly spherical. This change is not expected to have any impact on the number of license applications received by BIS.

ECCN 1B117 is amended by revising ''items'' paragraph (b) in the List of Items Controlled section to add single quotes around the term 'mixing/kneading shaft.' In addition, this final rule adds a new Note to paragraph (b) to specify that the term 'mixing/kneading shaft' does not refer to deagglomerators or knife-spindles to clarify the scope of this term as used in this paragraph (MTCR Annex Change, Category II: Item 4.B.3., Bonn 2013 TEM). This change clarifies what constitutes a mixing/kneading shaft in a batch mixer. This change is not expected to have any impact on the number of license applications received by BIS.

ECCN 1D001 is amended by revising the MT control(s) paragraph in the License Requirements section to remove the term ''use'' and replace it with the terms ''operation'' and ''maintenance,'' which are two of six elements from the defined term ''use'' (MTCR Annex Change, Category II: Item 6.D.1., Rome 2013 Plenary). This change is made as a result of the U.S. Government's efforts to replace the defined term ''use'' within the Annex with more specific language (such as ''operation'' and ''maintenance'' or other terms) in certain entries to better identify the items warranting control. Although this changes the scope of the MT control in this ECCN, this change is only expected to result in an increase of 3–5 applications received annually by BIS.

ECCN 1D018 is amended by revising the MT control(s) paragraph in the License Requirements section to remove the term ''use'' and replace it with the terms ''operation'' and ''maintenance,'' which are two of six elements from the defined term ''use'' (MTCR Annex Change, Category II: Item 4.D.1., Rome 2013 Plenary). This is the result of the U.S. Government's efforts to replace the defined term ''use'' within the Annex with more specific language (such as ''operation'' and ''maintenance'' or other terms) in certain entries to better identify the items warranting control. Although this change clarifies the scope of the MT control in this ECCN, this change is expected to result in an increase of 1–2 applications received annually by BIS.

ECCN 1D101 is amended by revising the heading to remove the term ''use'' and replace it with the terms ''operation'' and ''maintenance,'' which are two of six elements from the defined term ''use'' (MTCR Annex Change, Category II: Item 4.D.1., Rome 2013 Plenary). This is the result of the U.S. Government's efforts to replace the defined term ''use'' within the Annex with more specific language (such as ''operation'' and ''maintenance'' or other terms) in certain entries to better identify the items warranting control. Although this change clarifies the scope of the ECCN heading, this change is expected to result in an increase of 3–5 applications received annually by BIS.

ECCN 6A107 is amended by revising the heading and the ''items'' paragraph in the List of Items Controlled section to make clearer how gravity meters and gravity gradiometers are controlled under this ECCN (MTCR Annex Change, Category II: Item 12.A.3., Bonn 2013 TEM). Previously, both gravity meters and gravity gradiometers were specified by the same parameters, when in fact gravity meters and gradiometers measure different values and these results are expressed in different units. A gravity meter measures local gravitational forces directly, and is expressed in milligals. A gradiometer measures the rate of change of gravitational acceleration, or gravity gradient. Gradiometers have more complex units, and as any gradiometer that is designed or modified for airborne or marine use can be used in missiles, the text covers all gradiometers, regardless of performance values. This change is a correction. Although this change clarifies the scope of the ECCN, this change is not expected to have any impact on the number of license applications received by BIS.

ECCN 9A101 is amended by revising ''items'' paragraph (a.2) to add the phrase ''conditions using the ICAO standard atmosphere'' to provide greater specificity for how specific fuel consumption should be measured for purposes of this paragraph when at static sea level (MTCR Annex Change, Category II: Item 3.A.1.a.2., Bonn 2013 TEM). This is a clarification of what standard conditions are to be applied during measurement. This change is not expected to have any impact on the number of license applications received by BIS.

ECCN 9A102 is added to the EAR. This new ECCN 9A102 will control 'turboprop engine systems' ''specially designed'' for items controlled in 9A012 for MT reasons, and ''specially designed'' ''parts'' and ''components'' therefor, having a maximum power greater than 10 kW achieved uninstalled at sea level static conditions using the ICAO standard atmosphere. New ECCN 9A102 also includes a technical note to clarify what ''components'' a 'turboprop engine system' incorporates (MTCR Annex Change, Category II: Item 3.A.9., Bonn 2013 TEM). Annex entry 3.A.9. was revised at the Bonn 2013 TEM. At that time the U.S. Government, in reviewing the new change, determined that the existing CCL entries did not control for MT reasons the commodities identified in Annex Item 3.A.9. Therefore, BIS needed to create a new ECCN 9A102 to control the commodities identified in Annex Item 3.A.9. This change is expected to result in an increase of 1–2 applications received annually by BIS.

ECCN 9B106 is amended by revising ''items'' paragraph a.2 in the List of Items Controlled section to add the term ''while'' for clarification (MTCR Annex Change, Category II: Item 15.B.4.a.2., Bonn 2013 Plenary). This is a minor correction to the wording used in paragraph (a.2). This change is not expected to have any impact on the number of license applications received by BIS.

Savings Clause

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting or reexporting carrier, or en route aboard a carrier to a port of export or reexport, on May 27, 2014, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR) so long as they are exported or reexported before June 26, 2014. Any such items not actually exported or reexported before midnight, on June 26, 2014, require a license in accordance with this rule.

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, 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.

Regulatory 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 determined to be significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and carries a burden estimate of 43.8 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are expected to increase slightly as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by email to *Jasmeet_K._Seehra@omb.eop.gov,* or by fax to (202) 395–7285.

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

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Immediate implementation of these amendments fulfills the United States' international commitments to the MTCR. The MTCR contributes to international peace and security by promoting greater responsibility in transfers of missile technology items that could make a contribution to delivery systems (other than manned aircraft) for weapons of mass destruction. The MTCR consists of 34 member countries that act on a consensus basis and the changes set forth in this rule implement agreements reached by MTCR member countries at the October 2013 Plenary in Rome, Italy. Since the United States is a significant exporter of the items in this rule, implementation of this provision is necessary for the MTCR to achieve its purpose. Moreover, it is in the public's interest to waive the notice and comment requirements, as any delay in implementing this rule will disrupt the movement of affected items globally because of disharmony between export control measures implemented by MTCR members, resulting in tension between member countries. Export controls work best when all countries implement the same export controls in a timely manner. If this rulemaking were delayed to allow for notice and comment and a 30 day delay in effectiveness, it would prevent the United States from fulfilling its commitment to the MTCR in a timely manner, would injure the credibility of the United States in this and other multilateral regimes, and may impair the international communities' ability to effectively control the export of certain potentially national- and international-security-threatening materials.

Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form.

List of Subjects

15 CFR Part 772

Exports.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 772 and 774 of the Export Administration Regulations (15 CFR parts 730–774) are amended as follows:

PART 772—[AMENDED]

■ 1. The authority citation for 15 CFR part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013).

■ 2. Section 772.1 is amended:

■ a. By revising Technical Notes b.2 of the ''payload'' definition; and

■ b. By adding, in alphabetical order, a second definition of ''repeatability'' as set forth below:

§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).

* * * * *

Payload. * * *

NOTE: * * *

TECHNICAL NOTES:

a. * * *

b. Space Launch Vehicles—''Payload'' includes:

1. * * *

2. Spacecraft-to-launch vehicle adapters including, if applicable, apogee/perigee kick motors or similar maneuvering systems and separation systems;

* * *

* * * * *

''Repeatability''. (MTCR Context only) (Cat 7)—According to IEEE Standard for Inertial Sensor Terminology 528–2001 in the Definitions section paragraph 2.214 titled repeatability (gyro, accelerometer) as follows: ''The closeness of agreement among repeated measurements of the same variable under the same operating conditions when changes in conditions or non-operating periods occur between measurements.''

* * * * *

PART 774—[AMENDED]

■ 3. The authority citation for 15 CFR 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).

■ 4. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms'' and ''Toxins,'' Export Control Classification Number (ECCN) 1B102 is amended by revising ''items'' paragraph a in the List of Items Controlled section to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

1B102 Metal powder ''production equipment,'' other than that specified in

1B002, and ''parts'' and ''components'' as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

a. Metal powder ''production equipment'' usable for the ''production'', in a controlled environment, of spherical, spheroidal or atomized materials specified in 1C011.a., 1C011.b., 1C111.a.1., 1C111.a.2., or controlled for MT reasons in Category V of the USML.

* * * * *

■ 5. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms'' and ''Toxins,'' Export Control Classification Number (ECCN) 1B117 is amended:

■ a. By revising ''items'' paragraph b in the List of Items Controlled section; and

■ b. By adding a note to ''items'' paragraph b in the List of Items Controlled section to read as follows:

1B117 Batch mixers with provision for mixing under vacuum in the range from zero to 13.326 kPa and with temperature control capability of the mixing chamber and having all of the following characteristics (see List of Items Controlled), and ''specially designed'' ''parts'' and ''components'' therefor.

* * * * *

List of Items Controlled

* * * * *

Items:

* * * * *

b. At least one 'mixing/kneading shaft' mounted off center.

Note to paragraph b: In 1B117.b. the term 'mixing/kneading shaft' does not refer to deagglomerators or knife-spindles.

■ 6. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms'' and ''Toxins,'' Export Control Classification Number (ECCN) 1D001 is amended by revising the second entry in the License Requirements table to read as follows:

1D001 ''Software'' ''specially designed'' or modified for the ''development'', ''production'' or ''use'' of equipment controlled by 1B001 to 1B003.

License Requirements

Reason for Control: * * *

Control(s)	*Country chart (see Supp. No. 1 to part 738).*
* * * * *	
MT applies to ''software'' for the ''development,'' ''production,'' operation, or maintenance of items controlled by 1B001 for MT reasons.	MT Column 1
* * * * *	

* * * * *

■ 7. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms'' and ''Toxins,'' Export Control Classification Number (ECCN) 1D018 is amended by revising the second entry in the License Requirements table to read as follows:

1D018 ''Software'' ''specially designed'' or modified for the ''development'', ''production'', or ''use'' of items controlled by 1B018.

License Requirements

Reason for Control: * * *

Control(s)	*Country chart (see Supp. No. 1 to part 738).*
* * * * *	
MT applies to ''software'' for the ''development'', ''production'', operation, or maintenance of items controlled by 1B018 for MT reasons.	
* * * * *	

* * * * *

■ 8. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms'' and ''Toxins,'' Export Control Classification Number (ECCN) 1D101 is amended by revising the heading to read as follows:

1D101 ''Software'' ''specially designed'' or modified for the operation or maintenance of commodities controlled by 1B101, 1B102, 1B115, 1B117, 1B118, or 1B119.

* * * * *

■ 9. In Supplement No. 1 to part 774 (the Commerce Control List), Category 6—Sensors and Lasers, Export Control Classification Number (ECCN) 6A107 is amended:

■ a. By revising the heading; and

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

6A107 Gravity meters (gravimeters) or gravity gradiometers, other than those controlled by 6A007, designed or modified for airborne or marine use, as follows, (see List of Items Controlled) and ''specially designed'' ''parts'' and ''components'' therefor.

* * * * *

List of Items Controlled

* * * * *

Items:

a. Gravity meters having all the following:

1. A static or operational accuracy equal to or less (better) than 0.7 milligal (mgal); and

2. A time to steady-state registration of two minutes or less.

b. Gravity gradiometers.

■ 10. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Aerospace and Propulsion, Export Control Classification Number (ECCN) 9A101 is amended by revising ''items'' paragraph a.2 in the List of Items Controlled section to read as follows:

9A101 Turbojet and turbofan engines, other than those controlled by 9A001, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

a. * * *

* * * * *

a.2. Specific fuel consumption of 0.15 kg N^{-1} h^{-1} or less (at maximum continuous power at sea level static conditions using the ICAO standard atmosphere); *or*

* * * * *

■ 11. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Aerospace and Propulsion add new ECCN 9A102 between ECCNs 9A101 and 9A103 to read as follows:

9A102 'Turboprop engine systems' ''specially designed'' for items controlled in 9A012 for MT reasons, and ''specially designed'' ''parts'' and ''components'' therefor, having a maximum power greater than 10 kW (achieved uninstalled at sea level static conditions using the ICAO standard atmosphere), excluding civil certified engines.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738).*
MT applies to entire entry.	MT 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 also 9A001 and 9A101.
Related Definitions: N/A
Items:

The list of items controlled is contained in the ECCN heading.

Technical Note to 9A102: For the purposes of 9A102 a 'turboprop engine system' incorporates all of the following:

a. *Turboshaft engine; and*

b. *Power transmission system to transfer the power to a propeller.*

■ 12. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Aerospace and Propulsion, Export Control Classification Number (ECCN) 9B106 is amended by revising ''items'' paragraph a.2 in the List of Items Controlled section to read as follows:

9B106 Environmental chambers usable for rockets, missiles, or unmanned aerial vehicles capable of achieving a ''range'' equal to or greater than 300 km and their subsystems, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Items:

a. * * *

* * * * *

a.2. Incorporating, or designed or modified to incorporate, a shaker unit or other vibration test equipment to produce vibration environments equal to or greater than 10 g rms, measured 'bare table', between 20 Hz and 2 kHz while imparting forces equal to or greater than 5 kN;

Technical Notes: * * *

* * * * *

Dated: May 21, 2014.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2014–12152 Filed 5–23–14; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket Number USCG–2014–0095]

RIN 1625–AA00, AA08

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

AGENCY: Coast Guard, DHS.

ACTION: Interim final rule; request for comments.

SUMMARY: The Coast Guard is amending its special local regulations and safety zones established for recurring marine events and fireworks displays that take place within the Fifth Coast Guard District area of responsibility. This interim final rule revises the listing of events that informs the public of regularly scheduled marine parades, regattas, other organized water events, and fireworks displays that require additional safety measures provided by regulations. Through this interim final rule, the current list of recurring marine events requiring special local regulations or safety zones is updated with revisions, additional events, and removal of events that no longer take place in the Fifth Coast Guard District area of responsibility. When these special local regulations and safety zones are enforced, certain restrictions are placed on marine traffic in specified areas. Additionally, this rulemaking project promotes efficiency by eliminating the need to produce a separate rule for each individual recurring event, and serves to provide notice of the known recurring events requiring a special local regulation or safety zone throughout the year.

DATES: This rule is effective without actual notice from May 27, 2014. For the purposes of enforcement, actual notice will be used from the date the rule was signed, May 12, 2014, until May 27, 2014. Comments and related material must be received by the Coast Guard on or before June 26, 2014.

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

You may submit comments, identified by docket number, using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* (202) 493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

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

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or

hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

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

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

The special local regulations listed in 33 CFR 100.501 and safety zones in 33 CFR 165.506 were last amended on May 21, 2013, (78 FR 29629). The Coast Guard is issuing this interim final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.''

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is necessary to protect the maritime public during certain marine events. The potential dangers posed by certain marine events and fireworks displays conducted on waterways in close proximity to other vessel traffic makes special local regulations and safety zones necessary to provide for the safety of participants, spectator craft, and other vessels transiting the event area. Accordingly, waiting for a comment period to run would be contrary to the public interest of protecting life and property. In addition, publishing an NPRM is impracticable because the necessary information regarding these annual recurring marine events and fireworks displays was not available in sufficient time to ensure accurate and up to date listings to allow for a comment period prior to the events.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Additionally, providing a 30-day notice would unnecessarily delay the effective dates for the events listed to occur in June and July of 2014, which are also noticed to the public through local media outlets, and are planned on by the local communities where they take place.

This interim rule is effective upon publication without prior notice through publication in the **Federal Register**, however we invite comments regarding the updated list of marine events. The Coast Guard will address all comments accordingly, whether through response, additional revision to the regulations, or otherwise.

This interim rule, prepared to provide the most up to date list of recurring marine events, special local regulations and safety zones, provides ample notice for all listed events occurring after July 2014. Additionally, these recurring events are noticed to the public through local media and planned on by the local communities in which they take place.

The current lists of annual and recurring special local regulations and safety zones for marine events and fireworks displays within the Fifth Coast Guard District area of responsibility (AOR) are published under 33 CFR 100.501 and 165.506, respectively. These lists were last updated May 21, 2013 through a previous rulemaking (78 FR 29629), and generated no adverse comments. Like this interim rule, the May 2013 rule added to, removed from, and amended 33 CFR 100.501 and 33 CFR 165.506 to create a comprehensive list of recurring marine events and fireworks displays requiring special local regulations and safety zones.

C. Basis and Purpose

The Coast Guard is amending and updating the list of permanent special local regulations at 33 CFR 100.501 and safety zones at 33 CFR 165.506, established for recurring marine events and fireworks displays at various locations within the geographic boundary of the Fifth Coast Guard District. The Fifth Coast Guard District AOR is defined in 33 CFR 3.25.

Publishing these regulatory updates in a single rulemaking promotes efficiency and provides the public with notice through publication in the **Federal Register** of the upcoming recurring marine events and fireworks displays and their accompanying regulations, special local regulations, and safety zones.

D. Discussion of the Interim Rule

Special Local Regulations

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

The two newly added marine events to 33 CFR 100.501 affect the Middle River, Essex, MD and the Atlantic Ocean, Ocean City, MD. The two removed events no longer listed in 33 CFR 100.501 are the Tri Rock Triathlon, Annapolis, MD, and the Virginia Beach, VA, Hydroplane Races. The 10 existing

special local regulations that involve changes to marine event date(s) and coordinates are shown in Table 1, with reference by section as printed in the Table to § 100.501.

TABLE 1

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

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

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

Safety Zones

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

TABLE 2

	Table to § 165.506 section	Location	Revision (date/coordinates)
1	(a.) 5	Barnegat Bay, Barnegat Twp., NJ	date.
2	(a.) 11	N. Atlantic Ocean, Ocean City, NJ	date.
3	(b.) 2	Severn River & Spa Creek, Annapolis, MD	coordinates.
4	(b.) 3	Middle River, Baltimore County, MD	dates.
5	(b.) 9	Patuxent River, Calvert County, MD	dates.
6	(b.) 24	Isle of Wight Bay, Ocean City, MD	dates, coordinates.
7	(b.) 25	Assawoman Bay, Fenwick Island, Ocean City, MD	coordinates.
8	(c.) 1	Linkhorn Bay, Virginia Beach, VA	coordinates.
9	(c.) 2	York River, West Point, VA	dates.
10	(c.) 4	James River, Newport News, VA	dates.
11	(c.) 6	Chesapeake Bay, Virginia Beach, VA	date.
12	(c.) 7	Elizabeth River, S. Branch, Norfolk, VA	dates.
13	(c.) 9	N. Atlantic Ocean, Virginia Beach, VA	dates.
14	(c.) 11	N. Atlantic Ocean, Virginia Beach, VA	dates.
15	(c.) 13	Chickahominy River, Williamsburg, VA	dates.
16	(c.) 19	Pagan River, Smithfield, VA	dates.
17	(c.) 21	Chesapeake Bay, Virginia Beach, VA	dates.

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

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

E. Regulatory Analyses

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

1. Regulatory Planning and Review

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

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

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities some of which may be small entities: The owners and operators of vessels intending to transit or anchor in these regulated areas during the times the zones are enforced.

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This rule involves implementation of regulations within 33 CFR Part 100 that apply to organized marine events on the navigable waters of the United States. Some marine events by their nature may introduce potential for adverse impact on the safety or other interest of waterway users or waterfront infrastructure within or close proximity to the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, and sail board racing. This section of the rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are not required for this section of the rule.

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

List of Subjects

33 CFR Part 100

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

33 CFR Part 165

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

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

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

* * * * *

TABLE TO § 100.501

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

No.	Date	Event	Sponsor	Location
(a.) Coast Guard Sector Delaware Bay—COTP Zone				
1	June—1st Sunday	Atlantic County Day at the Bay.	Atlantic County, New Jersey.	The waters of Great Egg Harbor Bay, adjacent to Somers Point, New Jersey, bounded by a line drawn along the following boundaries: The area is bounded to the north by the shoreline along John F. Kennedy Park and Somers Point, New Jersey; bounded to the east by the State Route 52 bridge; bounded to the south by a line that runs along latitude 39°18′00″ N; and bounded to the west by a line that runs along longitude 074° 37′00″ W.
2	May—3rd Sunday; September—3rd Saturday.	Annual Escape from Fort Delaware Triathlon.	Escape from Fort Delaware Triathlon, Inc.	All waters of the Delaware River between Pea Patch Island and Delaware City, Delaware, bounded by a line connecting the following points: Latitude 39°36′35.7″ N, longitude 075°35′ 25.6″ W, to latitude 39°34′57.3″ N, longitude 075 °33′23.1″ W, to latitude 39°34′11.9″ N, longitude 075°34′28.6″ W, to latitude 39°35′52.4″ N, longitude 075°36′33.9″ W.
3	June—last Saturday	Westville Parade of Lights.	Borough of Westville and Westville Power Boat.	All waters of Big Timber Creek in Westville, New Jersey from shoreline to shoreline bounded on the south from the Route 130 Bridge and to the north by the entrance of the Delaware River.

TABLE TO § 100.501—Continued

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

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

TABLE TO § 100.501—Continued

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

No.	Date	Event	Sponsor	Location
13	September—3rd Sunday	Ocean City Air Show	Ocean City, NJ	All waters of the New Jersey Intracoastal Waterway (ICW) bounded by a line connecting the following points; latitude 39°15′57″ N, longitude 074°35′09″ W thence northeast to latitude 39°16′34″ N, longitude 074°33′54″ W thence southeast to latitude 39°16′17″ N, longitude 074°33′29″ W thence southwest to latitude 39°15′40″ N, longitude 074°34′46″ W thence northwest to point of origin, near Ocean City, NJ.
14	September—3rd Sunday	Atlantic City International Triathlon.	Atlantic City, NJ	All waters of the New Jersey Intracoastal Waterway (ICW) bounded by a line connecting the following points; latitude 39°21′20″ N, longitude 074°27′18″ W thence northeast to latitude 39°21′27.47″ N, longitude 074°27′10.31″ W thence northeast to latitude 39°21′33″ N, longitude 074°26′57″ W thence northwest to latitude 39°21″37″ N, longitude 074°27′03″ W thence southwest to latitude 39°21′29.88″ N, longitude 074°27′14.31″ W thence south to latitude 39°21′19″ N, longitude 074°27′22″ W thence east to latitude 39°21′18.14″ N, longitude 074°27′19.25″ W thence north to point of origin, near Atlantic City, NJ.
(b.) Coast Guard Sector Baltimore—COTP Zone				
1	March—4th or last Saturday; or April—1st Saturday.	Safety at Sea Seminar	U.S. Naval Academy	All waters of the Severn River from shoreline to shoreline, bounded to the northwest by the Naval Academy (SR–450) Bridge and bounded to the southeast by a line drawn from the Naval Academy Light at latitude 38°58′39.5″ N., longitude 076°28′49″ W. thence easterly to Carr Point, MD at latitude 38°58′58″ N., longitude 076°27′41″ W.
2	March—3rd, 4th or last Friday, Saturday and Sunday; April and May—every Friday, Saturday and Sunday.	USNA Crew Races	U.S. Naval Academy	All waters of the Severn River from shoreline to shoreline, bounded to the northwest by a line drawn from the south shoreline at latitude 39°00′58″ N., longitude 076°31′32″ W. thence to the north shoreline at latitude 39°01′11″ N., longitude 076°31′10″ W. The regulated area is bounded to the southeast by a line drawn from the Naval Academy Light at latitude 38°58′39.5″ N., longitude 076°28′49″ W. thence easterly to Carr Point, MD at latitude 38°58′58″ N., longitude 076°27′41″ W.
3	July—3rd, 4th or last Saturday, or Sunday.	Dinghy Poker Run	Norris Trust Foundation	The waters of Middle River, from shoreline to shoreline, within an area bounded to the north by a line drawn along latitude 39°19′33″ N, and bounded to the south by a line drawn along latitude 39°18′06″ W, located in Baltimore County, at Essex, MD.
4	May—1st Sunday	Nanticoke River Swim and Triathlon.	Nanticoke River Swim and Triathlon, Inc.	All waters of the Nanticoke River, including Bivalve Channel and Bivalve Harbor, bounded by a line drawn from a point on the shoreline at latitude 38°18′00″ N, longitude 075°54′00″ W, thence westerly to latitude 38°18′00″ N, longitude 075°55′00″ W, thence northerly to latitude 38°20′00″ N, longitude 075°53′48″ W, thence easterly to latitude 38°19′42″ N, longitude 075°52′54″ W.
5	May—Saturday before Memorial Day.	Chestertown Tea Party Re-enactment Festival.	Chestertown Tea Party Festival.	All waters of the Chester River, within a line connecting the following positions: latitude 39°12′27″ N, longitude 076°03′46″ W; thence to latitude 39°12′19″ N, longitude 076°03′53″ W; thence to latitude 39°12′15″ N, longitude 076°03′41″ W; thence to latitude 39°12′26″ N, longitude 076°03′38″ W; thence to the point of origin at latitude 39°12′27″ N, longitude 076°03′46″ W.
6	May—3rd Friday, Saturday and Sunday.	Dragon Boat Races at Georgetown, Washington, D.C.	Washington, D.C. Dragon Boat Festival, Inc.	The waters of the Upper Potomac River, Washington, DC, from shoreline to shoreline, bounded upstream by the Francis Scott Key Bridge and downstream by the Roosevelt Memorial Bridge.

TABLE TO § 100.501—Continued

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

No.	Date	Event	Sponsor	Location
7	May—Tuesday and Wednesday before Memorial Day (observed).	USNA Blue Angels Air Show.	U.S. Naval Academy	All waters of the Severn River from shoreline to shoreline, bounded to the northwest by a line drawn from the south shoreline at latitude 39°00′ 38.02″ N., longitude 076°31′01.49″ W. thence to the north shoreline at latitude 39°00′52.7″ N., longitude 076°30′46.01″ W., this line is approximately 1300 yards northwest of the U.S. 50 fixed highway bridge. The regulated area is bounded to the southeast by a line drawn from the Naval Academy Light at latitude 38°58′53.26″ N., longitude 076°28′33.31″ W. thence southeast to a point 1500 yards east of Chinks Point, MD at latitude 38°57′41″ N., longitude 076°27′36″ W. thence northeast to Greenbury Point at latitude 38°58′27.66″ N., longitude 076°27′16.38″ W.
8	June—2nd Sunday	The Great Chesapeake Bay Bridges Swim Races.	Great Chesapeake Bay Swim, Inc.	The waters of the Chesapeake Bay between and adjacent to the spans of the William P. Lane Jr. Memorial Bridge shore to shore 500 yards north of the north span of the bridge from the western shore at latitude 39°00′36″ N, longitude 076°23′ 05″ W and the eastern shore at latitude 38°59′ 14″ N, longitude 076°20′00″ W, and 500 yards south of the south span of the bridge from the western shore at latitude 39°00′16″ N, longitude 076°24′30″ W and the eastern shore at latitude 38°58′38.5″ N, longitude 076°20′06″ W.
9	June—3rd, 4th or last Saturday or July—2nd or 3rd Saturday.	Maryland Swim for Life ...	District of Columbia Aquatics Club.	The waters of the Chester River from shoreline to shoreline, bounded on the south by a line drawn at latitude 39°10′16″ N, near the Chester River Channel Buoy 35 (LLN–26795) and bounded on the north at latitude 39°12′30″ N by the Maryland S.R. 213 Highway Bridge.
10	June—last Saturday and Sunday or July—2nd Saturday and Sunday.	Bo Bowman Memorial—Sharptown Regatta.	Virginia/Carolina Racing Assn.	All waters of the Nanticoke River near Sharptown, MD, from shoreline to shoreline, bounded to the south by Maryland S.R. 313 Highway Bridge and bounded to the north by a line drawn from latitude 38°33′09″ N, longitude 075°42′45″ W, thence southeasterly to latitude 38°33′04″ N, longitude 075°42′37″ W.
11	June—2nd, 3rd, 4th or last Saturday and Sunday or August—1st Saturday and Sunday.	Thunder on the Narrows	Kent Narrows Racing Assn.	All waters of Prospect Bay enclosed by the following points: latitude 38°57′ 52.0″ N, longitude 076°14′48.0″ W, to latitude 38°58′02.0″ N, longitude 076°15′05.0″ W, to latitude 38°57′38.0″ N, longitude 076°15′29.0″ W, to latitude 38°57′ 28.0″ N, longitude 076°15′23.0″ W, to latitude 38 °57′52.0″ N, longitude 076°14′48.0″ W.
12	Labor Day weekend—Saturday and Sunday, or Monday.	Ragin on the River	Port Deposit, MD, Chamber of Commerce.	The waters of the Susquehanna River, adjacent to Port Deposit, Maryland, from shoreline to shoreline, bounded on the south by the U.S. I–95 fixed highway bridge, and bounded on the north by a line running southwesterly from a point along the shoreline at latitude 39°36′22″ N, longitude 076°07′08″ W, thence to latitude 39°36′ 00″ N, longitude 076°07′46″ W.
13	September—2nd Saturday or the Saturday after Labor Day.	Dragon Boat Races in the Inner Harbor.	Associated Catholic Charities, Inc.	The waters of the Patapsco River, Baltimore, MD, Inner Harbor from shoreline to shoreline, bounded on the east by a line drawn along longitude 076°36′30″ W.
14	June—3rd, 4th or last Saturday or Sunday.	Baltimore Dragon Boat Challenge.	Baltimore Dragon Boat Club.	The waters of Patapsco River, Northwest Harbor, in Baltimore, MD, from shoreline to shoreline, within an area bounded on the east by a line drawn along longitude 076°35″ W and bounded on the west by a line drawn along longitude 076° 36′.

TABLE TO § 100.501—Continued

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

No.	Date	Event	Sponsor	Location
15	May—2nd or 3rd Saturday or June—1st, 2nd or 3rd Saturday.	Potomac River Sharkfest Swim.	Enviro-Sports Productions Inc.	The waters of the Potomac River, from shoreline to shoreline, bounded by a line drawn parallel and north of the Harry W. Nice Memorial Bridge (U.S. Route 301) originating at the eastern shoreline latitude 38°22′05″ N, longitude 076°59′03″ W, thence west to latitude 38°21′50″ N, longitude 077°00′54″ W, at the western shoreline. The regulated area is bounded by a line drawn parallel and south of the U.S. Route 301 highway bridge, originating at the eastern shoreline latitude 38°21′45″ N, longitude 076°58′58″ W thence west to latitude 38°21′29″ N, longitude 077°00′54″ W, at the western shoreline of Potomac River.
16	June—1st Sunday	Swim Across the Potomac.	U.S. Open Water Swimming Assn.—Wave One Swimming.	The waters of the Potomac River, from shoreline to shoreline, bounded to the north by a line drawn that originates at Jones Point Park, VA at the west shoreline latitude 38°47′35″ N, longitude 077°02′22″ W, thence east to latitude 38°47′12″ N, longitude 077°00′58″ W, at east shoreline near National Harbor, MD. The regulated area is bounded to the south by a line drawn originating at George Washington Memorial Parkway highway overpass and Cameron Run, west shoreline latitude 38°47′23″ N, longitude 077°03′03″ W thence east to latitude 38°46′52″ N, longitude 077°01′13″ W, at east shoreline near National Harbor, MD.
17	October—last Saturday; or November—1st Saturday.	MRE Tug of War	Maritime Republic of Eastport.	The waters of Spa Creek from shoreline to shoreline, extending 400 feet from either side of a rope spanning Spa Creek from a position at latitude 38°58′36.9″ N, longitude 076°29′03.8″ W on the Annapolis shoreline to a position at latitude 38°58′26.4″ N, longitude 076°28′53.7″ W on the Eastport shoreline.
18	December—2nd Saturday.	Eastport Yacht Club Lighted Boat Parade.	Eastport Yacht Club	The approaches to Annapolis Harbor, the waters of Spa Creek, and the Severn River, shore to shore, bounded on the south by a line drawn from Carr Point, at latitude 38°58′58.0″ N, longitude 076°27′40.0″ W, thence to Horn Point Warning Light (LLNR 17935), at 38°58′24.0″ N, longitude 076°28′10.0″ W, thence to Horn Point, at 38°58′20.0″ N, longitude 076°28′27.0″ W, and bounded on the north by the State Route 450 Bridge.
19	Memorial Day weekend—Thursday, Friday, Saturday and Sunday; or Labor Day weekend—Thursday, Friday, Saturday and Sunday.	NAS Patuxent River Air Expo.	U.S. Naval Air Station Patuxent River, MD.	All waters of the lower Patuxent River, near Solomons, Maryland, located between Fishing Point and the base of the break wall marking the entrance to the East Seaplane Basin at Naval Air Station Patuxent River, within an area bounded by a line connecting position latitude 38°17′39″ N, longitude 076°25′47″ W; thence to latitude 38°17′47″ N, longitude 076°26′00″ W; thence to latitude 38°18′09″ N, longitude 076°25′40″ W; thence to latitude 38°18′00″ N, longitude 076°25′ 25″ W, located along the shoreline at U.S. Naval Air Station Patuxent River, Maryland, and All waters of the lower Patuxent River, near Solomons, Maryland, located between Hog Point and Cedar Point, within an area bounded by a line drawn from a position at latitude 38°18′41″ N, longitude 076°23′43″ W; to latitude 38°18′16″ N, longitude 076°22′35″ W; thence to latitude 38°18′12″ N, longitude 076°22′37″ W; thence to latitude 38°18′36″ N, longitude 076°23′46″ W, located adjacent to the shoreline at U.S. Naval Air Station Patuxent River, Maryland.

TABLE TO § 100.501—Continued

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

No.	Date	Event	Sponsor	Location
20	September—2nd, 3rd or 4th Friday, Saturday and Sunday.	Chesapeake Challenge ..	Chesapeake Bay Powerboat Association.	All waters of the Patuxent River, within boundary lines connecting the following positions; originating near north entrance of MD Route 4 bridge, latitude 38°19′45″ N, longitude 076°28′06″ W, thence southwest to south entrance of MD Route 4 bridge, latitude 38°19′24″ N, longitude 076°28′30″ W, thence south to a point near the shoreline, latitude 38°18′32″ N, longitude 076°28′14″ W, thence southeast to a point near the shoreline, latitude 38°17′38″ N, longitude 076°27′26″ W, thence northeast to latitude 38°18′00″ N, longitude 076°26′41″ W, thence northwest to latitude 38°18′59″ N, longitude 076°27′20″ W, located at Solomons, MD, thence continuing northwest and parallel to shoreline to point of origin.
21	May—last Saturday and Sunday; or June—1st Saturday and Sunday; or October—1st Saturday and Sunday.	Ocean City Maryland Offshore Grand Prix.	Offshore Performance Assn. Racing, LLC.	The waters of the North Atlantic Ocean commencing at a point on the shoreline at latitude 38°25′42″ N, longitude 075°03′06″ W; thence east southeast to latitude 38°25′30″ N, longitude 075°02′12″ W, thence south southwest parallel to the Ocean City shoreline to latitude 38°19′12″ N, longitude 075°03′48″ W; thence west northwest to the shoreline at latitude 38°19′30″ N, longitude 075°05′00″ W.
22	June—1st or 2nd Thursday, Friday, Saturday and Sunday.	Ocean City Air Show	Town of Ocean City, Maryland.	All waters of the North Atlantic Ocean within an area bounded by the following coordinates: latitude 38°21′38″ N, longitude 075°04′04″ W; latitude 38°21′27″ N, longitude 075°03′29″ W; latitude 38°19′35″ N, longitude 075°04′19″ W; and latitude 38°19′45″ N, longitude 075°04′54″ W, located at Ocean City, MD.
(c.) Coast Guard Sector Hampton Roads—COTP Zone				
1	May—last Friday, Saturday and Sunday and/or June—1st Friday, Saturday and Sunday.	Blackbeard Festival	City of Hampton	The waters of Sunset Creek and Hampton River shore to shore bounded to the north by the I–64 Bridge over the Hampton River and to the south by a line drawn from Hampton River Channel Light 16 (LL 5715), located at latitude 37°01′03.0″ N, longitude 76°20′26.0″ W, to the finger pier across the river at Fisherman's Wharf, located at latitude 37°01′01.5″ N, longitude 76°20′32.0″ W. Spectator Vessel Anchorage Areas—Area A: Located in the upper reaches of the Hampton River, bounded to the south by a line drawn from the western shore at latitude 37°01′48.0″ N, longitude 76°20′ 22.0″ W, across the river to the eastern shore at latitude 37°01′44.0″ N, longitude 76°20′13.0″ W, and to the north by the I–64 Bridge over the Hampton River. The anchorage area will be marked by orange buoys. Area B: Located on the eastern side of the channel, in the Hampton River, south of the Queen Street Bridge, near the Riverside Health Center. Bounded by the shoreline and a line drawn between the following points: Latitude 37°01′26.0″ N, longitude 76°20′24.0″ W, latitude 37°01′22.0″ N, longitude 76°20′26.0″ W, and latitude 37°01′22.0″ N, longitude 76°20′23.0″ W. The anchorage area will be marked by orange buoys.

TABLE TO § 100.501—Continued

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

No.	Date	Event	Sponsor	Location
2	June—1st Friday, Saturday and Sunday or 2nd Friday, Saturday and Sunday.	Norfolk Harborfest	Norfolk Festevents, Ltd ..	The waters of the Elizabeth River and its branches from shore to shore, bounded to the northwest by a line drawn across the Port Norfolk Reach section of the Elizabeth River between the northern corner of the landing at Hospital Point, Portsmouth, Virginia, latitude 36°50′51.0″ N, longitude 076°18′09.0″ W and the north corner of the City of Norfolk Mooring Pier at the foot of Brooks Avenue located at latitude 36°51′00.0″ N, longitude 076°17′52.0″ W; bounded on the southwest by a line drawn from the southern corner of the landing at Hospital Point, Portsmouth, Virginia, at latitude 36°50′50.0″ N, longitude 076°18′10.0″ W, to the northern end of the eastern most pier at the Tidewater Yacht Agency Marina, located at latitude 36°50′29.0″ N, longitude 076°17′52.0″ W; bounded to the south by a line drawn across the Lower Reach of the Southern Branch of the Elizabeth River, between the Portsmouth Lightship Museum located at the foot of London Boulevard, in Portsmouth, Virginia at latitude 36° 50′10.0″ N, longitude 076°17′47.0″ W, and the northwest corner of the Norfolk Shipbuilding & Drydock, Berkley Plant, Pier No. 1, located at latitude 36°50′08.0″ N, longitude 076°17′39.0″ W; and to the southeast by the Berkley Bridge which crosses the Eastern Branch of the Elizabeth River between Berkley at latitude 36°50′ 21.5″ N, longitude 076°17′14.5″ W, and Norfolk at latitude 36°50′35.0″ N, longitude 076°17′10.0″ W.
3	June—2nd or 3rd Saturday.	Cock Island Race	Portsmouth Boat Club & City of Portsmouth, VA.	The waters of the Elizabeth River and its branches from shore to shore, bounded to the northwest by a line drawn across the Port Norfolk Reach section of the Elizabeth River between the northern corner of the landing at Hospital Point, Portsmouth, Virginia, latitude 36°50′51.0″ N, longitude 076°18′09.0″ W and the north corner of the City of Norfolk Mooring Pier at the foot of Brooks Avenue located at latitude 36°51′00.0″ N, longitude 076°17′52.0″ W; bounded on the southwest by a line drawn from the southern corner of the landing at Hospital Point, Portsmouth, Virginia, at latitude 36°50′50.0″ N, longitude 076°18′10.0″ W, to the northern end of the eastern most pier at the Tidewater Yacht Agency Marina, located at latitude 36°50′29.0″ N, longitude 076°17′52.0″ W; bounded to the south by a line drawn across the Lower Reach of the Southern Branch of the Elizabeth River, between the Portsmouth Lightship Museum located at the foot of London Boulevard, in Portsmouth, Virginia at latitude 36° 50′10.0″ N, longitude 076°17′47.0″ W, and the northwest corner of the Norfolk Shipbuilding & Drydock, Berkley Plant, Pier No. 1, located at latitude 36°50′08.0″ N, longitude 076°17′39.0″ W; and to the southeast by the Berkley Bridge which crosses the Eastern Branch of the Elizabeth River between Berkley at latitude 36°50′ 21.5″ N, longitude 076°17′14.5″ W, and Norfolk at latitude 36°50′35.0″ N, longitude 076°17′10.0″ W.
4	June—last Saturday or July—1st Saturday.	RRBA Spring Radar Shootout.	Rappahannock River Boaters Association (RRBA).	The waters of the Rappahannock River, adjacent to Layton, VA, from shoreline to shoreline, bounded on the west by a line running along longitude 076°58′30″ W, and bounded on the east by a line running along longitude 076°56′00″ W.

TABLE TO § 100.501—Continued

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

No.	Date	Event	Sponsor	Location
5	July—last Wednesday and following Friday; or August—1st Wednesday and following Friday.	Pony Penning Swim	Chincoteague Volunteer Fire Department.	The waters of Assateague Channel from shoreline to shoreline, bounded to the east by a line drawn from latitude 37°55′01″ N, longitude 075°22′40″ W, to latitude 37°54′50″ N, longitude 075°22′46″ W, and to the west by a line drawn from latitude 37°54′54.0″ N, longitude 075°23′00″ W, to latitude 37°54′49″ N, longitude 075°22′49″ W.
6	August 1st or 2nd Friday, Saturday and Sunday.	Hampton Cup Regatta	Hampton Cup Regatta Boat Club.	The waters of Mill Creek, adjacent to Fort Monroe, Hampton, Virginia, enclosed by the following boundaries: to the north, a line drawn along latitude 37°01′00″ N, to the east a line drawn along longitude 076°18′30″ W, to the south a line parallel with the shoreline adjacent to Fort Monroe, and the west boundary is parallel with the Route 258—Mercury Boulevard Bridge.
7	September 1st Friday, Saturday and Sunday or 2nd Friday, Saturday and Sunday.	Hampton Virginia Bay Days Festival.	Hampton Bay Days Inc ..	The waters of Sunset Creek and Hampton River shore to shore bounded to the north by the I–64 Bridge over the Hampton River and to the south by a line drawn from Hampton River Channel Light 16 (LL 5715), located at latitude 37°01′ 03.0″ N, longitude 076°20′26.0″ W, to the finger pier across the river at Fisherman's Wharf, located at latitude 37°01′01.5″ N, longitude 076°20 ′32.0″ W.
8	September—last Sunday or October—1st Sunday.	Poquoson Seafood Festival Workboat Races.	City of Poquoson	The waters of the Back River, Poquoson, Virginia, bounded on the north by a line drawn along latitude 37°06′30″ N, bounded on the south by a line drawn along latitude 37°06′15″ N, bounded on the east by a line drawn along longitude 076° 18′52″ W and bounded on the west by a line drawn along longitude 076°19′30″ W.
9	June—3rd Saturday and Sunday or 4th Saturday and Sunday.	Mattaponi Drag Boat Race.	Mattaponi Volunteer Rescue Squad and Dive Team.	All waters of Mattaponi River immediately adjacent to Rainbow Acres Campground, King and Queen County, Virginia. The regulated area includes a section of the Mattaponi River approximately three-quarter mile long and bounded in width by each shoreline, bounded to the east by a line that runs parallel along longitude 076°52′43″ W, near the mouth of Mitchell Hill Creek, and bounded to the west by a line that runs parallel along longitude 076°53′41″ W just north of Wakema, Virginia.
(d.) Coast Guard Sector North Carolina—COTP Zone				
1	June—1st Saturday and Sunday.	Carolina Cup Regatta	Virginia Boat Racing Assn.	The waters of the Pasquotank River, adjacent to Elizabeth City, NC, from shoreline to shoreline, bounded on the west by the Elizabeth City Draw Bridge and bounded on the east by a line originating at a point along the shoreline at latitude 36°17′54″ N, longitude 076°12′00″ W, thence southwesterly to latitude 36°17′35″ N, longitude 076°12′18″ W at Cottage Point.
2	August—1st Friday, Saturday and Sunday.	SBIP—Fountain Powerboats Kilo Run and Super Boat Grand Prix.	Super Boat International Productions (SBIP), Inc..	The waters of the Pamlico River including Chocowinity Bay, from shoreline to shoreline, bounded on the south by a line running northeasterly from Camp Hardee (North Carolina) at latitude 35°28′23″ N, longitude 076°59′23″ W, to Broad Creek Point at latitude 35°29′04″ N, longitude 076°58′44″ W, and bounded on the north by the Norfolk Southern Railroad Bridge.

TABLE TO § 100.501—Continued

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

No.	Date	Event	Sponsor	Location
3	September—3rd and or 4th or last Sunday.	Crystal Coast Grand Prix	North Carolina East Sports, Inc. N/P.	The waters of Bogue Sound, adjacent to Morehead City, NC, from the southern tip of Sugar Loaf Island approximate position latitude 34°42′55″ N, longitude 076°42′48″ W, thence westerly to Morehead City Channel Day beacon 7 (LLNR 38620), thence southwest along the channel line to Bogue Sound Light 4 (LLRN 38770), thence southerly to Causeway Channel Day beacon 2 (LLNR 38720), thence southeasterly to Money Island Day beacon 1 (LLNR 38645), thence easterly to Eight and One Half Marina Day beacon 2 (LLNR 38685), thence easterly to the western most shoreline of Brant Island approximate position latitude 34°42′36″ N, longitude 076°42′11″ W, thence northeasterly along the shoreline to Tombstone Point approximate position latitude 34°42′14″ N, longitude 076°41′20″ W, thence southeasterly to the east end of the pier at Coast Guard Sector North Carolina approximate position latitude 34°42′00″ N, longitude 076°40′52″ W, thence easterly to Morehead City Channel Buoy 20 (LLNR 29427), thence northerly to Beaufort Harbor Channel LT 1BH (LLNR 34810), thence northwesterly to the southern tip of Radio Island approximate position latitude 34°42′22″ N, longitude 076°40′52″ W, thence northerly along the shoreline to approximate position latitude 34° 43′00″ N, longitude 076°41′25″ W, thence westerly to the North Carolina State Port Facility, thence westerly along the State Port to the southwest corner approximate position latitude 34°42′55″ N, longitude 076°42′12″ W, thence westerly to the southern tip of Sugar Loaf Island the point of origin.
4	September—3rd, 4th or last Saturday; October—last Saturday; November—1st and or 2nd Saturday.	Wilmington YMCA Triathlon.	Wilmington, NC, YMCA ..	The waters of, and adjacent to, Wrightsville Channel, from Wrightsville Channel Day beacon 14 (LLNR 28040), located at 34°12′18″ N, longitude 077°48′10″ W, to Wrightsville Channel Day beacon 25 (LLNR 28080), located at 34°12′51″ N, longitude 77°48′53″ W.
5	August—2nd Saturday ...	The Crossing	Organization to Support the Arts, Infrastructure, and Learning on Lake Gaston, AKA O'SAIL.	All waters of Lake Gaston, from shoreline to shoreline, directly under the length of Eaton Ferry Bridge (NC State Route 903), latitude 36°31′06″ N, longitude 077°57′37″ W, bounded to the west by a line drawn parallel and 100 yards from the western side of Eaton Ferry Bridge near Littleton, NC.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

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

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

* * * * *

TABLE TO § 165.506

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

No.	Date	Location	Regulated area
(a.) Coast Guard Sector Delaware Bay—COTP Zone			
1	July 4th	North Atlantic Ocean, Bethany Beach, DE, Safety Zone.	The waters of the North Atlantic Ocean within a 500 yard radius of the fireworks barge in approximate position latitude 38°32′08″ N, longitude 075°03′15″ W, adjacent to shoreline of Bethany Beach, DE.

TABLE TO § 165.506—Continued

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

No.	Date	Location	Regulated area
2	Labor Day	Indian River Bay, DE, Safety Zone.	All waters of the Indian River Bay within a 700 yard radius of the fireworks launch location on the pier in approximate position latitude 38°36′42″ N, longitude 075°08′18″ W.
3	July 4th	North Atlantic Ocean, Rehoboth Beach, DE, Safety Zone.	All waters of the North Atlantic Ocean within a 360 yard radius of the fireworks barge in approximate position latitude 38°43′01.2″ N, longitude 075°04′21″ W, approximately 400 yards east of Rehoboth Beach, DE.
4	July 4th	North Atlantic Ocean, Avalon, NJ, Safety Zone.	The waters of the North Atlantic Ocean within a 500 yard radius of the fireworks barge in approximate location latitude 39°06′19.5″ N, longitude 074°42′02.15″ W, in the vicinity of the shoreline at Avalon, NJ.
5	July 4th, or September 1st—2nd Saturday.	Barnegat Bay, Barnegat Township, NJ, Safety Zone.	The waters of Barnegat Bay within a 500 yard radius of the fireworks barge in approximate position latitude 39°44′50″ N, longitude 074°11′21″ W, approximately 500 yards north of Conklin Island, NJ.
6	July 4th	North Atlantic Ocean, Cape May, NJ, Safety Zone.	The waters of the North Atlantic Ocean within a 500 yard radius of the fireworks barge in approximate location latitude 38°55′36″ N, longitude 074°55′26″ W, immediately adjacent to the shoreline at Cape May, NJ.
7	July 3rd	Delaware Bay, North Cape May, NJ, Safety Zone.	All waters of the Delaware Bay within a 360 yard radius of the fireworks barge in approximate position latitude 38°58′00″ N, longitude 074°58′30″ W.
8	August—3rd Sunday	Great Egg Harbor Inlet, Margate City, NJ, Safety Zone.	All waters within a 500 yard radius of the fireworks barge in approximate location latitude 39°19′33″ N, longitude 074°31′28″ W, on the Intracoastal Waterway near Margate City, NJ.
9	July 4th; August every Thursday; September 1st Thursday.	Metedeconk River, Brick Township, NJ, Safety Zone.	The waters of the Metedeconk River within a 300 yard radius of the fireworks launch platform in approximate position latitude 40°03′24″ N, longitude 074°06′42″ W, near the shoreline at Brick Township, NJ.
10	July—1st Friday	North Atlantic Ocean, Atlantic City, NJ, Safety Zone.	The waters of the North Atlantic Ocean within a 500 yard radius of the fireworks barge located at latitude 39°20′58″ N, longitude 074°25′58″ W, near the shoreline at Atlantic City, NJ.
11	July 4th; October—1st or 2nd Saturday.	North Atlantic Ocean, Ocean City, NJ, Safety Zone.	The waters of the North Atlantic Ocean within a 500 yard radius of the fireworks barge in approximate location latitude 39°16′22″ N, longitude 074°33′54″ W, in the vicinity of the shoreline at Ocean City, NJ.
12	May—4th Saturday	Barnegat Bay, Ocean Township, NJ, Safety Zone.	All waters of Barnegat Bay within a 500 yard radius of the fireworks barge in approximate position latitude 39°47′33″ N, longitude 074°10′46″ W.
13	July 4th	Little Egg Harbor, Parker Island, NJ, Safety Zone.	All waters of Little Egg Harbor within a 500 yard radius of the fireworks barge in approximate position latitude 39°34′18″ N, longitude 074°14′43″ W, approximately 100 yards north of Parkers Island.
14	September—3rd Saturday	Delaware River, Chester, PA, Safety Zone.	All waters of the Delaware River near Chester, PA just south of the Commodore Barry Bridge within a 250 yard radius of the fireworks barge located in approximate position latitude 39°49′43.2″ N, longitude 075°22′42″ W.
15	September—3rd Saturday	Delaware River, Essington, PA, Safety Zone.	All waters of the Delaware River near Essington, PA, west of Little Tinicum Island within a 250 yard radius of the fireworks barge located in the approximate position latitude 39°51′18″ N, longitude 075°18′57″ W.
16	July 3rd, 4th or 5th; Columbus Day; December 31st, January 1st.	Delaware River, Philadelphia, PA, Safety Zone.	All waters of Delaware River, adjacent to Penns Landing, Philadelphia, PA, bounded from shoreline to shoreline, bounded on the south by a line running east to west from points along the shoreline at latitude 39°56′31.2″ N, longitude 075°08′28.1″ W; thence to latitude 39°56′29.1″ N, longitude 075°07′56.5″ W, and bounded on the north by the Benjamin Franklin Bridge.
(b.) Coast Guard Sector Baltimore—COTP Zone			
1	April—1st or 2nd Saturday	Washington Channel, Upper Potomac River, Washington, DC, Safety Zone.	All waters of the Upper Potomac River within a 150 yard radius of the fireworks barge in approximate position latitude 38°52′20″ N, longitude 077°01′17″ W, located within the Washington Channel in Washington Harbor, DC.

TABLE TO § 165.506—Continued

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

No.	Date	Location	Regulated area
2	July 4th; December—1st and 2nd Saturday; December 31st.	Severn River and Spa Creek, Annapolis, MD, Safety Zone.	All waters of the Severn River and Spa Creek within an area bounded by a line drawn from latitude 38°58′43.75″ N, longitude 076°28′01.42″ W; thence to latitude 38°58′21.14″ N, longitude 076°28′22.12″ W; thence to latitude 38°58′39.47″ N, longitude 076°28′48.72″ W; thence to latitude 38°58′53″ N, longitude 076°28′33.74″ W, thence to latitude 38°58′57.22″ N, longitude 076°28′39.83″ W, thence to latitude 38°59′02.15″ N, longitude 076°28′34.61″ W, thence to point of origin; located near the entrance to Spa Creek and Severn River, Annapolis, MD.
3	July—4th, or Saturday before or after Independence Day holiday.	Middle River, Baltimore County, MD, Safety Zone.	All waters of the Middle River within a 300 yard radius of the fireworks barge in approximate position latitude 39°17′45″ N, longitude 076°23′49″ W, approximately 300 yards east of Rockaway Beach, near Turkey Point.
4	June—last Saturday; July—3rd, 4th or last Saturday or Sunday.	Potomac River, Charles County, MD—Newburg, Safety Zone.	All waters of the Potomac River within a 200 yard radius of the fireworks barge in approximate position latitude 38°23′41″ N, longitude 076°59′30″ W, located near Newburg, Maryland.
5	June 14th; July 4th; September—2nd Saturday; December 31st.	Northwest Harbor (East Channel), Patapsco River, MD, Safety Zone.	All waters of the Patapsco River within a 300 yard radius of the fireworks barge in approximate position 39°15′55″ N, 076°34′33″ W, located adjacent to the East Channel of Northwest Harbor.
6	May—2nd or 3rd Thursday or Friday; July 4th; December 31st.	Baltimore Inner Harbor, Patapsco River, MD, Safety Zone.	All waters of the Patapsco River within a 100 yard radius of the fireworks barge in approximate position latitude 39°17′01″ N, longitude 076°36′31″ W, located at the entrance to Baltimore Inner Harbor, approximately 125 yards southwest of pier 3.
7	May—2nd or 3rd Thursday or Friday; July 4th; December 31st.	Baltimore Inner Harbor, Patapsco River, MD, Safety Zone.	The waters of the Patapsco River within a 100 yard radius of approximate position latitude 39°17′04″ N, longitude 076°36′36″ W, located in Baltimore Inner Harbor, approximately 125 yards southeast of pier 1.
8	July 4th; December 31st	Northwest Harbor (West Channel) Patapsco River, MD, Safety Zone.	All waters of the Patapsco River within a 300 yard radius of the fireworks barge in approximate position latitude 39°16′21″ N, longitude 076°34′38″ W, located adjacent to the West Channel of Northwest Harbor.
9	July—4th, or Saturday before or after Independence Day holiday.	Patuxent River, Calvert County, MD, Safety Zone.	All waters of the Patuxent River within a 200 yard radius of the fireworks barge located at latitude 38°19′17″ N, longitude 076°27′45″ W, approximately 800 feet from shore at Solomons Island, MD.
10	July 3rd	Chesapeake Bay, Chesapeake Beach, MD, Safety Zone.	All waters of the Chesapeake Bay within a 150 yard radius of the fireworks barge in approximate position latitude 38°41′36″ N, longitude 076°31′30″ W, and within a 150 yard radius of the fireworks barge in approximate position latitude 38°41′28″ N, longitude 076°31′29″ W, located near Chesapeake Beach, Maryland.
11	July 4th	Choptank River, Cambridge, MD, Safety Zone.	All waters of the Choptank River within a 300 yard radius of the fireworks launch site at Great Marsh Point, located at latitude 38°35′06″ N, longitude 076°04′46″ W.
12	July—2nd or 3rd Saturday and last Saturday.	Potomac River, Fairview Beach, Charles County, MD, Safety Zone.	All waters of the Potomac River within a 300 yard radius of the fireworks barge in approximate position latitude 38°19′57″ N, longitude 077°14′40″ W, located north of the shoreline at Fairview Beach, Virginia.
13	May—last Saturday; July 4th	Potomac River, Charles County, MD—Mount Vernon, Safety Zone.	All waters of the Potomac River within an area bound by a line drawn from the following points: Latitude 38°42′30″ N, longitude 077°04′47″ W; thence to latitude 38°42′18″ N, longitude 077°04′42″ W; thence to latitude 38°42′11″ N, longitude 077°05′10″ W; thence to latitude 38°42′22″ N, longitude 077°05′12″ W; thence to point of origin located along the Potomac River shoreline at George Washington's Mount Vernon Estate, Fairfax County, VA.
14	October—1st Saturday	Dukeharts Channel, Potomac River, MD, Safety Zone.	All waters of the Potomac River within a 300 yard radius of the fireworks barge in approximate position latitude 38°13′27″ N, longitude 076°44′48″ W, located adjacent to Dukeharts Channel near Coltons Point, Maryland.
15	July—day before Independence Day holiday and July 4th; November—3rd Thursday, 3rd Saturday and last Friday. December—1st, 2nd and 3rd Friday.	Potomac River, National Harbor, MD, Safety Zone.	All waters of the Potomac River within an area bound by a line drawn from the following points: Latitude 38°47′13″ N, longitude 077°00′58″ W; thence to latitude 38°46′51″ N, longitude 077°01′15″ W; thence to latitude 38°47′25″ N, longitude 077°01′33″ W; thence to latitude 38°47′32″ N, longitude 077°01′08″ W; thence to the point of origin, located at National Harbor, Maryland.

TABLE TO § 165.506—Continued

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

No.	Date	Location	Regulated area
16	Sunday before July 4th, July 4th	Susquehanna River, Havre de Grace, MD, Safety Zone.	All waters of the Susquehanna River within a 300 yard radius of approximate position latitude 39°32′06″ N, longitude 076°05′22″ W, located on the island at Millard Tydings Memorial Park.
17	June and July—Saturday before Independence Day holiday.	Miles River, St. Michaels, MD, Safety Zone.	All waters of the Miles River within a 200 yard radius of approximate position latitude 38°47′42″ N, longitude 076°12′51″ W, located at the entrance to Long Haul Creek.
18	July 3rd	Tred Avon River, Oxford, MD, Safety Zone.	All waters of the Tred Avon River within a 150 yard radius of the fireworks barge in approximate position latitude 38°41′24″ N, longitude 076°10′37″ W, approximately 500 yards northwest of the waterfront at Oxford, MD.
19	July 3rd	Northeast River, North East, MD, Safety Zone.	All waters of the Northeast River within a 300 yard radius of the fireworks barge in approximate position latitude 39°35′26″ N, longitude 075°57′00″ W, approximately 400 yards south of North East Community Park.
20	June—2nd or 3rd Saturday; July—1st, 2nd or 3rd Saturday; September—1st or 2nd Saturday; December 31st.	Upper Potomac River, Washington, DC, Safety Zone.	All waters of the Upper Potomac River within a 300 yard radius of the fireworks barge in approximate position 38°48′40″ N, 077°02′07″ W, located near the waterfront of Alexandria, Virginia.
21	March through October, at the conclusion of evening MLB games at Washington Nationals Ball Park.	Anacostia River, Washington, DC, Safety Zone.	All waters of the Anacostia River within a 150 yard radius of the fireworks barge in approximate position latitude 38°52′13″ N, longitude 077°00′16″ W, located near the Washington Nationals Ball Park.
22	June—last Saturday or July—1st Saturday; July—3rd, 4th or last Saturday or Sunday.	Potomac River, Prince William County, VA, Safety Zone.	All waters of the Potomac River within a 200 yard radius of the fireworks barge in approximate position latitude 38°34′10″ N, longitude 077°15′36″ W, located near Cherry Hill, Virginia.
23	July 4th	North Atlantic Ocean, Ocean City, MD, Safety Zone.	All waters of the North Atlantic Ocean in an area bound by the following points: Latitude 38°19′39.9″ N, longitude 075°05′03.2″ W; thence to latitude 38°19′36.7″ N, longitude 075°04′53.5″ W; thence to latitude 38°19′45.6″ N, longitude 075°04′49.3″ W; thence to latitude 38°19′49.1″ N, longitude 075°05′00.5″ W; thence to point of origin. The size of the safety zone extends approximately 300 yards offshore from the fireworks launch area located at the high water mark on the beach.
24	May—Sunday before Memorial Day (observed). June 29th; July 4th and July every Sunday. August—1st Sunday and Sunday before Labor Day (observed).	Isle of Wight Bay, Ocean City, MD, Safety Zone.	All waters of Isle of Wight Bay within a 200 yard radius of the fireworks barge in approximate position latitude 38°22′31″ N, longitude 075°04′34″ W.
25	July 4th	Assawoman Bay, Fenwick Island—Ocean City, MD, Safety Zone.	All waters of Assawoman Bay within a 360 yard radius of the fireworks launch location on the pier at the West end of Northside Park, in approximate position latitude 38°25′55″ N, longitude 075°03′53″ W.
26	July 4th; December 31st	Baltimore Harbor, Baltimore Inner Harbor, MD, Safety Zone.	All waters of Baltimore Harbor, Patapsco River, within a 280 yard radius of a fireworks barge in approximate position latitude 39°16′36.7″ N, longitude 076°35′53.8″ W, located northwest of the Domino Sugar refinery wharf at Baltimore, Maryland.
(c.) Coast Guard Sector Hampton Roads—COTP Zone			
1	July 4th	Linkhorn Bay, Virginia Beach, VA, Safety Zone.	All waters of the Linkhorn Bay within a 400 yard radius of the fireworks display in approximate position latitude 36°52′20″ N, longitude 076°00′38″ W, located near the Cavalier Golf and Yacht Club, Virginia Beach, Virginia.
2	September—last Friday or October—1st Friday.	York River, West Point, VA, Safety Zone.	All waters of the York River near West Point, VA within a 400 yard radius of the fireworks display located in approximate position latitude 37°31′25″ N, longitude 076°47′19″ W.
3	July 4th	York River, Yorktown, VA, Safety Zone.	All waters of the York River within a 400 yard radius of the fireworks display in approximate position latitude 37°14′14″ N, longitude 076°30′02″ W, located near Yorktown, Virginia.
4	July 4th, July 5th, July 6th, or July 7th.	James River, Newport News, VA, Safety Zone.	All waters of the James River within a 325 yard radius of the fireworks barge in approximate position latitude 36°58′30″ N, longitude 076°26′19″ W, located in the vicinity of the Newport News Shipyard, Newport News, Virginia.
5	June—4th Friday; July—1st Friday; July 4th.	Chesapeake Bay, Norfolk, VA, Safety Zone.	All waters of the Chesapeake Bay within a 400 yard radius of the fireworks display located in position latitude 36°57′21″ N, longitude 076°15′00″ W, located near Ocean View Fishing Pier.

TABLE TO § 165.506—Continued

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

No.	Date	Location	Regulated area
6	July 4th or 5th	Chesapeake Bay, Virginia Beach, VA, Safety Zone.	All waters of the Chesapeake Bay 400 yard radius of the fireworks display in approximate position latitude 36°55′02″ N, longitude 076°03′27″ W, located at the First Landing State Park at Virginia Beach, Virginia.
7	July 4th; December 31st, January—1st.	Elizabeth River, Southern Branch, Norfolk, VA, Safety Zone.	All waters of the Elizabeth River Southern Branch in an area bound by the following points: Latitude 36°50′54.8″ N, longitude 076°18′10.7″ W; thence to latitude 36°51′7.9″ N, longitude 076°18′01″ W; thence to latitude 36°50′45.6″ N, longitude 076°17′44.2″ W; thence to latitude 36°50′29.6″ N, longitude 076°17′23.2″ W; thence to latitude 36°50′7.7″ N, longitude 076°17′32.3″ W; thence to latitude 36°49′58″ N, longitude 076°17′28.6″ W; thence to latitude 36°49′52.6″ N, longitude 076°17′43.8″ W; thence to latitude 36°50′27.2″ N, longitude 076°17′45.3″ W thence to the point of origin.
8	July—3rd Saturday	John H. Kerr Reservoir, Clarksville, VA, Safety Zone.	All waters of John H. Kerr Reservoir within a 400 yard radius of approximate position latitude 36°37′51″ N, longitude 078°32′50″ W, located near the center span of the State Route 15 Highway Bridge.
9	June, July, August, September, and October—every Wednesday, Friday, Saturday and Sunday. July 4th.	North Atlantic Ocean, Virginia Beach, VA, Safety Zone. A.	All waters of the North Atlantic Ocean within a 1000 yard radius of the center located near the shoreline at approximate position latitude 36°51′12″ N, longitude 075°58′06″ W, located off the beach between 17th and 31st streets.
10	September—last Saturday or October—1st Saturday.	North Atlantic Ocean, VA Beach, VA, Safety Zone. B.	All waters of the North Atlantic Ocean within a 350 yard radius of approximate position latitude 36°50′35″ N, longitude 075°58′09″ W, located on the 14th Street Fishing Pier.
11	Friday, Saturday and Sunday Labor Day Weekend.	North Atlantic Ocean, VA Beach, VA, Safety Zone. C.	All waters of the North Atlantic Ocean within a 350 yard radius of approximate position latitude 36°49′55″ N, longitude 075°58′00″ W, located off the beach between 2nd and 6th streets.
12	July 4th	Nansemond River, Suffolk, VA, Safety Zone.	All waters of the Nansemond River within a 350 yard radius of approximate position latitude 36°44′27″ N, longitude 076°34′42″ W, located near Constant's Wharf in Suffolk, VA.
13	July 4th	Chickahominy River, Williamsburg, VA, Safety Zone.	All waters of the Chickahominy River within a 400 yard radius of the fireworks display in approximate position latitude 37°14′50″ N, longitude 076°52′17″ W, near Barrets Point, Virginia.
14	July—3rd, 4th and 5th	Great Wicomico River, Mila, VA, Safety Zone.	All waters of the Great Wicomico River located within a 420 foot radius of the fireworks display at approximate position latitude 37°50′31″ N, longitude 076°19′42″ W near Mila, Virginia.
15	July—1st Friday, Saturday and Sunday.	Cockrell's Creek, Reedville, VA, Safety Zone.	All waters of Cockrell's Creek located within a 420 foot radius of the fireworks display at approximate position latitude 37°49′54″ N, longitude 076°16′44″ W near Reedville, Virginia.
16	May—last Sunday	James River, Richmond, VA, Safety Zone.	All waters of the James River located within a 420 foot radius of the fireworks display at approximate position latitude 37°31′13.1″ N, longitude 077°25′07.84″ W near Richmond, Virginia.
17	June—last Saturday	Rappahannock River, Tappahannock, VA, Safety Zone.	All waters of the Rappahannock River located within a 400 foot radius of the fireworks display at approximate position latitude 37°55′12.0″ N, longitude 076°49′12.0″ W near Tappahannock, Virginia.
18	July 4th	Cape Charles Harbor, Cape Charles, VA, Safety Zone.	All waters of Cape Charles Harbor located within a 375 foot radius of the fireworks display at approximate position latitude 37°15′46.5″ N, longitude 076°01′30.3″ W near Cape Charles, Virginia.
19	July 3rd or 4th	Pagan River, Smithfield, VA, Safety Zone.	All waters of the Pagan River located within a 420 foot radius of the fireworks display at approximate position latitude 36°59′18.0″ N, longitude 076°37′45.0″ W near Smithfield, Virginia.
20	July 4th	Sandbridge Shores, Virginia Beach, VA, Safety Zone.	All waters of Sandbridge Shores located within a 300 foot radius of the fireworks display at approximate position latitude 36°43′24.9″ N, longitude 075°56′24.9″ W near Virginia Beach, Virginia.
21	July 4th, 5th or 6th	Chesapeake Bay, Virginia Beach, VA, Safety Zone.	All waters of Chesapeake Bay located within a 600 foot radius of the fireworks display at approximate position latitude 36°54′58.18″ N, longitude 076°06′44.3″ W near Virginia Beach, Virginia.

TABLE TO § 165.506—Continued

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

No.	Date	Location	Regulated area
(d.) Coast Guard Sector North Carolina—COTP Zone			
1	July 4th; October—1st Saturday	Morehead City Harbor Channel, NC, Safety Zone.	All waters of the Morehead City Harbor Channel that fall within a 360 yard radius of latitude 34°43′01″ N, longitude 076°42′59.6″ W, a position located at the west end of Sugar Loaf Island, NC.
2	April—2nd Saturday; July 4th; August—3rd Monday; October—1st Saturday.	Cape Fear River, Wilmington, NC, Safety Zone.	All waters of the Cape Fear River within an area bound by a line drawn from the following points: Latitude 34°13′54″ N, longitude 077°57′06″ W; thence northeast to latitude 34°13′57″ N, longitude 077°57′05″ W; thence north to latitude 34°14′11″ N, longitude 077°57′07″ W; thence northwest to latitude 34°14′22″ N, longitude 077°57′19″ W; thence east to latitude 34°14′22″ N, longitude 077°57′06″ W; thence southeast to latitude 34°14′07″ N, longitude 077°57′00″ W; thence south to latitude 34°13′54″ N, longitude 077°56′58″ W; thence to the point of origin, located approximately 500 yards north of Cape Fear Memorial Bridge.
3	July 1st Saturday and July 4th	Green Creek and Smith Creek, Oriental, NC, Safety Zone.	All waters of Green Creek and Smith Creek that fall within a 300 yard radius of the fireworks launch site at latitude 35°01′29.6″ N, longitude 076°42′10.4″ W, located near the entrance to the Neuse River in the vicinity of Oriental, NC.
4	July 4th	Pasquotank River, Elizabeth City, NC, Safety Zone.	All waters of the Pasquotank River within a 300 yard radius of the fireworks launch barge in approximate position latitude 36°17′47″ N, longitude 076°12′17″ W, located approximately 400 yards north of Cottage Point, NC.
5	July 4th, or July 5th	Currituck Sound, Corolla, NC, Safety Zone.	All waters of the Currituck Sound within a 300 yard radius of the fireworks launch site in approximate position latitude 36°22′23.8″ N, longitude 075°49′56.3″, located near Whale Head Bay.
6	July 4th; November—3rd Saturday.	Middle Sound, Figure Eight Island, NC, Safety Zone.	All waters of the Figure Eight Island Causeway Channel from latitude 34°16′32″ N, longitude 077°45′32″ W, thence east along the marsh to a position located at latitude 34°16′19″ N, longitude 077°44′55″ W, thence south to the causeway at position latitude 34°16′16″ N, longitude 077°44′58″ W, thence west along the shoreline to position latitude 34°16′29″ N, longitude 077°45′34″ W, thence back to the point of origin.
7	June—2nd Saturday; July 4th	Pamlico River, Washington, NC, Safety Zone.	All waters of Pamlico River and Tar River within a 300 yard radius of latitude 35°32′25″ N, longitude 077°03′42″ W, a position located on the southwest shore of the Pamlico River, Washington, NC.
8	July 4th	Neuse River, New Bern, NC, Safety Zone.	All waters of the Neuse River within a 360 yard radius of the fireworks barge in approximate position latitude 35°06′07.1″ N, longitude 077°01′35.8″ W; located 420 yards north of the New Bern, Twin Span, high-rise bridge.
9	July 4th	Edenton Bay, Edenton, NC, Safety Zone.	All waters within a 300 yard radius of position latitude 36°03′04″ N, longitude 076°36′18″ W, approximately 150 yards south of the entrance to Queen Anne Creek, Edenton, NC.
10	July 4th; November—Saturday following Thanksgiving Day.	Motts Channel, Banks Channel, Wrightsville Beach, NC, Safety Zone.	All waters of Motts Channel within a 500 yard radius of the fireworks launch site in approximate position latitude 34°12′29″ N, longitude 077°48′27″ W, approximately 560 yards south of Sea Path Marina, Wrightsville Beach, NC.
11	July 4th	Cape Fear River, Southport, NC, Safety Zone.	All waters of the Cape Fear River within a 600 yard radius of the fireworks barge in approximate position latitude 33°54′40″ N, longitude 078°01′18″ W, approximately 700 yards south of the waterfront at Southport, NC.
12	July 4th	Big Foot Slough, Ocracoke, NC, Safety Zone.	All waters of Big Foot Slough within a 300 yard radius of the fireworks launch site in approximate position latitude 35°06′54″ N, longitude 075°59′24″ W, approximately 100 yards west of the Silver Lake Entrance Channel at Ocracoke, NC.
13	August—1st Tuesday	New River, Jacksonville, NC, Safety Zone.	All waters of the New River within a 300 yard radius of the fireworks launch site in approximate position latitude 34°44′45″ N, longitude 077°26′18″ W, approximately one half mile south of the Hwy 17 Bridge, Jacksonville, North Carolina.
14	July 4th	Pantego Creek, Belhaven, NC, Safety Zone.	All waters on the Pantego Creek within a 600 foot radius of the launch site on land at position 35°32′35″ N, 076°37′46″ W.
15	July 4th	Atlantic Intracoastal Waterway, Swansboro, NC, Safety Zone.	All waters of the Atlantic Intracoastal Waterway within a 300 yard radius of approximate position latitude 34°41′02″ N, longitude 077°07′04″ W, located on Pelican Island.

Dated: May 12, 2014.

Stephen P. Metruck,

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

[FR Doc. 2014–12169 Filed 5–23–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0366]

Safety Zone; Biotechnology Industry Organization, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Biotechnology Industry Organization firework display safety zone on June 23, 2014. This marine event occurs on the navigable waters of San Diego Bay, immediately to the west of the USS MIDWAY, in San Diego, California. This action is necessary to provide for the safety of the participants, crew, spectators, safety vessels, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative.

DATES: This rule is effective from 8:15 p.m. to 8:45 p.m. on June 23, 2014.

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

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone in San Diego Bay for the Biotechnology Industry Organization fireworks display in 33 CFR 165.1123, Table 1, Item 6 from 8:15 p.m. to 8:45 p.m. on June 23, 2014.

Under the provisions of 33 CFR 165.1123, persons and vessels are prohibited from entering into, transiting through, or anchoring within the 600 foot regulated area safety zone the tug and barge unless authorized by the Captain of the Port, or his designated representative. Persons or vessels desiring to enter into or pass through the safety zone may request permission from the Captain of the Port or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or designated representative. Spectator vessels may safely transit outside the regulated area, but may not anchor, block, loiter, or impede the transit of participants or official patrol vessels. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 5 U.S.C. 552(a) and 33 CFR 165.1123. In addition to this notice in the **Federal Register,** the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners, Broadcast Notice to Mariners, and local advertising by the event sponsor.

If the Captain of the Port Sector San Diego or his designated representative determines that the regulated area need not be enforced for the full duration stated on this notice, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: May 12, 2014.

S.M. Mahoney,

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

[FR Doc. 2014–12175 Filed 5–23–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AO91

Copayments for Medications in 2014

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, without change, an interim final rule amending the Department of Veterans Affairs (VA) medical regulations to freeze the copayments required for certain medications provided by VA until December 31, 2014. Under that rule, the copayment amounts for all veterans were maintained at the same rates as they were in 2013, which were $8 for veterans in priority groups 2–6 and $9 for veterans in priority groups 7 and 8. On January 1, 2015, the copayment amounts may increase based on the prescription drug component of the Medical Consumer Price Index (CPI–P).

DATES: *Effective Date:* This rule is effective on May 27, 2014.

FOR FURTHER INFORMATION CONTACT: Kristin Cunningham, Director, Business Policy, Chief Business Office, 810 Vermont Avenue NW., Washington, DC 20420, (202) 382–2508. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: An interim final rule amending VA's medical regulations concerning the copayment required for certain medications was published in the **Federal Register** on December 30, 2013. 78 FR 79315–79317. Interested persons were invited to submit comments to the interim final rule on or before February 28, 2014, and we received no comments. Therefore, based on the rationale set forth in the interim final rule, VA is adopting the interim final rule as a final rule with no changes.

Administrative Procedure Act

In accordance with 5 U.S.C. 553(b)(B) and (d)(3), the Secretary of Veterans Affairs concluded that there was good cause to publish this rule without prior opportunity for public comment and to publish this rule with an immediate effective date. The Secretary found that it was impracticable and contrary to the public interest to delay this rule for the purpose of soliciting advance public comment or to have a delayed effective date. Increasing the copayment amount on January 1, 2014, might have caused a significant financial hardship for some veterans and may have decreased patient adherence to medical plans, resulting in other unpredictable negative health effects. Nevertheless, the Secretary invited public comment on the interim final rule but did not receive any comments.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial

number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule will temporarily freeze the copayments that certain veterans are required to pay for prescription drugs furnished by VA. This final rule directly affects only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined that it may be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm/,* by following the link for ''VA Regulations Published.''

Congressional Review Act

This regulatory action may have been considered a major rule under the Congressional Review Act, 5 U.S.C. 801–08, because it may have resulted in an annual effect on the economy of $100 million or more. Although this regulatory action may have constituted a major rule within the meaning of the Congressional Review Act, 5 U.S.C. 804(2), it was not subject to the 60-day delay in effective date applicable to major rules under 5 U.S.C. 801(a)(3) because the Secretary found that good cause existed under 5 U.S.C. 808(2) to make this regulatory action effective on January 1, 2014, consistent with the reasons given for the publication in the interim final rule. Increasing the copayment amount on January 1, 2014, might have caused a significant financial hardship for some veterans and may have decreased patient adherence to medical plans, and could have had other unpredictable negative health effects. Accordingly, the Secretary found that additional advance notice and public procedure thereon were impractical, unnecessary, and contrary to the public interest. In accordance with 5 U.S.C. 801(a)(1), VA submitted to the Comptroller General and to Congress a copy of this regulatory action and VA's Regulatory Impact Analysis (RIA).

Unfunded Mandates

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

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are as follows: 64.005, Grants to States for Construction of State Home Facilities; 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.016, Veterans State Hospital Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on May 19, 2014, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Dated: May 21, 2014.

Janet Coleman,

Acting Chief, Regulations Development, Tracking, and Control.

PART 17—MEDICAL

Based on the rationale set forth in the interim final rule published in the **Federal Register** at 78 FR 79315 on December 30, 2013, and in this document, VA is adopting the provisions of the interim final rule as a final rule with no changes.

[FR Doc. 2014–12092 Filed 5–23–14; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2013–0813; FRL–9911–44–Region 4]

Approval and Promulgation of Implementation Plans; Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee; Removal of Obsolete Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is approving the removal/revision to over 30 provisions in the Code of Federal Regulations (CFR) in the Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee State Implementation Plan (SIP) subparts because they are unnecessary or obsolete. This action makes no substantive changes to these SIPs and imposes no new requirements. Removal of outdated material from the air program subparts for these states is non-substantive in nature and is designed to improve cost effectiveness and usability of the CFR. This action also updates certain provisions by correcting state agencies' office addresses and correcting CFR publication errors in two provisions.

DATES: This final rule is effective May 27, 2014.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman of the Regulatory Development Section, in the Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Lakeman may be reached by phone at (404) 562–9043, or via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Removal of Obsolete or Unnecessary Rules and Clarifications to Certain Rules
III. Final Action
IV. Statutory and Executive Order Reviews

I. Introduction

This action is a ''housekeeping'' exercise that is being taken pursuant to Executive Order 13563—Improving Regulation and Regulatory Review. One aspect of this action involves an effort to reduce the number of pages in the CFR by identifying those provisions in 40 CFR part 52 that are duplicative, outdated or obsolete. This action pertains to eight subparts in 40 CFR part 52 for eight states. Those eight states are Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee.

EPA is removing/revising provisions from these states' subparts of 40 CFR part 52 because they are outdated or obsolete in whole or in part. This action also revises certain CFR provisions by correcting state agencies' office addresses and correcting CFR publication errors in two provisions. One aspect of EPA's action, affecting all eight states, removes historical information found in the ''Original Identification of plan'' sections in 40 CFR part 52. These paragraphs are no longer necessary because EPA promulgated summary tables to replace these paragraphs in previous administrative actions that are described in more detail below. These summary tables describe the regulations, source-specific actions, and non-regulatory requirements which comprise the SIPs for the eight states.

Although this action will remove outdated or obsolete information from future CFR publications, this historical information will continue to be available in the CFR annual editions, Title 40 part 52 (years 1999 through 2012). These annual editions are available on line at the following Uniform Resource Locator (url) address: *http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR.*

II. Removal of Obsolete or Unnecessary Rules and Clarifications to Certain Rules

EPA has reviewed the subpart for each of the states and has identified provisions that should be removed or clarified for the reasons set forth as follows:

A. Alabama

§ 52.53 Approval Status

Paragraph 52.53, the third sentence states, ''In addition, continued satisfaction of the requirements of part D for the ozone portion of the SIP depends on the adoption and submittal of reasonably available control technology (RACT) requirements by July 1, 1980 for the sources covered by control technique guidelines (CTGs) issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.'' This sentence is obsolete. It is being removed because the current ozone portion of the State's implementation plan is subject to the 1990 Clean Air Act (CAA or Act), and the State has no further obligation to adopt and submit CTG based RACT requirements under the 1977 CAA.

§ 52.56 Review of New Sources and Modifications

Paragraph 52.56 refers to conditional approval of Alabama's Nonattainment New Source Review (NSR) program based on a commitment that Alabama submit necessary corrections by March 9, 1984. Section 110(k)(4) of the CAA limits the duration of conditional approvals, i.e., the State is required to adopt the required revisions by no later than one year of the issuance of the conditional approval. However, on November 2, 1983, EPA postponed calling for the regulatory changes required under the conditional approval. *See* 48 FR 50686. This paragraph is obsolete because the conditional approval referenced is no longer applicable to the Alabama nonattainment NSR program and is therefore being removed. Also note that Alabama's NSR program was approved into the Alabama SIP at section 52.50(c).

§ 52.66 Control Strategy: Ozone

Paragraph 52.66 describes the disapproval of Alabama's March 16, 1995, redesignation request for the Birmingham marginal 1-hour ozone nonattainment area and required Alabama to submit an attainment demonstration by April 27, 2001. This paragraph is obsolete and is being removed because EPA has subsequently redesignated Birmingham for the 1-hour and 8-hour ozone national ambient air quality standards (NAAQS). *See* 69 FR 11798 and 71 FR 27636; *see also* 40 CFR 52.50(e).

§ 52.69 Original Identification of Plan Section

Paragraphs 52.69(b) and (c) of this section contains historical information only about EPA's approval actions for the Alabama SIP which occurred between May 31, 1972, and December 1, 1998. On December 22, 1998 (63 FR 70669), EPA reorganized the Identification of plan section in subpart B by moving the historical SIP information in section 52.50 to paragraphs 52.69(b) and (c), and adding tables that summarize Alabama's SIP in paragraphs 52.50(a) through (e). Paragraphs 52.69(b) and (c) are being removed because EPA has determined that it is no longer necessary to include these paragraphs because the contents of

the currently approved SIP are now identified in 52.50(a) through (e). Paragraph 52.69(a) is being amended to state that this historical information will continue to be available in the CFR annual editions, Title 40 part 52 (years 1999 through 2012). These annual editions are available on line at the following url address: *http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR.*

B. Florida

§ 52.522 Approval Status

Paragraph 52.522, the third sentence states, ''In addition, continued satisfaction of the requirements of part D for the ozone portion of the SIP depends on the adoption and submittal of reasonably available control technology (RACT) requirements by July 1, 1980 for the sources covered by control technique guidelines (CTGs) issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.'' This sentence is obsolete. It is being removed because the current ozone portion of the State's implementation plan is subject to the 1990 CAA, and the State has no further obligation to adopt and submit CTG based RACT SIP requirements under the 1977 CAA.

§ 52.524 Compliance Schedules

Paragraphs 52.524(a) and (b) were promulgated on June 20, 1973 (38 FR 16144) and August 23, 1973 (38 FR 22736), respectively. At that time there were issues as to whether plants could comply with SIP-approved emission standards for SO_2 because of a lack of available low-sulfur coal and the availability of air pollution control equipment. These paragraphs set forth compliance schedules by which boilers or furnaces subject to the emission limitation requirements in Florida Regulations (subsection 17–2.04) must come into compliance with the applicable emission limitations for SO_2. This section is obsolete. The dates listed in this compliance schedule have long since passed. EPA has therefore determined that it is no longer necessary to codify the information found in paragraphs 52.524(a) and (b). Paragraph 52.524(a) is being amended to state that this historical information will continue to be available in the CFR annual editions, Title 40 part 52 (years 1999 through 2012). These annual editions are available on line at the following url address: *http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR.*

§ 52.527 Control Strategy: General

Paragraph 52.527(a), was added when a Florida April 7, 1980, submission concerning a testing and research rule was disapproved by EPA on November 17, 1983 (*see* 48 FR 52303). As the rule was not approved into the Florida SIP, EPA has deemed this section referencing the 1983 disapproval to be obsolete and it is therefore being removed.

§ 52.532 Extension

Paragraph 52.532 gave Florida an extension until July 1, 1980, to submit plans to attain and maintain the secondary particulate matter standard in Jacksonville and Tampa nonattainment areas. The secondary particulate matter Florida maintenance plan for these areas was approved on May 2, 1993 (48 FR 19715). This paragraph is therefore obsolete and is being removed.

§ 52.536 Original Identification of Plan Section

Paragraphs 52.536(b) and (c) of this section contains historical information only about EPA's approval actions for the Florida SIP which occurred between May 31, 1972, and July 1, 1998. On June 16, 1999 (64 FR 32346), EPA reorganized the Identification of plan section in subpart K by moving the historical SIP information in section 52.520 to paragraphs 52.536(b) and (c), and adding tables that summarize Florida's SIP in paragraphs 52.520(a) through (e). Paragraphs 52.536(b) and (c) are being removed because EPA has determined that it is no longer necessary to include these paragraphs because the contents of the currently approved SIP are now identified in 52.520(a) through (e). Paragraph 52.536(a) is being amended to state that this historical information will continue to be available in the CFR annual editions, Title 40 part 52 (years 1999 through 2012). These annual editions are available on line at the following url address: *http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR.*

C. Georgia

§ 52.590 Original Identification of Plan Section

Paragraphs 52.590(b) and (c) of this section contains historical information only about EPA's approval actions for the Georgia SIP which occurred between May 31, 1972, and December 1, 1998. On May 21, 1999 (64 FR 27699), EPA reorganized the Identification of plan section in subpart L by moving the historical SIP information in section 52.570 to paragraphs 52.590(b) and (c), and adding tables that summarize Georgia's SIP in paragraphs 52.570(a) through (e). Paragraphs 52.590(b) and (c) are being removed because EPA has determined that it is no longer necessary to include these paragraphs because the contents of the currently approved SIP are now identified in 52.570(a) through (e). Paragraph 52.590(a) is being amended to state that this historical information will continue to be available in the CFR annual editions, Title 40 part 52 (years 1999 through 2012). These annual editions are available on line at the following url address: *http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR.*

D. Kentucky

§ 52.923 Approval Status

Paragraph 52.923(a), the third sentence states, ''In addition, continued satisfaction of the requirements of part D for the ozone portion of the SIP depends on the adoption and submittal of reasonably available control technology (RACT) requirements by July 1, 1980 for the sources covered by control technique guidelines (CTGs) issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.'' This paragraph is obsolete. It is being removed because the current ozone portion of the Commonwealth's SIP is subject to the 1990 CAA, and the Commonwealth has no further obligation to adopt and submit CTG based RACT requirements under the 1977 CAA.

§ 52.926 Attainment Dates for National Standards

Paragraph 52.926 presents the latest dates by which historical national standards were to be attained. This section is obsolete and is being removed. The latest of these dates was December 31, 1987. All of these attainment dates have been superseded by the 1990 CAA and by revised attainment dates for CO, NO_2, ozone, PM, and SO_2 in response to the issuance of revised NAAQS. *See* 40 CFR part 50 and 76 FR 54294 for CO.

§ 52.927 Compliance Schedules

Sections 52.927(a) and (b) were promulgated on June 20, 1973 (38 FR 16144) and revised several times. At that time there were issues as to whether plants could comply with SIP approved emission standards for SO_2

because of a lack of available low-sulfur coal and the availability of air pollution control equipment. These paragraphs set forth compliance schedules by which boilers or furnaces subject to the emission limitation requirements in Kentucky Regulations must come into compliance with the applicable emission limitations for SO_2. This section is obsolete. The dates listed in this compliance schedule have long since passed. EPA has therefore determined that it is no longer necessary to codify the information found in paragraphs 52.927(a) and (b). Paragraph 52.927(a) is being amended to state that this historical information will continue to be available in the CFR annual editions, Title 40 part 52 (years 1999 through 2012). These annual editions are available on line at the following url address: *http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR*

§ 52.931 Significant Deterioration of Air Quality

Paragraph 52.931(d) is being revised to correct the addresses for the Commonwealth of Kentucky, Energy and Environment Cabinet, Department of Environmental Protection, and Louisville Metro Air Pollution Control District.

§ 52.934 VOC Rule Deficiency Correction

Paragraphs 52.934(a) and (b) of this section contains historical information only about EPA's approval actions of regulations for the Jefferson County portion of the Commonwealth of Kentucky SIP. On October 23, 2001 (66 FR 53658), EPA reorganized the Identification of plan section for subpart S by adding tables that summarize the Jefferson County portion of the Commonwealth of Kentucky's SIP in paragraphs 52.920(a) through (e). Paragraphs 52.934(a) and (b) are being removed because EPA has determined that it is no longer necessary to include these paragraphs because the contents of the Jefferson County portion of the currently approved SIP are now identified in 52.920(a) through (e). Paragraph 52.939(a) is being amended to state that this historical information from paragraphs 52.934(a) and (b) will continue to be available in the CFR annual editions, Title 40 part 52 (years 1999 through 2012). These annual editions are available on line at the following url address: *http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR.* Paragraph 52.934(c) noted deficiencies with and required corrections to an emissions trading rule for Jefferson County. This paragraph is obsolete and is being removed because EPA has subsequently redesignated Jefferson County for the 1997 8-hour ozone NAAQS (*see* 72 FR 36601 (July 5, 2007)) and this rule was never approved into the SIP.

§ 52.939 Original Identification of Plan Section

Paragraphs 52.939(b) and (c) of this section contains historical information only about EPA's approval actions for the Kentucky SIP which occurred between May 31, 1972, and March 1, 1999. On May 27, 1999 (64 FR 28748), EPA reorganized the Identification of plan section (section 52.920) for subpart S by moving the historical SIP information in section to 52.939(b) and (c) and adding tables that summarize Kentucky's SIP in paragraphs 52.920(a) through (e). Paragraphs 52.939(b) and (c) are being removed because EPA has determined that it is no longer necessary to include these paragraphs because the contents of the currently approved SIP are now identified in 52.920(a) through (e). Paragraph 52.939(a) is being amended to state that this historical information will continue to be available in the CFR annual editions, Title 40 part 52 (years 1999 through 2012). These annual editions are available on line at the following url address: *http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR.*

E. Mississippi

§ 52.1272 Approval Status

Paragraph 52.1272(b) is being removed because the language was removed in a prior EPA final action (*see* 76 FR 5274 (January 31, 2011)), but this paragraph was not removed from 40 CFR 52.

§ 52.1281 Original Identification of Plan Section

Paragraphs 52.1281(b) and (c) of this section contains historical information only about EPA's approval actions for the Mississippi SIP which occurred between May 31, 1972, and July 1, 1997. On July 1, 1997 (62 FR 35441), EPA reorganized the Identification of plan section (section 52.1270) for subpart Z by moving the historical SIP information in 52.1270 to paragraphs 52.1281(b) and (c), and adding tables that summarize Mississippi's SIP in paragraphs 52.1270 (a) through (e). Paragraphs 52.1281(b) and (c) are being removed because EPA has determined that it is no longer to include these paragraphs because the contents of the currently approved SIP are now identified in 52.1270(a) through (e). Paragraph 52.1281(a) is being amended to state that this historical information will continue to be available in the CFR annual editions, Title 40 part 52 (years 1999 through 2012). These annual editions are available on line at the following url address: *http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR.*

F. North Carolina

§ 52.1772 Approval Status

Paragraph 52.1772(a), the third sentence states, ''In addition, continued satisfaction of the requirements of part D for the ozone portion of the SIP depends on the adoption and submittal of reasonably available control technology (RACT) requirements by July 1, 1980 for the sources covered by control technique guidelines (CTGs) issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.'' This paragraph is obsolete. It is being removed because the current ozone portion of the State's implementation plan is subject to the 1990 CAA, and the State has no further obligation to adopt and submit CTG based RACT requirements under the 1977.

§ 52.1778 Significant Deterioration of Air Quality

Paragraph 52.1778(c) is being revised to correct the agency title and/or address for Mecklenburg County and Forsyth County.

§ 52.1780 VOC Rule Deficiency Correction

Paragraph 52.1780 requires North Carolina to correct a deficiency regarding capture control device efficiency, citing state requirement 2D.914. The information in this section is obsolete and is being removed because the correction to 2D.0914 was approved on November 10, 1999 (64 FR 61213) and is codified in paragraph 52.1770(c).

§ 52.1783 Original Identification of Plan Section

Paragraphs 52.1783(b) and (c) of this section contains historical information only about EPA's approval actions for the North Carolina SIP which occurred between May 31, 1972, and December 1, 1998. On May 20, 1999 (64 FR 27465), EPA reorganized the Identification of plan section (section 52.1770) for subpart II by moving the historical SIP information in section 52.1770 to paragraphs 52.69(b) and (c), and adding

tables that summarize North Carolina's SIP in paragraphs 52.1770 (a) through (e). Paragraphs 52.1783(b) and (c) are being removed because EPA has determined that it is no longer necessary to include these paragraphs because the contents of the currently approved SIP are now identified in 52.1770(a) through (e). Paragraph 52.1783(a) is being amended to state that this historical information will continue to be available in the CFR annual editions, Title 40 part 52 (years 1999 through 2012). These annual editions are available on line at the following url address: *http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR*.

G. South Carolina

§ 52.2122 Approval Status

Paragraph 52.2122(a), the third sentence states, ''In addition, continued satisfaction of the requirements of part D for the ozone portion of the SIP depends on the adoption and submittal of reasonably available control technology (RACT) requirements by July 1, 1980 for the sources covered by control technique guidelines (CTGs) issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.'' This paragraph is obsolete. It is being removed because the current ozone portion of the State's implementation plan is subject to the 1990 CAA, and the State has no further obligation to adopt and submit CTG based RACT requirements under the 1977 CAA.

§ 52.2130 Control Strategy: Sulfur Oxides and Particulate Matter

This section is being revised to correctly reflect that Bowater is not part of SCE & G. The sentence currently reads ''This certification does not apply to Public Service Authority—Winyah, SCE & G—Bowater, and SCE & G—Williams.'' and should read ''This certification does not apply to Public Service Authority—Winyah, Bowater, and SCE & G—Williams.''

§ 52.2134 Original Identification of Plan Section

Paragraphs 52.2134(b) and (c) of this section contains historical information only about EPA's approval actions for the South Carolina SIP which occurred between May 31, 1972, and July 1, 1997. On July 1, 1997 (62 FR 35441), EPA reorganized the Identification of plan section in subpart PP by moving the historical SIP information in 52.2120 to paragraphs 52.2134(b) and (c), and adding tables that summarize South Carolina's SIP in paragraphs 52.2120 (a) through (e). Paragraphs 52.2134(b) and (c) are being removed because EPA has determined that it is no longer necessary to include these paragraphs because the contents of the currently approved SIP are now identified in 52.2120(a) through (e). Paragraph 52.2134(a) is being amended to state that this historical information will continue to be available in the CFR annual editions, Title 40 part 52 (years 1999 through 2012). These annual editions are available on line at the following url address: *http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR*.

H. Tennessee

§ 52.2222 Approval Status

Paragraph 52.2222(a), the third sentence states, ''In addition, continued satisfaction of the requirements of part D for the ozone portion of the SIP depends on the adoption and submittal of reasonably available control technology (RACT) requirements by July 1, 1980 for the sources covered by control technique guidelines (CTGs) issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.'' This paragraph is obsolete. It is being removed because the current ozone portion of the State's implementation plan is subject to the 1990 CAA, and the State has no further obligation to adopt and submit CTG based RACT requirements under the 1977 CAA.

Paragraph 52.2222(c) of this section contains historical information only about EPA's approval actions of regulations for the Nashville-Davidson County portion of the Tennessee SIP. On October 6, 2005 (70 FR 58321), EPA reorganized the Identification of plan section (section 52.2220) for subpart RR by summarizing Nashville-Davidson County portion of the Tennessee's SIP in paragraphs 52.2220(a) through (e). Paragraph 52.2222(c) is being removed because EPA has determined that it is no longer necessary to include the information found in this paragraph because the contents of the currently approved Nashville-Davidson portion of the SIP are now identified in 52.2220(a) through (e). Paragraph 52.2239(a) is being amended to state that this historical information from paragraph 52.2222(c) will continue to be available in the CFR annual editions, Title 40 part 52 (years 1999 through 2012). These annual editions are available on line at the following url address: *http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR*.

§ 52.2223 Compliance Schedules

Sections 52.2223(a), (b), (c), (d), (e) and (f) were promulgated on June 20, 1973 (38 FR 16144) and revised several times. At that time there were issues as to whether plants could comply with SIP approved emission standards for SO_2 because of a lack of available low-sulfur coal and the availability of air pollution control equipment. These paragraphs set forth compliance schedules by which boilers or furnaces subject to the emission limitation requirements in Tennessee Regulations must come into compliance with the applicable emission limitations for SO_2. This section is obsolete. The dates listed in this compliance schedule have long since passed. EPA has therefore determined that it is no longer necessary to codify the information found in paragraphs 52.2223(a), (b, (c), (d), (e) and (f). Paragraph 52.2223(a) is being amended to state that this historical information will continue to be available in the CFR annual editions, Title 40 part 52 (years 1999 through 2012). These annual editions are available on line at the following url address: *http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR*.

§ 52.2226 Extensions

Section 52.2226 codifies two attainment plan submittal extensions for specific areas in Tennessee. Both extensions were until July 1, 1980. Section 52.2226 is obsolete and is being removed because EPA has determined that it is no longer necessary to codify the expired extensions found in this section.

§ Attainment Dates for National Standards

Section 52.2230 presents the latest dates by which historical national standards were to be attained. This entire section is obsolete and is being removed. The latest of these dates was December 31, 1987. All of these attainment dates have been superseded by the 1990 CAA and by revised attainment dates for CO, NO_2, ozone, PM, and SO_2 in response to the issuance of revised NAAQS. *See* 40 CFR part 50 and 76 FR 54294 for CO.

§ Significant Deterioration of Air Quality

Section 52.2233(c)(1) is being revised to update the addresses of the State and Local Agencies.

§ Original Identification of Plan Section

Paragraphs 52.2239(b) and (c) of this section contains historical information only about EPA's approval actions for the Tennessee SIP which occurred between May 31, 1972, and December 1, 1998. On June 30, 1999 (64 FR 35009), EPA reorganized the Identification of plan section in subpart RR by moving the historical SIP information in section 52.2220 to paragraphs 52.2239(b) and (c), and adding tables that summarize Tennessee's SIP in paragraphs 52.2220(a) through (e). Paragraphs 52.2239(b) and (c) are being removed because EPA has determined that it is no longer necessary to include these paragraphs because the contents of the currently approved SIP are now identified in 52.2220(a) through (e). Paragraph 52.2239(a) is being amended to state that this historical information will continue to be available in the CFR annual editions, Title 40 part 52 (years 1999 through 2012). These annual editions are available on line at the following url address: *http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR.*

III. Final Action

EPA is removing/revising provisions the above-reference rules from these states' subparts of 40 CFR part 52 because they are outdated or obsolete in whole or in part. This action also revises certain CFR provisions by correcting state agencies' office addresses and correcting CFR publication errors in two provisions.

EPA has determined that today's action falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA). Upon a finding of ''good cause,'' the APA authorizes agencies to dispense with public participation. In addition, APA section 553(d)(3) allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.''

Today's action is a ''housekeeping'' action that merely removes or revises outdated or obsolete CFR provisions. This action makes no substantive changes to any SIP. Public comment is ''unnecessary'' since this action does not change existing law and immediate publication in the CFR benefits the public by simplifying the CFR by removing outdated and obsolete provisions. In addition, immediate publication of updated state agencies' office addresses benefits the public.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). Because the Agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the APA or any other statute as indicated above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 et seq.), or to sections 202 and 205 of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This action merely removes rules from subparts of 40 CFR part 52 because they pertain to state regulations that are outdated or legally obsolete in whole or in part and impose no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule merely removes rules from subparts of 40 CFR part 52 because they pertain to state regulations that are outdated or legally obsolete in whole or in part and does not impose any additional enforceable duty beyond that required by state law, does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule merely removes rules from subparts of 40 CFR part 52 because they pertain to state regulations that are outdated or legally obsolete in whole or in part and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In addition, this rule does not involve technical standards, thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), nor does it provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The 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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. Because EPA has made a ''good cause''). As explained above, the Agency has made a ''good cause'' finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest, therefore this rule will be effective upon publication. 5 U.S.C. 808(2). 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).

EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. EPA is not approving or promulgating any SIP provision in this housekeeping action. Prior EPA rulemaking actions for each individual component of the SIPs at issue previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of that rulemaking action.

List of Subjects in 40 CFR Part 52

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

Dated: May 13, 2014.

Heather McTeer Toney,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart B—Alabama

■ 2. Section 52.53 is revised to read as follows:

§ 52.53 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Alabama's plan for the attainment and maintenance of the national standards under section 110 of the Clean Air Act. Furthermore, the Administrator finds that the plan satisfies all requirements of part D, title 1, of the Clean Air Act as amended in 1977.

§ 52.56 [Removed and Reserved]

■ 3. Section 52.56 is removed and reserved.

§ 52.66 [Removed and Reserved]

■ 5. Section 52.66 is removed and reserved.

■ 6. Section 52.69 is revised to read as follows:

§ 52.69 Original identification of plan section.

(a) This section identified the original ''Air Implementation Plan for the State of Alabama'' and all revisions submitted by Alabama that were federally approved prior to December 1, 1998. The information in this section is available in the 40 CFR, part 52 edition revised as of July 1, 1999, the 40 CFR, part 52, Volume 1 of 2 (§§ 52.01 to 52.1018) editions revised as of July 1, 2000 through July 1, 2011, and the 40 CFR, part 52, Volume 1 of 3 (§§ 52.01 to 52.1018) editions revised as of July 1, 2012.

(b) [Reserved]

(c) [Reserved]

Subpart K—Florida

■ 7. Section 52.522(a) is revised to read as follows:

§ 52.522 Approval status.

(a) With the exceptions set forth in this subpart, the Administrator approves Florida's plan for the attainment and maintenance of the national standards under section 110 of the Clean Air Act. Furthermore, the Administrator finds that the plan satisfies all requirements of part D, title 1, of the Clean Air Act as amended in 1977.

* * * * *

■ 8. Section 52.524 is revised to read as follows:

§ 52.524 Compliance schedule.

(a) The information in this section is available in the 40 CFR, part 52 edition revised as of July 1, 1999, the 40 CFR, part 52, Volume 1 of 2 (§§ 52.01 to 52.1018) editions revised as of July 1, 2000 through July 1, 2011, and the 40 CFR, part 52, Volume 1 of 3 (§§ 52.01 to 52.1018) editions revised as of July 1, 2012.

(b) [Reserved]

§ 52.527 [Removed and Reserved]

■ 9. Section 52.527 is removed and reserved.

§ 52.532 [Removed and Reserved]

■ 10. Section 52.532 is removed and reserved.

■ 11. Section 52.536 is revised to read as follows:

§ 52.536 Original identification of plan section.

(a) This section identified the original ''Air Implementation Plan for the State of Florida'' and all revisions submitted by Florida that were federally approved prior to July 1, 1998. The information in this section is available in the 40 CFR, part 52 edition revised as of July 1, 1999, the 40 CFR, part 52, Volume 1 of 2 (§§ 52.01 to 52.1018) editions revised as of July 1, 2000 through July 1, 2011, and the 40 CFR, part 52, Volume 1 of 3 (§§ 52.01 to 52.1018) editions revised as of July 1, 2012.

(b) [Reserved]

(c) [Reserved]

Subpart L—Georgia

■ 12. Section 52.590 is revised to read as follows:

§ 52.590 Original identification of plan section.

(a) This section identified the original ''Air Implementation Plan for the State of Georgia'' and all revisions submitted by Georgia that were federally approved prior to December 1, 1998. The information in this section is available in the 40 CFR, part 52 edition revised as of July 1, 1999, the 40 CFR, part 52, Volume 1 of 2 (§§ 52.01 to 52.1018) editions revised as of July 1, 2000 through July 1, 2011, and the 40 CFR, part 52, Volume 1 of 3 (§§ 52.01 to 52.1018) editions revised as of July 1, 2012.

(b) [Reserved]

(c) [Reserved]

Subpart S—Kentucky

■ 13. Section 52.923(a) is revised to read as follows:

§ 52.923 Approval status.

(a) With the exceptions set forth in this subpart, the Administrator approves Kentucky's plan for the attainment and maintenance of the national standards under section 110 of the Clean Air Act. Furthermore, the Administrator finds that the plan satisfies all requirements of part D, title 1, of the Clean Air Act as amended in 1977.

* * * * *

§ 52.926 [Removed and Reserved]

■ 14. Section 52.934 is removed and reserved.

■ 15. Section 52.927 is revised to read as follows:

§ 52.927 Compliance schedule.

(a) The information in this section is available in the 40 CFR, part 52 edition revised as of July 1, 1999, the 40 CFR, part 52, Volume 1 of 2 (§§ 52.01 to 52.1018) editions revised as of July 1, 2000 through July 1, 2011, and the 40 CFR, part 52, Volume 1 of 3 (§§ 52.01 to 52.1018) editions revised as of July 1, 2012.

(b) [Reserved]

■ 16. Section 52.931(d) is revised to read as follows:

§ 52.931 Significant deterioration of air quality.

* * * * *

(d) All applications and other information required pursuant to § 52.21 of this part from sources located in the

Commonwealth of Kentucky shall be submitted to the State agency, Commonwealth of Kentucky, Energy and Environment Cabinet, Department of Environmental Protection, Division for Air Quality, 200 Fair Oaks Lane, 1st Floor, Frankfort, Kentucky 40601–1403 or local agency, Louisville Metro Air Pollution Control District, 850 Barret Avenue, Louisville, Kentucky 40204–1745, rather than to EPA's Region 4 office.

§ 52.934 [Removed and Reserved]

■ 17. Section 52.934 is removed and reserved.

■ 18. Section 52.939 is revised to read as follows:

§ 52.939 Original identification of plan section.

(a) This section identified the original ''Air Implementation Plan for the State of Kentucky'' and all revisions submitted by Kentucky that were federally approved prior to March 1, 1999. The information in this section is available in the 40 CFR, part 52 edition revised as of July 1, 1999, the 40 CFR, part 52, Volume 1 of 2 (§§ 52.01 to 52.1018) editions revised as of July 1, 2000 through July 1, 2011, and the 40 CFR, part 52, Volume 1 of 3 (§§ 52.01 to 52.1018) editions revised as of July 1, 2012. The Jefferson County portion of the Commonwealth of Kentucky's SIP previously identified in section 52.934(a) and (b) is also available in the above editions.

Subpart Z—Mississippi

■ 19. Section 52.1272 is revised to read as follows:

§ 52.1272 Approval status.

(a) With the exceptions set forth in this subpart, the Administrator approves Mississippi's plan for the attainment and maintenance of the national standards under section 110 of the Clean Air Act. Furthermore, the Administrator finds that the plan satisfies all requirements of part D, title 1, of the Clean Air Act as amended in 1977.

(b) [Reserved]

■ 20. Section 52.1281 is revised to read as follows:

§ 52.1281 Original identification of plan section.

(a) This section identified the original ''Air Implementation Plan for the State of Mississippi'' and all revisions submitted by Mississippi that were federally approved prior to July 1, 1997. The information in this section is available in the 40 CFR, part 52 edition revised as of July 1, 1999, the 40 CFR, part 52, Volume 2 of 2 (§§ 52.1019 to End) editions revised as of July 1, 2000 through July 1, 2011, and the 40 CFR, part 52, Volume 2 of 3 (§§ 52.1019 to 52.2019) editions revised as of July 1, 2012.

(b) [Reserved]

(c) [Reserved]

Subpart II—North Carolina

■ 21. Section 52.1772(a) is revised to read as follows:

§ 52.1772 Approval status.

(a) With the exceptions set forth in this subpart, the Administrator approves North Carolina's plan for the attainment and maintenance of the national standards under section 110 of the Clean Air Act. Furthermore, the Administrator finds that the plan satisfies all requirements of part D, title 1, of the Clean Air Act as amended in 1977.

* * * * *

■ 22. Section 52.1778(c) is revised to read as follows:

§ 52.1778 Significant deterioration of air quality.

* * * * *

(c) All applications and other information required pursuant to § 52.21 of this part from sources located or to be located in the State of North Carolina shall be submitted to the State agency, North Carolina Department of Environment and Natural Resources, Division of Air Quality, 1641 Mail Service Center, Raleigh, North Carolina 27699–1641 or local agencies, Forsyth County Office of Environmental Assistance and Protection, 201 North Chestnut Street, Winston-Salem, North Carolina 27101–4120; Mecklenburg County Air Quality, 700 N. Tryon St., Suite 205, Charlotte, North Carolina 28202–2236; Western North Carolina Regional Air Quality Agency, 49 Mount Carmel Road, Asheville, North Carolina 28806, rather than to EPA's Region 4 office.

§ 52.1780 [Removed and Reserved]

■ 23. Section 52.1780 is removed and reserved.

■ 24. Section 52.1783 is revised to read as follows:

§ 52.1783 Original identification of plan section.

(a) This section identified the original ''Air Implementation Plan for the State of North Carolina'' and all revisions submitted by North Carolina that were federally approved prior to December 1, 1998. The information in this section is available in the 40 CFR, part 52 edition revised as of July 1, 1999, the 40 CFR, part 52, Volume 2 of 2 (§§ 52.1019 to End) editions revised as of July 1, 2000 through July 1, 2011, and the 40 CFR, part 52, Volume 2 of 3 (§§ 52.1019 to 52.2019) editions revised as of July 1, 2012.

(b) [Reserved]

(c) [Reserved]

Subpart PP—South Carolina

■ 25. Section 52.2122(a) is revised to read as follows:

§ 52.2122 Approval status.

(a) With the exceptions set forth in this subpart, the Administrator approves South Carolina's plan for the attainment and maintenance of the national standards under section 110 of the Clean Air Act. Furthermore, the Administrator finds that the plan satisfies all requirements of part D, title 1, of the Clean Air Act as amended in 1977.

* * * * *

■ 26. Section 52.2130 is revised to read as follows:

§ 52.2130 Control strategy: Sulfur oxides and particulate matter.

In letters dated May 7, and December 2, 1986, the South Carolina Department of Health and Environmental Control certified that no emission limits in the State's plan are based on dispersion techniques not permitted by EPA's stack height rules. This certification does not apply to Public Service Authority—Winyah, Bowater, and SCE & G—Williams.

■ 27. Section 52.2134 is revised to read as follows:

§ 52.2134 Original identification of plan section.

(a) This section identified the original ''Air Implementation Plan for the State of South Carolina'' and all revisions submitted by South Carolina that were federally approved prior to July 1, 1997. The information in this section is available in the 40 CFR, part 52 edition revised as of July 1, 1999, the 40 CFR, part 52, Volume 2 of 2 (§§ 52.1019 to End) editions revised as of July 1, 2000 through July 1, 2011, and the 40 CFR, part 52, Volume 3 of 3 (§§ 52.2020 to End) editions revised as of July 1, 2012.

(b) [Reserved]

(c) [Reserved]

Subpart RR—Tennessee

■ 28. In § 52.2222, paragraph (a) is revised and paragraph (c) is removed and reserved.

The revision reads as follows:

§ 52.2222 Approval status.

(a) With the exceptions set forth in this subpart, the Administrator approves Tennessee's plan for the attainment and maintenance of the national standards under section 110 of the Clean Air Act. Furthermore, the Administrator finds that the plan satisfies all requirements of part D, title 1, of the Clean Air Act as amended in 1977.

* * * * *

(c) [Reserved]

■ 29. Section 52.2223 is revised to read as follows:

§ 52.2223 Compliance schedules.

(a) The information in this section is available in the 40 CFR, part 52 edition revised as of July 1, 1999, the 40 CFR, part 52, Volume 1 of 2 (§§ 52.01 to 52.1018) editions revised as of July 1, 2000 through July 1, 2011, and the 40 CFR, part 52, Volume 3 of 3 (§§ 52.2020 to End) editions revised as of July 1, 2012.

(b) [Reserved]

(c) [Reserved]

(d) [Reserved]

(e) [Reserved]

(f) [Reserved]

§ 52.2226 [Removed and Reserved]

■ 30. Section 52.2226 is removed and reserved.

§ 52.2230 [Removed and Reserved]

■ 31. Section 52.2230 is removed and reserved.

§ 52.2233 Significant deterioration of air quality.

■ 32. Section 52.2233(c) is revised to read as follows:

* * * * *

(c) All applications and other information required pursuant to § 52.21 of this part from sources located or to be located in the State of Tennessee shall be submitted to the State agency, Department of Environment and Conservation Division of Air Pollution Control, William R. Snodgrass Tennessee Tower, 312 Rosa L Parks Avenue, 15th Floor, Nashville, TN 37243, or local agencies, Knox County Air Quality Management-Department of Public Health, 140 Dameron Avenue, Knoxville, Tennessee 37917; Metro Public Health Department, Pollution Control Division, 311 23rd Avenue North, Nashville, Tennessee, 37203; Chattanooga-Hamilton County Air Pollution Control Bureau, 6125 Preservation Drive, Chattanooga, Tennessee 37416; Shelby County Health Department, Pollution Control Section, 814 Jefferson Avenue, Memphis, Tennessee 38105, rather than to the EPA's Region 4 office.

■ 33. Section 52.2239 is revised to read as follows:

§ 52.2239 Original Identification of plan section.

(a) This section identified the original ''Air Implementation Plan for the State of Tennessee'' and all revisions submitted by Tennessee that were federally approved prior to December 1, 1998. The information in this section is available in the 40 CFR, part 52 edition revised as of July 1, 1999, the 40 CFR, part 52, Volume 2 of 2 (§§ 52.1019 to End) editions revised as of July 1, 2000 through July 1, 2011, and the 40 CFR, part 52, Volume 3 of 3 (§§ 52.2020 to End) editions revised as of July 1, 2012. The Nashville-Davidson portion of the Tennessee's SIP previously identified in section 52.2222(c) is also available in the above editions.

(b) [Reserved]

(c) [Reserved]

[FR Doc. 2014–12004 Filed 5–23–14; 8:45 am]

BILLING CODE 6560–50–P

LEGAL SERVICES CORPORATION

45 CFR Part 1626

Restrictions on Legal Assistance to Aliens; Corrections

AGENCY: Legal Services Corporation.

ACTION: Correcting amendments.

SUMMARY: The Legal Services Corporation (LSC) published a document in the **Federal Register** on April 18, 2014, amending LSC rules governing restrictions on legal assistance to aliens. That document failed to include paragraph headings in a section. This document corrects the final regulations by revising the section.

DATES: Effective May 27, 2014.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K St. NW., Washington, DC 20007; (202) 295–1563; *sdavis@lsc.gov.*

SUPPLEMENTARY INFORMATION: This document corrects the final regulations for part 1626, which became effective on May 19, 2014.

List of Subjects in 45 CFR Part 1626

Aliens, Grant programs—law, Legal services, Migrant labor, Reporting and recordkeeping requirements.

Accordingly, 45 CFR part 1626 is corrected by making the following correcting amendments:

PART 1626—RESTRICTIONS ON LEGAL ASSISTANCE TO ALIENS

■ 1. The authority citation for part 1626 continues to read as follows:

Authority: 42 U.S.C. 2996g(e).

■ 2. Revise § 1626.2 to read as follows:

§ 1626.2 Definitions.

(a) *Anti-abuse statutes* means the Violence Against Women Act of 1994, Pub. L. 103–322, 108 Stat. 1941, as amended, and the Violence Against Women and Department of Justice Reauthorization Act of 2005, Public Law 109–162, 119 Stat. 2960 (collectively referred to as ''VAWA''); Section 101(a)(15)(U) of the INA, 8 U.S.C. 1101(a)(15)(U); and the incorporation of these statutory provisions in section 502(a)(2)(C) of LSC's FY 1998 appropriation, Public Law 105–119, Title V, 111 Stat. 2440, 2510 as incorporated by reference thereafter; the Victims of Trafficking and Violence Protection Act of 2000, Public Law 106–386, 114 Stat. 1464 (''TVPA''), as amended; and Section 101(a)(15)(T) of the Immigration and Nationality Act (''INA''), 8 U.S.C. 1101(a)(15)(T).

(b) *Battered or subjected to extreme cruelty* includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution may be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence.

(c) *Certification* means the certification prescribed in 22 U.S.C. 7105(b)(1)(E).

(d) *Citizen* means a person described or defined as a citizen or national of the United States in 8 U.S.C. 1101(a)(22) and Title III of the Immigration and Nationality Act (INA), Chapter 1 (8 U.S.C. 1401 *et seq.*) (citizens by birth) and Chapter 2 (8 U.S.C. 1421 *et seq.*) (citizens by naturalization) or antecedent citizen statutes.

(e) *Eligible alien* means a person who is not a citizen but who meets the requirements of § 1626.4 or § 1626.5.

(f) *Ineligible alien* means a person who is not a citizen and who does not meet the requirements of § 1626.4 or § 1626.5.

(g) *On behalf of* an ineligible alien means to render legal assistance to an

eligible client that benefits an ineligible alien and does not affect a specific legal right or interest of the eligible client.

(h)(1) *Qualifies for immigration relief under section 101(a)(15)(U) of the INA* means:

(i) A person who has been granted relief under that section;

(ii) A person who has applied for relief under that section and who the recipient determines has evidentiary support for such application; or

(iii) A person who has not filed for relief under that section, but who the recipient determines has evidentiary support for filing for such relief.

(2) A person who *qualifies for immigration relief under section 101(a)(15)(U) of the INA* includes any person who may apply for primary U visa relief under subsection (i) of section 101(a)(15)(U) of the INA (8 U.S.C. 1101(a)(15)(U)(i)) or for derivative U visa relief for family members under subsection (ii) of section 101(a)(15)(U) of the INA (8 U.S.C. 1101(a)(15)(U)(ii)). Recipients may provide assistance for any person who qualifies for derivative U visa relief regardless of whether such a person has been subjected to abuse.

(i) *Rejected* refers to an application for adjustment of status that has been denied by the Department of Homeland Security (DHS) and is not subject to further administrative appeal.

(j) *Victim of severe forms of trafficking* means any person described at 22 U.S.C. 7105(b)(1)(C).

(k) *Victim of sexual assault or trafficking* means:

(1) *A victim of sexual assault* subjected to any conduct included in the definition of sexual assault in VAWA, 42 U.S.C. 13925(a)(29); or

(2) *A victim of trafficking* subjected to any conduct included in the definition of ''trafficking'' under law, including, but not limited to, local, state, and federal law, and T visa holders regardless of certification from the U.S. Department of Health and Human Services (HHS).

(l) *United States,* for purposes of this part, has the same meaning given that term in section 101(a)(38) of the INA (8 U.S.C. 1101(a)(38)).

Legal Services Corporation.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2014–12110 Filed 5–23–14; 8:45 am]

BILLING CODE 7050–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

Frequency Allocations and Radio Treaty Matters; General Rules and Regulations

CFR Correction

In Title 47 of the Code of Federal Regulations, Parts 0 to 19, revised as of October 1, 2013, on page 645, in § 2.925, the example following paragraph (a)(1) is removed.

[FR Doc. 2014–12308 Filed 5–23–14; 8:45 am]

BILLING CODE 1505–01–D

Proposed Rules

Federal Register
Vol. 79, No. 101
Tuesday, May 27, 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 71

[Docket No. FAA–2014–0294; Airspace Docket No. 14–ACE–2]

Proposed Amendment of Class D Airspace; Wichita, McConnell AFB, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace at Wichita, McConnell AFB, KS. The closure of nearby Derby, Hamilton Field has necessitated the need to amend Class D airspace at McConnell AFB. This action would enhance the safety and management of aircraft operations at the airport.

DATES: Comments must be received on or before July 11, 2014.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2014–0294/Airspace Docket No. 14–ACE–2, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office, telephone 1–800–647–5527, is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Raul Garza, Jr., Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7654.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2014–0294/Airspace Docket No. 14–ACE–2.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by amending Class D airspace at McConnell AFB, Wichita, KS. The closing of Derby, Hamilton Field, KS, has made this action necessary. Accordingly, the segment of controlled airspace once reserved for use at Derby, Hamilton Field, would revert to Class D airspace for use at McConnell AFB, Wichita, KS.

Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9X, dated August 7, 2013 and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend controlled airspace at McConnell AFB, Wichita, KS.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace areas extending upward from the surface of the earth.

* * * * *

ACE KS D Wichita, McConnell AFB, KS [Amended]

Wichita McConnell AFB, KS
(Lat. 37°37′23″ N., long. 97°16′03″ W.)

That airspace extending upward from the surface to and including 3,900 feet MSL within a 4.5-mile radius of McConnell Air Force Base, excluding that airspace within the Wichita Mid-Continent Airport, KS, Class C airspace area.

Issued in Fort Worth, TX, on May 15, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–12177 Filed 5–23–14; 8:45 am]

BILLING CODE 4901–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. FDA–2012–N–1210]

RIN 0910–AF22

Food Labeling: Revision of the Nutrition and Supplement Facts Labels; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is extending the comment period for the proposed rule that appeared in the **Federal Register** of March 3, 2014. In the proposed rule, FDA requested comments on FDA's revision of the Nutrition and Supplement Facts Labels. We are taking this action in response to requests for an extension to allow interested persons additional time to submit comments.

DATES: FDA is extending the comment period on the proposed rule published on March 3, 2014 (79 FR 11880). Submit either electronic or written comments by August 1, 2014.

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

Electronic Submissions

Submit electronic comments in the following way:

• Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Written Submissions

Submit written submissions in the following ways:

• Mail/Hand delivery/Courier (for paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name, Docket No. FDA–2012–N–1210, and RIN 0910–AF22 for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see the ''Request for Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Blakeley Fitzpatrick, Center for Food Safety and Applied Nutrition (HFS–830), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–5429, email: *NutritionProgramStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 3, 2014 (79 FR 11880), we published a proposed rule entitled ''Food Labeling: Revision of the Nutrition and Supplement Facts Labels'' with a 90-day comment period to request comments on amending our regulations for conventional foods and dietary supplements to provide updated nutrition information on the label to assist consumers in maintaining healthy dietary practices. Comments on the proposed rule will inform FDA's rulemaking to amend the regulations for the Nutrition and Supplement Facts labels.

We received multiple requests for a 90-day extension of the comment period and one request for a 120-day extension of the comment period for the proposed rule. Each request conveyed concern that the original 90-day comment period does not allow sufficient time to develop a meaningful or thoughtful response to the proposed rule.

We have considered the requests and are extending the comment period for the proposed rule for 60 days, until August 1, 2014. We believe that a 60-day extension allows adequate time for interested persons to submit comments without significantly delaying rulemaking on these important issues.

II. Request for Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: May 21, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–12094 Filed 5–23–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. FDA–2004–N–0258 (Formerly Docket No. 2004N–0456)]

RIN 0910–AF23

Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed at One-Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is extending the comment period for the proposed rule that appeared in the **Federal Register** of March 3, 2014. In the proposed rule, FDA requested comments on FDA's regulations for serving sizes for the Nutrition Facts Label. We are taking this action in response to requests for an extension to allow interested persons additional time to submit comments.

DATES: FDA is extending the comment period on the proposed rule published on March 3, 2014 (79 FR 11990). Submit either electronic or written comments by August 1, 2014.

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

Electronic Submissions

Submit electronic comments in the following way:

• Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Written Submissions

Submit written submissions in the following ways:

• Mail/Hand delivery/Courier (for paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name, Docket No. FDA–2004–N–0258, and RIN 0910–AF23 for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the ''Request for Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Cherisa Henderson, Center for Food Safety and Applied Nutrition (HFS–830), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–5429, email: *NutritionProgramStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 3, 2014 (79 FR 11990), we published a proposed rule entitled ''Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed At One-Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments'' with a 90-day comment period to request comments on amending the definition of a single-serving container; requiring dual-column labeling for certain containers; updating and modifying several reference amounts customarily consumed; adding several food products and food product categories to the reference amounts customarily consumed per eating occasion for the general food supply; amending the label serving size for breath mints; and making technical amendments to various aspects of the serving size regulations. Comments on the proposed rule will inform FDA's rulemaking to amend the regulations for serving sizes for the Nutrition Facts Label.

We received multiple requests for a 90-day extension of the comment period for the proposed rule. Each request conveyed concern that the original 90-day comment period does not allow sufficient time to develop a meaningful or thoughtful response to the proposed rule.

We have considered the requests and are extending the comment period for the proposed rule for 60 days, until August 1, 2014. We believe that a 60-day extension allows adequate time for interested persons to submit comments without significantly delaying rulemaking on these important issues.

II. Request for Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: May 21, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–12095 Filed 5–23–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2014–OSERS–0028; CFDA Number: 84.133B–1.]

Proposed Priority—National Institute on Disability and Rehabilitation Research—Rehabilitation Research and Training Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for the Rehabilitation Research and Training Center (RRTC) Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR). Specifically, this document proposes a priority for a RRTC on Vocational Rehabilitation Practices for Youth and Young Adults. We take this action to focus research attention on an area of national need. We intend for this priority to contribute to improved outcomes of youth and young adults with disabilities in the State Vocational Rehabilitation Services program.

DATES: We must receive your comments on or before June 26, 2014.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment

period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

• *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Are you new to the site?''

• *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about these proposed regulations, address them to Patricia Barrett, U.S. Department of Education, 400 Maryland Avenue SW., Room 5142, Potomac Center Plaza (PCP), Washington, DC 20202–2700.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov*. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Patricia Barrett, U.S. Department of Education, 400 Maryland Avenue SW., Room 5142, Potomac Center Plaza (PCP), Washington, DC 20202–2700. Telephone: (202) 245–6211 or by email: *patricia.barrett@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: This proposed priority is in concert with NIDRR's currently approved Long-Range Plan (Plan). The Plan, which was published in the **Federal Register** on April 4, 2013 (78 FR 20299), can be accessed on the Internet at the following site: *www.ed.gov/about/offices/list/osers/nidrr/policy.html*.

The Plan identifies a need for research and training in a number of areas. To address this need, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of research findings, expertise, and other information to advance knowledge and understanding of the needs of individuals with disabilities and their family members, including those from among traditionally underserved populations; (3) determine effective practices, programs, and policies to improve community living and participation, employment, and health and function outcomes for individuals with disabilities of all ages; (4) identify research gaps and areas for promising research investments; (5) identify and promote effective mechanisms for integrating research and practice; and (6) disseminate research findings to all major stakeholder groups, including individuals with disabilities and their families in formats that are appropriate and meaningful to them.

This document proposes one priority that NIDRR intends to use for one or more competitions in fiscal year (FY) 2014 and possibly in later years. NIDRR is under no obligation to make an award under this priority. The decision to make an award will be based on the quality of applications received and available funding. NIDRR may publish additional priorities, as needed.

Invitation to Comment: We invite you to submit comments regarding this proposed priority. To ensure that your comments have maximum effect in developing the notice of final priority, we urge you to identify clearly the specific topic that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this proposed priority in Room 5142, 550 12th Street SW., PCP, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this document. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities. This program is also intended to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Rehabilitation Research and Training Centers

The purpose of the RRTCs, which are funded through the Disability and Rehabilitation Research Projects and Centers Program, is to achieve the goals of, and improve the effectiveness of, services authorized under the Rehabilitation Act through well-designed research, training, technical assistance, and dissemination activities in important topical areas as specified by NIDRR. These activities are designed to benefit rehabilitation service providers, individuals with disabilities, family members, policymakers and other research stakeholders. Additional information on the RRTC program can be found at: *http://www2.ed.gov/programs/rrtc/index.html*.

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Applicable Program Regulations: 34 CFR part 350.

Proposed Priority

This document contains one proposed priority.

Vocational Rehabilitation Practices for Youth and Young Adults.

Background

Individuals with disabilities are less likely to be employed, or to participate in the labor force, than individuals without disabilities (U.S. Bureau of Labor Statistics, 2013). Similarly, youth and young adults with disabilities (age 16–24) are less likely than their peers without disabilities to be employed (U.S. Department of Labor, 2013). Compared to their peers without disabilities, youth and young adults with disabilities are also more likely to drop out of school (Chapman et al., 2011), less likely to participate in postsecondary education, (Newman et al., 2010; Newman et al., 2011; Wagner et al., 2005), and less likely to be employed after completing school (Wagner et al., 2005). Some groups of youth and young adults with disabilities are at increased risk for poor post-school employment outcomes, including those with mental illness or intellectual disabilities, and those from underserved

populations (Davies et al., 2009; Wagner et al., 2005).

From a policy perspective, improving the employment outcomes of youth and young adults with disabilities could decrease reliance on long-term public benefits. Research indicates that young adults with disabilities, especially those who receive Social Security Income (SSI) benefits before the age of 18, are at high risk of poor employment outcomes, low incomes, and continued reliance on public benefits (Davies et al., 2009; Fraker, 2011). The public cost of these benefits is high; in 2009, the combined cost of SSI benefits for youth age 13–25 was $7.5 billion; the cost of Social Security Disability Insurance (SSDI) benefits to individuals under the age of 25 was greater than $1 billion (Fraker, 2011).

The State Vocational Rehabilitation Services (VR) program administered by the Rehabilitation Services Administration (RSA) provides grants to States to support a wide range of services to assist individuals with disabilities prepare for and engage in gainful employment consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. State reported data from RSA's Case Services Report (RSA–911) from FY 2012 show that youth and young adults age 14–24 accounted for 35 percent (about 113,850) of the total number of individuals whose service records were closed after receiving services from the VR program. However, RSA–911 data also show that 46 percent of these youth and young adults had not achieved an employment outcome at the time their service records were closed. The three most frequent reported reasons for their service record closure were: (1) Unable to contact or locate the client (36 percent), (2) refused services or further services (22 percent), and (3) failure to cooperate (22 percent). However, a recent study by Mathematica (Honeycutt et al., 2013) found wide variation in service patterns and outcomes among State VR agencies.

State VR agencies can play a critical role in helping youth and young adults attain their vocational goals, including collaborating with State and local education agencies to plan and provide services for students with disabilities. However, knowledge about best practices for VR agencies serving youth and young adults is insufficient given the persistent poor employment outcomes of youth and young adults with disabilities (Honeycutt et al., 2013). There are emerging practices that VR agencies may employ to assist youth and young adults to achieve postsecondary goals. For example, some evidence-based secondary transition practices used in schools may be useful in VR settings (Test & Cease-Cook, 2012). In addition, a description of selected emerging transition practices, services, and models in State VR agencies is provided on RSA's ''Emerging Practices'' Web site (*http://rsa.ed.gov/emerging-practices.cfm*). The transition practices which are particularly appropriate to this age group, include interagency collaboration, career development activities, work experience, mentoring programs, shadowing programs, postsecondary education opportunities, and others. However, these activities vary in the degree to which their effectiveness in achieving successful outcomes for youth and young adults with disabilities is supported by research-based evidence (Cobb et al., 2013).

There is, therefore, a need to identify best practices that could be used by VR programs to improve outcomes for youth, especially those at high risk for poor outcomes. In addition, given the high proportion of youth and young adults who discontinue participation in the VR program, there is a need to understand the factors that may cause youth and young adults with disabilities to exit the VR program without an employment outcome and whether interventions can be implemented by the VR program to improve their outcomes.

References

Chapman, C., Laird, J., Ifill, N., and KewalRamani, A. (2011). *Trends in High School Dropout and Completion Rates in the United States: 1972–2009* (NCES 2012–006). U.S. Department of Education. Washington, DC: National Center for Education Statistics. Retrieved April 22, 2014, from *http://nces.ed.gov/pubs2012/2012006.pdf*.

Cobb, R. B., Lipscomb, S., Wolgemuth, J., Schulte, T., Veliquette, A., Alwell, M., Batchelder, K., Bernard, R., Hernandez, P., Holmquist-Johnson, H., Orsi, R., Sample McMeeking, L., Wang, J., and Weinberg, A. (2013). *Improving Post-High School Outcomes for Transition-Age Students with Disabilities: An Evidence Review Executive Summary* (NCEE 2013–4012). Washington, DC: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences.

Davies, P. S., Rupp, K., & Wittenburg, D. (2009). A life-cycle perspective on the transition to adulthood among children receiving Supplemental Security Income payments. *Journal of Vocational Rehabilitation, 30*(3), 133–151. Available at: *www.mathematica-mpr.com/publications/PDFs/disability/lifecycleperspective.pdf*.

Fraker, T. (2011). *The Youth Transition Demonstration: Interim Findings and Lessons for Program Implementation* (No. 7151). Mathematica Policy Research. Available at: *http://mathematica-mpr.com/publications/pdfs/disability/ytd_brief11-04.pdf*.

Honeycutt, T., Thompkins, Al., Bardos, M., & Stern, S. (October, 2013). State differences in the vocational rehabilitation experiences of transition-age youth with disabilities. Working paper. Available at: *www.mathematica-mpr.com/publications/PDFs/disability/state_diff_vr_youth_wp.pdf*.

Neubert, D. A., & Leconte, P. J. (2013). Age-appropriate transition assessment: The position of the Division on Career Development and Transition. *Career Development and Transition for Exceptional Individuals,* 3i), 72–83.

Newman, L., Wagner, M., Knokey, A.-M., Marder, C., Nagle, K., Shaver, D., Wei, X., with Cameto, R., Contreras, E., Ferguson, K., Greene, S., and Schwarting, M. (2011). *The Post-High School Outcomes of Young Adults With Disabilities up to 8 Years After High School. A Report from the National Longitudinal Transition Study-2 (NLTS2)* (NCSER 2011–3005). Menlo Park, CA: SRI International. Available at: *www.nlts2.org/reports/2011_09_02/index.html*. U.S. Department of Labor (2013). Youth employment rate. Available at: *www.dol.gov/odep/categories/youth/youthemployment.htm*.

Test, D. W., & Cease-Cook, J. (2012). Evidence-based secondary transition practices for rehabilitation counselors. *Journal of Rehabilitation, 78*(2), 30–38.

U.S. Bureau of Labor Statistics (December, 2013). Employment status of the civilian population by sex, age, and disability status, not seasonally adjusted. Available at: *www.bls.gov/news.release/empsit.t06.htm*.

Wagner, M., Newman, L., Cameto, R., Garza, N., & Levine, P. (2005). After high school: A first look at the postschool experiences of youth with disabilities. A report from the National Longitudinal Transition Study-2 (NLTS2). Available at: *http://files.eric.ed.gov/fulltext/ED494935.pdf*.

Definitions

For purposes of this priority, the stages of research are from the notice of final priorities and definitions published in the **Federal Register** on May 7, 2013 (78 FR 26513).

(i) *Exploration and Discovery* means the stage of research that generates hypotheses or theories by conducting new and refined analyses of data, producing observational findings, and creating other sources of research-based information. This research stage may include identifying or describing the barriers to and facilitators of improved outcomes of individuals with disabilities, as well as identifying or describing existing practices, programs,

or policies that are associated with important aspects of the lives of individuals with disabilities. Results achieved under this stage of research may inform the development of interventions or lead to evaluations of interventions or policies. The results of the exploration and discovery stage of research may also be used to inform decisions or priorities.

(ii) *Intervention Development* means the stage of research that focuses on generating and testing interventions that have the potential to improve outcomes for individuals with disabilities. Intervention development involves determining the active components of possible interventions, developing measures that would be required to illustrate outcomes, specifying target populations, conducting field tests, and assessing the feasibility of conducting a well-designed intervention study. Results from this stage of research may be used to inform the design of a study to test the efficacy of an intervention.

(iii) *Intervention Efficacy* means the stage of research during which a project evaluates and tests whether an intervention is feasible, practical, and has the potential to yield positive outcomes for individuals with disabilities. Efficacy research may assess the strength of the relationships between an intervention and outcomes, and may identify factors or individual characteristics that affect the relationship between the intervention and outcomes. Efficacy research can inform decisions about whether there is sufficient evidence to support ''scaling-up'' an intervention to other sites and contexts. This stage of research can include assessing the training needed for wide-scale implementation of the intervention, and approaches to evaluation of the intervention in real world applications.

(iv) *Scale-Up Evaluation* means the stage of research during which a project analyzes whether an intervention is effective in producing improved outcomes for individuals with disabilities when implemented in a real-world setting. During this stage of research, a project tests the outcomes of an evidence-based intervention in different settings. The project examines the challenges to successful replication of the intervention, and the circumstances and activities that contribute to successful adoption of the intervention in real-world settings. This stage of research may also include well-designed studies of an intervention that has been widely adopted in practice, but that lacks a sufficient evidence-base to demonstrate its effectiveness.

Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for an RRTC to conduct research on VR Practices for Youth and Young Adults. The RRTC must contribute to increased knowledge about effective VR practices that can improve employment outcomes of youth and young adults with disabilities by:

(a) Generating new knowledge that builds the evidence base of vocational rehabilitation practices, services, or models that improve the employment outcomes for youth and young adults. The center will conduct research to better understand the factors that affect the likelihood that youth and young adults are fully engaged in the VR program and achieve their vocational goals, i.e., completion of postsecondary education and training programs, and attainment of competitive employment, including research that—

(i) Identifies individual- and system-level factors that affect engagement and attainment of an employment outcome. Individual-level factors include, but are not limited to, demographic characteristics and impairment types and severity. System-level factors include, but are not limited to, financial disincentives to obtaining employment associated with other public programs and systems, characteristics and practices of VR State agencies, employer practices and perceptions, and macroeconomic conditions; and

(ii) Identifies the reasons for which youth and young adults with a disability discontinue their participation in the VR program before achieving successful postsecondary goals (e.g., postsecondary education or training) or employment outcomes.

(b) Conducting research to identify VR services and transition practices that increase the likelihood of youth and young adults with disabilities achieving successful employment outcomes. The research must also identify practices relevant to improving the outcomes of youth and young adults who are at particular risk for poor employment outcomes. Applicants must identify the specific at-risk group or groups of youth and young adults with disabilities they propose to include; provide evidence that the selected population or populations are, in fact, at risk for poor employment outcomes; and explain how the practices are expected to address the needs of the population or populations.

(c) Focusing its research on one or more specific stages of research. If the RRTC is to conduct research that can be categorized under more than one of the research stages, or research that progresses from one stage to another, those research stages must be clearly specified. (These stages and their definitions are provided at end of the background statement section of this document.)

(d) Serving as a national resource center for youth and young adults with disabilities, their families, and other stakeholders, including other relevant grantees funded by the Office of Special Education and Rehabilitative Services. Specifically, this center must coordinate, as appropriate, with the OSEP-funded Parent Training and Information Centers, the OSEP-funded National Technical Assistance Center on Improving Transition and the RSA-funded Parent Information and Training Projects, and other relevant entities by conducting knowledge translation activities related to improving employment outcomes of youth and young adults that must, but are not limited to:

(i) Providing information and technical assistance to VR State agencies and related service providers, educators, employers, youth and young adults with disabilities and their representatives, families, and other key stakeholders.

(ii) Providing training, including graduate, pre-service, and in-service training, to educators, VR professionals, direct service professionals and related service providers, to facilitate a seamless and effective transition service delivery system. Training may be offered through conferences, workshops, public education programs, in-service training programs, and similar activities.

(iii) Disseminating research-based information and materials related to VR practices and services that increase employment for youth and young adults with disabilities.

(iv) Involving key stakeholder groups in the activities conducted under paragraphs (a) through (d) of this priority in order to maximize the relevance and usability of the new knowledge generated by the RRTC.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an

application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority

We will announce the final priority in a document in the **Federal Register**. We will determine the final priority after considering responses to this document and other information available to the Department. This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing this proposed priority only upon a reasoned determination that its benefits would justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that this proposed priority is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Program have been well established over the years. Projects similar to the RRTCs have been completed successfully, and the proposed priorities will generate new knowledge through research. The new RRTCs will generate, disseminate, and promote the use of new information that would improve outcomes for individuals with disabilities in the areas of community living and participation, employment, and health and function.

Intergovernmental Review: This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363.

If you use a TDD or TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 20, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–12039 Filed 5–23–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 45

[Docket No. USCG–2013–0954]

Special Load Line Exemption for Lake Michigan: Petition for Rulemaking

AGENCY: Coast Guard, DHS.

ACTION: Requests for comments on petitions for rulemaking.

SUMMARY: The Coast Guard announces the availability of several requests for a rulemaking, and requests public comment accordingly. The requesters are petitioning the Coast Guard to establish a special load line-exempted route on Lake Michigan. This exemption would allow non-load line river barges to transit along the eastern shore of Lake Michigan, between Chicago (Calumet Harbor), IL, and Muskegon, MI. This is similar to an existing exempted route along the western shore between Calumet and Milwaukee, WI.

DATES: Comments and related material must either be submitted to our online docket via *http://www.regulations.gov* on or before August 25, 2014, or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG–2013–0954 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, contact Mr. Thomas Jordan, Naval Architecture Division (CG–ENG–2), U.S. Coast Guard Headquarters, at telephone 202–372–1370, or by email at *thomas.d.jordan@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to submit comments and related material on the rulemaking petition for a special load line exemption on Lake Michigan. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting comments: If you submit a comment, please include the docket number for this document (USCG–2013–0954) and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, search for ''USCG–2013–0954,'' click ''Open the docket folder'' and click the comment button. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8 ½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Viewing the rulemaking petition and comments: To view the petition and comments that have been submitted to the docket, go to *http://www.regulations.gov*, search for ''USCG–2013–0954'' and click ''Open Docket Folder.'' If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act: Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act, system of records notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Background and Purpose

The requesters are petitioning the Coast Guard to establish a special load line-exempted route along the eastern shore of Lake Michigan, which would allow non-load line river barges to transit between Chicago (Calumet Harbor), IL, and Muskegon, MI. This action pertains to current load line regulations, and the use of non-load line river barges on Lake Michigan (particularly on the Milwaukee and Burns Harbor routes; these are discussed further below).

Load line assignment. Most commercial vessels that are 79 feet in length or longer, and that proceed on domestic or international voyages outside the U.S. Boundary Line (including voyages on the Great Lakes) must be assigned a load line. The purpose of load line assignment is to ensure the overall seaworthiness of the vessel. This is accomplished through the application of several design and construction requirements, such as: Robust hull construction that can withstand severe sea conditions; protection of critical openings (such as hatchways, doors, ventilators, etc.) with weathertight or watertight closures; ensuring that the vessel has adequate stability and strength for all operating conditions; and limiting the loaded draft (by use of load line marks) to ensure that the vessel is not overloaded and has reserve buoyancy.

Furthermore, the vessel must be surveyed annually (by a surveyor from the load line assigning authority) to verify that all of these features are maintained in operable condition, and that no damage or modification has been done to the vessel that compromises its seaworthiness. The benefit in meeting these requirements is that the vessel is considered safe and seaworthy enough for offshore voyages, even under severe weather conditions. This gives the operator maximum flexibility in the commercial employment of the vessel. There are costs associated with load line assignment, however: Higher construction cost for the vessel, and the cost of the annual surveys.

Because river barges are not exposed to any sea conditions, they are not typically constructed to meet the load line standards for coastwise, offshore, or Great Lakes service. Although this makes them less expensive to build and operate, they do not qualify for load line

assignment and therefore are not normally permitted to operate outside the Boundary Line.

(More information on load lines and the Boundary Line can be found on the Coast Guard's load line Web site at: *http://www.uscg.mil/hq/cg5/cg5212/loadlines.asp*)

Load line-exempted routes on Lake Michigan. At present, river barges can obtain a special load line that allows them to operate on Lake Michigan between Calumet and Muskegon, provided that they remain within 5 miles of the shoreline, transit only under favorable weather conditions, and only carry dry, non-hazardous cargoes. This load line is issued by the American Bureau of Shipping, who inspects (surveys) the vessel each year to ensure its continued seaworthiness.

Although non-load line river barges are not normally permitted to operate on the Lake, there are two specific routes where they are so permitted under restricted conditions: Between Calumet and Burns Harbor, IL, and between Calumet and Milwaukee, MI. The voyages are subject to weather limitations and certain other loading restrictions. The premise for these exempted routes is that weather conditions on the Lake are often benign, that accurate and timely forecasts are readily available, and that ports of refuge are close at hand along the route. This allows the river barges to avoid bad weather and safely transit along the Lake shore. The specific restrictions for these exempted routes are found in 46 CFR 45.171, *et seq.*

Petition for a special load line exemption. In order to promote barge transportation of certain agricultural products and cargoes, the petitioners have submitted to the Coast Guard a request to create a load line-exempted route along the eastern shore of Lake Michigan. These requests can be viewed in the docket, but to summarize: The request would effectively extend the existing Burns Harbor exemption up the eastern shore of Lake Michigan to Muskegon, MI. The actual restrictions would be very similar to those for the Milwaukee route.

The benefit of the exemption is that it would allow non-hazardous cargoes to be loaded onto ordinary, non-load line river barges at inland Mississippi River terminals for direct delivery to Muskegon and intermediate Lake ports, and for agricultural products to be similarly transported to downriver terminals.

Request for Comments

In deciding whether or not to move forward with the requested rulemaking, the Coast Guard must consider several issues: The safety of the operation, protection of the marine environment, resource demands on the Coast Guard (particularly compliance verification and enforcement), and the potential economic costs and benefits.

Public comments on these issues, as well as other points that are pertinent to this petition, are encouraged. Upon review, the Coast Guard will decide whether or not to proceed with a rulemaking to establish the proposed exempted route.

This document is issued under authority of 5 U.S.C. 552(a) and 46 U.S.C. 5108.

Dated: May 19, 2014.

F.J. Sturm,

Acting Director of Commercial Regulations and Standards.

[FR Doc. 2014–11931 Filed 5–23–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 383, 384, and 391

[Docket No. FMCSA–2012–0178]

RIN 2126–AB40

Medical Examiner's Certification Integration; Availability of Updated Privacy Impact Assessment

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of availability; request for comments.

SUMMARY: FMCSA announces the availability of the Privacy Impact Assessment (PIA) for the Medical Examiner's Certification Integration notice of proposed rulemaking (NPRM) published on May 10, 2013. Due to technical errors, the PIA was not posted to the docket until July 4, 2013, just a few days prior to the end of the public comment period. In addition, the PIA was not posted to the Department of Transportation's (DOT's) Privacy Web site until December 11, 2013. In an effort to provide the public with as much information as possible regarding the National Registry and the Medical Examiner's Certification Integration rulemaking, we are announcing the availability of the updated PIA and requesting comments from the public. Comments must be limited to possible impact of the rules proposed in the NPRM on the protection of privacy of information used in determining the physical qualifications of drivers of commercial motor vehicles.

DATES: Comments must be received on or before June 11, 2014.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2012–0178 using any of the following methods:

- *Federal eRulemaking Portal: 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. E.T., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments. Comments received after the comment closing date will be included in the docket, and we will consider late comments to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Robin Hamilton, Office of Medical Programs, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, by telephone at (202) 366–4001 or via email at *fmcsamedical@dot.gov.* Office hours are from 9 a.m. to 5 p.m. ET, Monday through Friday, except Federal holidays. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to submit comments regarding the impacts on privacy of information by the rules proposed in the Medical Examiner's Certification Integration rulemaking. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you provide.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (FMCSA–2012–0178), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and

material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission. To submit your comment online, go to *http://www.regulations.gov* and click on the ''Submit a Comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop-down menu, select ''Proposed Rules,'' insert ''FMCSA 2012–0178'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Submit a Comment'' in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit your comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change the proposed rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in the Medical Examiner's Certification Integration NPRM, available in the docket, go to *http://www.regulations.gov* and click on the ''Read Comments'' box in the upper right-hand side of the screen. Then in the ''Keyword'' box, insert ''FMCSA–2012–0178'' and click ''Search.'' Next, click the ''Open Docket Folder'' in the ''Actions'' column. Finally, in the ''Title'' column, click on the document you would like to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

C. Privacy Act

Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://www.gpo.gov/fdsys/pkg/FR-2008-01-17/pdf/E8-785.pdf.*

II. Background

Legal Basis

The Agency, in conjunction with the Department's Chief Information Office, has prepared and made available a PIA.[1] This PIA has been prepared in accordance with the provisions of Section 522(a)(5) of the FY 2005 Omnibus Appropriations Act, Public Law 108–447, 118 Stat. 3268 (Dec. 8, 2004).[2] This statute requires DOT agencies to prepare a PIA on proposed rules involving the privacy of information in identifiable form, including the type of personally identifiable information collected and the number of people affected.[3]

The statute involved does not require this Agency or the Department to provide an opportunity to comment on the PIA directly. The PIA provides a detailed explanation of the privacy interests involved in the entire National Registry program. It sets out the careful and thorough steps FMCSA and the Department have taken and will take to protect those interests, while at the same time carrying out the statutory directives to ensure that CMV drivers are physically qualified and can operate safely and that operation of a CMV does not affect their health.[4] Nonetheless, the PIA does provide a basis for public comment on any rules proposed by the Agency that may have an impact on privacy of information within its scope. The context for such impact is provided by a brief review of the history of the development of the National Registry.

Regulatory History

The National Registry was developed and implemented under the authority of 49 U.S.C. 31149, enacted by Section 4116(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). The program is managed and maintained by the FMCSA. The Federal Motor Carrier Safety Regulations (FMCSRs) require that CMV drivers comply with physical qualification requirements and be examined and certified by a medical examiner (ME) at least once every two years. The National Registry ensures that MEs who perform DOT driver medical examinations are properly trained and certified by FMCSA to do so. The program maintains personally identifiable information (PII) for each ME candidate applying for ME certification, MEs' administrative personnel who are registering on the National Registry, and of CMV drivers examined by a certified ME. FMCSA published a final rule on April 20, 2012 (77 FR 73129), to establish and maintain a National Registry of Certified Medical Examiners. FMCSA posted a PIA of the final rule on the DOT privacy program Web site on August 20, 2012.

FMCSA published the Medical Examiner's Certification Integration NPRM on May 10, 2013 (78 FR 24104), a follow-on rule to the National Registry final rule. The purpose of the principal requirements proposed in the Medical Examiner's Certification Integration NPRM was to modify the requirements adopted in two earlier final rules issued by FMCSA, Medical Certification Requirements as Part of the Commercial Driver's License, 73 FR 73096 (Dec. 1, 2008), and the National Registry final rule. It proposed that the information from the Medical Examiner's Certificate (MEC) be transmitted to FMCSA on a daily basis by MEs. FMCSA would then promptly and accurately transmit that information for CDL holders to the State Driver Licensing Agencies (SDLAs) electronically for entry into the appropriate CDL driver record within one business day of receipt from FMCSA. Specifically, the NPRM proposed to require MEs to use a slightly revised Medical Examination Report (MER) Form, MCSA–5875 and the MEC, Form MCSA–5876; daily instead of monthly reporting of CMV driver medical examinations; electronic transmission of CDL and Commercial Learner's Permit (CLP) driver information from the National Registry system to the SDLAs; and electronic transmission of medical variance information for all CMV drivers to the SDLAs.

The PIA announced by this notice is an update to the previous National Registry PIA (August 20, 2012) and in support of the Medical Examiner's Certification Integration NPRM. It not only updates the additional collection of personally identifiable information (PII) under this rule but attempts to update language in the PIA for clarity to the reader.

[1] Available at *http://www.regulations.gov/#!documentDetail;D=FMCSA-2012-0178-0039.*

[2] Set out as a note to 5 U.S.C. 552a, the Privacy Act, 5 U.S.C. 552a.

[3] Section 522(f) of the statute defines ''identifiable form'' as to be consistent with section 208 of the E-Government Act of 2002 (set out as a note under 44 U.S.C. § 3501, the Paperwork Reduction Act) and as any representation of information that permits identification of an individual to be reasonably inferred by either direct or indirect means.

[4] 49 U.S.C. 31136(a)(3) and (4).

III. Summary of Privacy Impact Assessment

The Privacy Act of 1974 articulates concepts for how the Federal government should treat individuals and their information and imposes duties upon federal agencies regarding the collection, use, dissemination, and maintenance of PII. The E-Government Act of 2002, Section 208, establishes the requirement for agencies to conduct PIAs for electronic information systems and collections. The assessment is a practical method for evaluating privacy in information systems and collections, and provides documented assurance that privacy issues have been identified and adequately addressed. The PIA is an analysis of how information is handled to: (i) Ensure handling conforms to applicable legal, regulatory, and policy requirements regarding privacy; (ii) determine the risks and effects of collecting, maintaining and disseminating information in identifiable form in an electronic information system; and (iii) examine and evaluate protections and alternative processes for handling information to mitigate potential privacy risks.

Conducting a PIA ensures compliance with laws and regulations governing privacy and demonstrates DOT's commitment to protect the privacy of any personal information we collect, store, retrieve, use and share. It is a comprehensive analysis of how DOT's electronic information systems and collections handle PII. The goals accomplished in completing a PIA include:

Making informed policy and system design or procurement decisions. These decisions must be based on an understanding of privacy risk, and of options available for mitigating that risk;

- Accountability for privacy issues;
- Analyzing both technical and legal compliance with applicable privacy law and regulations, as well as accepted privacy policy; and
- Providing documentation on the flow of personal information and information requirements within DOT systems.

The Medical Examiner's Certification Integration NPRM would require the collection of PII; therefore, a PIA is required for the rulemaking and was prepared. It was belatedly included in the rulemaking docket and then made available on the DOT Privacy Web site late in 2013. The supporting PIA, available for review in the docket, gives a complete explanation of FMCSA practices for protecting PII, as updated from the 2012 PIA prepared in support of the National Registry of Certified Medical Examiners final rule. In addition, the 2013 PIA updates the frequency with which PII is submitted to the Agency, adds the driver's mailing address which is currently being collected on the medical forms to the list of PII required to be submitted to the National Registry, and outlines how certain PII would be transmitted to the State licensing agencies. There is no additional PII collected under this NPRM. The updated 2013 PIA is specifically related to both the National Registry and Medical Examiner's Certification Integration NPRM and the entire medical program administered by FMCSA. Upon reviewing the PIA, you should have a broad understanding of the risks and potential effects associated with the Department activities, processes, and systems described and approaches taken to mitigate any potential privacy risks.

The Agency requests comments on the possible impact of the rules proposed in the NPRM on the protection of privacy of information used in determining the physical qualifications of drivers of commercial motor vehicles, in light of the evaluation by the Agency and the Department of the protection of privacy of information set out in the Privacy Impact Assessment.

Issued under the authority delegated in 49 CFR 1.87 on: May 21, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–12176 Filed 5–23–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

RIN 0648–BA17

Atlantic Highly Migratory Species; Environmental Assessment for Amendment 6 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan

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

ACTION: Notice of intent to prepare an Environmental Assessment.

SUMMARY: NMFS announces its intent to prepare an Environmental Assessment (EA) for Amendment 6 to the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP) instead of an Environmental Impact Statement (EIS), as previously announced through publication of a Notice of Intent published on September 16, 2011. NMFS intends to prepare the EA as required by the National Environmental Policy Act (NEPA) to assess the potential effects on the human environment of proposed alternatives and actions in Amendment 6 to the 2006 Consolidated HMS FMP. The EA will analyze potential environmental impacts of various proposed alternatives related to the Atlantic commercial shark fisheries consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other relevant Federal Laws.

DATES: NMFS tentatively expects to release the EA for Amendment 6 to the 2006 Consolidated HMS FMP in September 2014.

ADDRESSES: Members of the public requesting background material on Amendment 6 to the 2006 Consolidated HMS FMP should contact LeAnn Hogan by phone or by mail at 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: LeAnn Hogan by phone: (301) 427–8503, or by fax: (727) 824–5398.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Act. The 2006 Consolidated HMS FMP is implemented by regulations at 50 CFR part 635. The NOI published on September 16, 2011 (76 FR 57709) that announced NMFS' intent to consider catch shares for the Atlantic shark fisheries and established a control date for eligibility to participate in any potential catch share program. While NMFS received a variety of comments on the 2011 NOI, many of the commenters opposed the idea of catch shares for the Atlantic shark fisheries. These NOI comments, along with recent shark fishery trends and management changes, have led NMFS to re-consider whether catch shares are the best management tool for the Atlantic shark fisheries at this time. Catch shares remain a potential future management tool that could address some of the issues in the Atlantic shark fisheries. At this time, short-term management measures may better address the current issues facing these fisheries, while potentially economically benefitting the Atlantic shark fisheries. NMFS therefore intends to move forward with a proposal for short-term management measures for the Atlantic shark fisheries that will achieve the goals and objectives of increasing management flexibility to achieve optimum yield while rebuilding overfished stocks and

ending overfishing. As required under NEPA, NMFS will analyze potential environmental impacts of various alternatives regarding proposed changes to regional sub-quotas and permit structures for the commercial shark fisheries in U.S. waters of the Atlantic Ocean. NMFS anticipates that the proposed actions would have a low level of potential environmental impact due to the fact that the purpose of Amendment 6 is to propose management measures that have the flexibility to maximize the sustainable yield of the Atlantic shark fisheries, while staying within the acceptable biological catch levels of the various shark management groups in order to achieve optimum yield, rebuild overfished stocks, and end overfishing, as appropriate. Additionally, any potential impacts to protected species would be expected to be minimal. Thus, after consideration of substantive comments received on the 2011 NOI and a preliminary assessment of potential environmental impacts associated with management measures other than a catch share program, NMFS has determined that that an EA will provide an appropriate level of NEPA review to assess the potential effects on the human environment of proposed alternatives and actions under Amendment 6 to the 2006 Consolidated HMS FMP and that preparation of an EIS is not necessary.

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

Dated: May 16, 2014.

Alan D. Risenhoover,

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

[FR Doc. 2014–11896 Filed 5–23–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 130726661–4419–01]

RIN 0648–BD56

Fisheries of the Northeastern United States; Monkfish; Framework Adjustment 8

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to approve and implement regulations to implement Framework Adjustment 8 to the Monkfish Fishery Management Plan. The New England and Mid-Atlantic Fishery Management Councils developed Framework Adjustment 8 to revise existing monkfish day-at-sea allocations and landing limits to better achieve optimum yield in each fishery management area. Framework Adjustment 8 would also revise biological reference points for the monkfish stocks in the Northern and Southern Fishery Management Areas based on an updated stock assessment, allow vessels issued a limited access monkfish Category H permit to fish throughout the Southern Fishery Management Area, and enable vessels to use an allocated monkfish-only day-at-sea at any time throughout the fishing year.

DATES: Public comments must be received by June 11, 2014.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2013–0173, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0173,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930–2276. Mark the outside of the envelope: ''Comments on Monkfish Framework 8.''

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.

New England Fishery Management Council staff prepared an environmental assessment (EA) for Monkfish Framework Adjustment 8 that describes the proposed action and other considered alternatives. The EA provides a thorough analysis of the biological, economic, and social impacts of the proposed measures and other considered alternatives. Staff from the Northeast Fisheries Science Center also prepared an Initial Regulatory Flexibility Analysis (IRFA) for this action. The IRFA is contained in the EA prepared for this action, but also summarized in the Classification section of this proposed rule. Copies of the Framework 8 EA are available on request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. This document is also available from the following internet addresses: *http://www.nero.noaa.gov* or *http://www.nefmc.org.*

FOR FURTHER INFORMATION CONTACT: Douglas Christel, Fishery Policy Analyst, (978) 281–9141, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Background

The monkfish fishery is jointly managed under the Monkfish Fishery Management Plan (FMP) by the New England and the Mid-Atlantic Fishery Management Councils. The fishery extends from Maine to North Carolina from the coast out to the continental margin. The Councils manage the fishery as two management units, with the Northern Fishery Management Area (NFMA) covering the Gulf of Maine and northern part of Georges Bank, and the Southern Fishery Management Area (SFMA) extending from the southern flank of Georges Bank through the Mid-Atlantic Bight to North Carolina. The monkfish fishery is primarily managed by landing limits and a yearly allocation of monkfish days-at-sea (DAS) calculated to enable vessels participating in the fishery to catch, but not exceed, the annual catch limit (ACL) in each management area. Catch levels are typically set every 3 years, but can be continued or revised at any time based upon updated stock assessments or other relevant information, as appropriate, through the framework adjustment process. Further, based on a yearly evaluation of the monkfish fishery, the Councils may revise existing management measures, including DAS allocations and landing limits, to better achieve the goals and objectives of the FMP and achieve optimum yield (OY), as required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The Councils developed Framework 8 to incorporate the results of the latest

monkfish stock assessment, and to revise measures to better achieve OY and enhance the operational efficiency of existing management measures. In recent years, the monkfish fishery has failed to fully harvest the annual catch target (ACT) specified for each year, particularly in the NFMA. Since Amendment 5 (76 FR 30265; May 25, 2011) defined OY as fully harvesting the ACT, the monkfish fishery has not been achieving OY in either area in recent years. Further, during the development of Framework 8, members of the monkfish fishing industry indicated that existing regulations reduce their ability to maximize available monkfish fishing opportunities and land more monkfish, particularly restrictions on when monkfish-only DAS may be used and where vessels issued a limited access monkfish Category H permit may fish.

Current catch limits and associated management measures for the monkfish fishery were implemented under Amendment 5 for the SFMA and under Framework 7 for the NFMA (76 FR 66192; October 26, 2011) based on the results of the 50th Stock Assessment Workshop (SAW 50) in 2010. Since then, an operational assessment was conducted in April 2013 to update the status of monkfish stocks, and provide projections to assist with setting future catch levels based on additional survey and catch data available since SAW 50. The 2013 assessment update revised existing biological reference points (see Table 3 below), and concluded that the two stocks of monkfish are neither overfished nor subject to overfishing based on these revised reference points. However, the assessment panel report noted that retrospective patterns persisted for both stocks, with the assessment continuing to consistently underestimate the fishing mortality rate (F) and overestimate biomass.

The New England Council's Scientific and Statistical Committee (SSC) met on May 16, 2013, and again on August 20, 2013, to discuss the 2013 monkfish stock assessment update, and develop recommendations for acceptable biological catch (ABC) in each management area beginning in fishing year (FY) 2014. Due to uncertainty in the assessment results noted by the assessment panel, the SSC considered analysis by the Monkfish Plan Development Team (PDT) that corrected for retrospective bias noted in the 2013 assessment update and explored the use of alternative approaches to calculating the fishing mortality rate (F) that were independent from the assessment model. However, the PDT indicated that there were analytical difficulties calculating retrospectively adjusted F, and the SSC concluded that alternative estimates of F were too reliant on highly uncertain life history parameters. After extensive discussion, the SSC observed that the updated assessment provides both positive and negative indications of stock status. Data suggest that both stocks are above biomass targets, F is below F_{MAX} (the level of fishing mortality that produces the greatest yield from the fishery), and survey trends are stable or increasing. However, the assessment also states that retrospective patterns continue, recent recruitment has been below average, and that uncertainties persist with age estimates. The SSC concluded that these ''conflicting considerations'' suggest that neither drastic increases nor decreases to existing catch levels are warranted at this time. Therefore, in conjunction with the analytical difficulties of incorporating retrospective adjustments and alternative estimates of F, the SSC ultimately recommended maintaining existing ABCs in each area (7,592 mt for the NFMA and 12,316 mt for the SFMA).

The Councils considered the results of the 2013 assessment update, the PDT analysis, and the advice of the SSC when developing measures in Framework 8. Although the Councils considered alternative estimates of management uncertainty (a reduction in catch levels based on a consideration of the effectiveness of management measures at achieving desired catch levels), the Councils did not elect to change existing monkfish ABCs, ACLs, ACTs, or total allowable landing (TAL) amounts for either monkfish stock under this action. The Councils concluded that existing management uncertainty buffers were sufficient at ensuring that ACLs are not exceeded, and that overfishing does not occur. As a result, existing catch levels are not revised by this action, and would remain in place until changed by a future management action (see Table 1).

TABLE 1—MONKFISH CATCH LEVELS CONTINUED UNDER FRAMEWORK ADJUSTMENT 8

Catch limit	Monkfish management area	
	NFMA	SFMA (mt)
ABC	7,592	12,316
ACL		
ACT	6,567	11,513
TAL	5,854	8,925

Because Framework 8 was not adopted by both Councils until late February, it was not possible to approve and implement any of the proposed management measures included in Framework 8 and summarized below until after the start of FY 2014 on May 1, 2014. The measures effective during FY 2013 were implemented under an emergency action published on April 30, 2013 (78 FR 25214), and revised on October 25, 2013 (78 FR 63892), but expire on April 30, 2014. Therefore, the measures in effect at the start of FY 2014 reflect those implemented under Amendment 5 for the SFMA and under Framework 7 for the NFMA and last effective during FY 2012 (see Table 2 for a summary of the measures). Consistent with the regulations at 50 CFR 648.96(a)(3)(iv), any monkfish DAS used by a vessel on or after the start of FY 2014 will be counted against any monkfish DAS allocation the vessel ultimately receives during FY 2014 upon the implementation of measures approved under Framework 8.

TABLE 2—MAIN MONKFISH MANAGEMENT MEASURES IN EFFECT ON MAY 1, 2014 *

Management measure	NFMA	SFMA
Monkfish DAS Allocation	40 (only 28 DAS can be used in the SFMA)	
Landing Limits while on a Monkfish DAS (tail weight/DAS).	1,250 lb (567 kg) for Category A/C permits; 600 lb (272 kg) for Category B/D permits.	550 lb (249 kg) for Category A/C permits; 450 lb (204 kg) for Category B/D permit.
	1,600 lb (726 kg) for Category F permits	

TABLE 2—MAIN MONKFISH MANAGEMENT MEASURES IN EFFECT ON MAY 1, 2014 *—Continued

Management measure	NFMA	SFMA
Incidental Landing Limits while on a Northeast Multispecies (groundfish) DAS (tail weight/DAS).	Up to 25% of the total weight of fish on board, not to exceed 300 lb (136 kg) for Category C, D, E, or F permits.	50 lb (23 kg) for Category C, D, or F permits fishing with non-trawl gear. 300 lb (136 kg) for Category C, D, or F permits fishing with trawl gear.
DAS Use Requirement	Vessels must use a monkfish DAS in conjunction with available groundfish DAS. Once available groundfish DAS are used, remaining monkfish DAS may be used as monkfish-only DAS, provided the vessel fishes under the regulations applicable to a Category B permit and does not retain regulated groundfish.	
Category H Boundary	Vessels issued a Category H permit may not fish north of 38°40′ N. latitude.	

* These measures are effective May 1, 2014, and may be revised after the start of FY 2014, as proposed under Framework 8.

Proposed Measures

1. Revised Biological and Management Reference Points

This action proposes to maintain the methods used to calculate these biological and management reference points originally adopted under Amendment 5 in 2011, but update the resultant values to be consistent with those recommended by the SSC and the best available scientific information from the 2013 monkfish assessment update (see Table 3). The reference points currently established in the Monkfish FMP are used to determine if overfishing is occurring on either stock ($F_{Threshold}$), if either stock is overfished ($B_{Threshold}$), or if either stock is rebuilt (B_{Target}).

Under the methods adopted in Amendment 5, OFL is calculated as the product of $F_{Threshold}$ and current exploitable biomass. The values for $F_{Threshold}$ in each area were updated as part of the 2013 monkfish operational assessment. However, during its review of the 2013 operational assessment update, the SSC expressed concern with calculating OFL using the current estimate of biomass. Because complete data for FY 2012 were not available, the terminal year of data used in the 2013 operational assessment was from FY 2011. This would mean that estimates of current biomass used in calculating OFL would be 3 years old before they would be implemented in 2014 under this proposed action. Therefore, the SSC recommended using the 2014 exploitable biomass projected from the terminal year of the assessment rather than the biomass as of 2011as the ''current exploitable biomass'' used in the calculation of OFL. This would give a more recent estimate of exploitable biomass in the calculation of OFL compared to biomass as of 2011 from the 2013 operational assessment.

TABLE 3—COMPARISON OF MONKFISH BIOLOGICAL REFERENCE POINTS BETWEEN SAW 50 (2010) AND THE 2013 MONKFISH ASSESSMENT UPDATE

Monkfish management area	Biological reference point	SAW 50 and 2010 SSC review	2013 Assessment update and SSC review
NFMA	$F_{MAX\ (threshold)}$	0.43	0.44
	B_{Target}	52,930 mt	46,074 mt
	$B_{Threshold}$	26,465 mt	23,037 mt
	OFL	19,557 mt	17,805 mt
	Maximum Sustainable Yield (MSY)	10,745 mt	9,383 mt
SFMA	$F_{MAX\ (threshold)}$	0.46	0.37
	B_{Target}	74,490 mt	71,667 mt
	$B_{Threshold}$	37,245 mt	35,834 mt
	OFL	36,245 mt	23,204 mt
	MSY	15,279 mt	14,328 mt

2. Changes to Monkfish DAS Allocations and Landing Limits

This action would revise existing monkfish DAS allocations and landing limits to help increase monkfish landings and the proportion of the TAL and ACT caught in each area. The Councils sought to achieve a balance among competing factors by increasing monkfish fishing opportunities and associated landings and fishing revenue, without excessively increasing catch and F to such a degree that may unintentionally adversely impact monkfish stocks or reduce market price due to a greater influx of monkfish landings throughout the FY. Under this action, all limited access monkfish permits would be allocated a total of 46 monkfish DAS, of which up to 32 may be used in the SFMA. This represents a 6–DAS increase in a permit's total monkfish DAS allocation, and a 4–DAS increase in the number of monkfish DAS that may be used in the SFMA. Each permit's monkfish DAS allocation would then be reduced by a small amount to set aside 500 monkfish DAS under the Monkfish Research Set Aside (RSA) program, as required by the existing regulations at § 648.92(b)(1)(v). Each vessel's contribution to RSA DAS is calculated by dividing 500 RSA DAS by the total number of limited access monkfish permits issued in the previous FY. In 2013, 627 limited access monkfish permits were issued. Therefore, each permit's monkfish RSA contribution would be reduced by 0.8 DAS (500 RSA DAS ÷ 627 permits). Deducting these RSA set aside DAS from each vessel's monkfish DAS allocation would leave 45.2 monkfish DAS (46 DAS–0.8 DAS) allocated to each limited access monkfish permit starting in FY 2014.

The proposed changes to monkfish landing limits in each area reflect the predominant source of monkfish landings in each area. In the NFMA, a

majority of monkfish landings occur as incidental landings while vessels are fishing for groundfish under a groundfish DAS. In the SFMA, however, the majority of monkfish landings occur when vessels are targeting monkfish under a monkfish DAS. As a result, monkfish incidental limits would be increased for limited access monkfish Category C and D vessels fishing under a groundfish DAS in the NFMA, while monkfish limits when under a monkfish DAS would be increased in the SFMA, as summarized in Table 4 below. With the exception of incidental landing limits for monkfish Category C and D vessels fishing under a groundfish DAS in the NFMA, all incidental landing limits would remain the same as those implemented by previous management actions.

TABLE 4—PROPOSED CHANGES TO MONKFISH DAS ALLOCATIONS AND LANDING LIMITS FOR LIMITED ACCESS MONKFISH CATEGORY A, B, C, AND D PERMITS

[In tail weight/DAS]

Management area	Incidental landing limit	Monkfish permit category A/C landing limit	Monkfish permit category B/D landing limit	Monkfish DAS allocation*
NFMA	600 lb (272 kg) for Category C Permits and 500 lb (227 kg) for Category D permits when fishing under a groundfish DAS and Status Quo for other situations.	1,250 lb (567 kg)	600 lb (272 kg)	45.2
SFMA	Status Quo	610 lb (277 kg)	500 lb (227 kg)	32

* The SFMA monkfish DAS allocation represents the maximum number of monkfish DAS that could be used in the SFMA.

Monkfish DAS allocations and landing limits for vessels electing to participate in the Offshore Fishery Program in the SFMA and issued a limited access Category F permit are calculated separately. As outlined in § 648.95(g)(2), the monkfish DAS allocation for each Category F permit is calculated by dividing the daily landing limit when fishing under the Offshore Fishery Program (1,600 lb (726 kg) tail weight) by the SFMA monkfish landing limit applicable to the vessel's monkfish limited access permit category, and then multiplying that number by the vessel's monkfish DAS allocation. For example, under the proposed monkfish DAS allocations and SFMA landing limits, a limited access Category C permit would be allocated 17.5 monkfish DAS under the Offshore Fishery Program [(610 lb (277 kg) Category C SFMA landing limit ÷ 1,600 lb (726 kg) Offshore Fishery Program landing limit) × 46 allocated monkfish DAS]. Similarly, a limited access Category D permit participating in the Offshore Fishery Program would be allocated 14.4 monkfish DAS to participate in this program [(500 lb (277 kg) Category D SFMA landing limit ÷ 1,600 lb (726 kg) Offshore Fishery Program landing limit) × 46 allocated monkfish DAS]. Any carryover monkfish DAS will be included in the calculation of monkfish DAS for Category F vessels.

3. Modified Monkfish DAS Usage Requirements

This action would revise the regulations at § 648.92(b)(2) to allow Category C and D vessels to use monkfish-only DAS at any time throughout the FY. Existing regulations require that a vessel issued a limited access monkfish Category C or D permit use available groundfish DAS when fishing under a monkfish DAS. Such a vessel could only use available monkfish-only DAS (the difference between a vessel's allocation of monkfish and groundfish Category A DAS) after all groundfish DAS had already been used. The proposed changes would help vessels maximize the economic value of monkfish fishing opportunities by enabling vessels to use monkfish-only DAS to selectively target monkfish earlier in the FY with minimal by-catch of groundfish, and later use both monkfish and groundfish DAS to fish for monkfish when groundfish are more abundant and could be landed in greater amounts.

4. Expanded Boundary Line for Monkfish Limited Access Permit Category H Vessels

This action proposes to modify the northern boundary line applicable to monkfish limited access Category H vessels to be consistent with the northern boundary of the SFMA. Category H vessels were originally allowed to fish for monkfish south of 38°20′ N lat. under Amendment 2 (April 28, 2005; 70 FR 21927). This boundary line was moved northward by 20 miles (32.2 km) under Framework 4 (September 21, 2007; 72 FR 53942) to 38° 40′ N lat. to increase opportunities to fish following the implementation of sea turtle closure areas. To provide even greater operational flexibility to vessel operators and enable them to maximize opportunities to fish for monkfish, this action would enable Category H vessels to fish throughout the SFMA.

5. Corrections and Clarifications to Existing Regulations

This proposed rule would correct a number of inadvertent errors, omissions, and ambiguities in existing regulations in order to ensure consistency with, and accurately reflect the intent of, previous actions under the FMP, or to more effectively administer and enforce existing and proposed provisions pursuant to the authority provided to the Secretary of Commerce in section 305(d) of the Magnuson-Stevens Act. The following proposed measures are listed in the order in which they appear in the regulations.

In § 648.2, a definition of ''monkfish-only DAS'' would be inserted to clarify the use of that term in the monkfish effort-control program provisions specified at § 648.92. The proposed definition is based upon existing language in § 648.92(b)(2) that was originally implemented under Amendment 13 to the Northeast (NE) Multispecies FMP (April 27, 2004; 69 FR 22906). However, that text did not specify when monkfish-only DAS would be calculated or how such DAS balances would be maintained throughout the FY. The revised text would specify that a permit's initial allocation of monkfish-only DAS would be based upon the difference between a permit's monkfish and NE multispecies Category A DAS allocation at the beginning of the FY, but may vary throughout the fishing year based upon the acquisition or relinquishment of groundfish DAS under the NE Multispecies DAS Leasing Program.

In § 638.92, paragraph (b)(3) would be revised to state that, with the exception of monkfish DAS charged when fishing with gillnet gear pursuant to § 648.92(b)(8)(v), all monkfish DAS

fished shall be charged to the nearest minute. The existing regulations at § 638.92(b)(3) reference the Atlantic sea scallop DAS accrual regulations at § 648.53(f) to describe the accrual of monkfish DAS. However, that cross reference is no longer valid or appropriate. The Atlantic sea scallop DAS accrual provisions originally specified at § 648.53(f) were moved to § 648.53(e) as part of Amendment 11 to the Atlantic Sea Scallop FMP (73 FR 20090; April 14, 2008), and now include include a reduced DAS charge in scallop open areas to help defray the cost of observer coverage. Therefore, the proposed revisions would ensure that the monkfish DAS accrual provisions are implemented consistent with the original intent of the FMP.

In § 648.93, paragraph (b) would be deleted. This paragraph is redundant with paragraph (a), as both paragraphs list the minimum size of monkfish. In addition, paragraphs (a)(1) and (a)(2) would be designated as paragraphs (a) and (b), respectively, to clarify the organization of the remaining provisions.

In § 648.94, paragraph (f) would be revised to clarify that a vessel operator may declare his/her intent to fish in the NFMA via the vessel monitoring system (VMS) or the interactive voice response (IVR) call-in system. The current regulations require a vessel operator to declare his/her intent to fish in the NFMA via VMS. However, since the use of VMS in the monkfish fishery is voluntary, this action would clarify that either VMS or IVR could be used.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with the Monkfish FMP, Framework 8, provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. NMFS, in making a final determination, will take into account the data, views, and comments received during the comment period.

Pursuant to Executive Order 12866, the Office of Management and Budget has determined that this proposed rule is not significant.

This proposed rule does not contain policies with Federalism or takings implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

The New England Council prepared an EA for Framework 8 to the Monkfish FMP that discusses the impact on the environment as a result of this action. A copy of the EA is available from the Council (see **ADDRESSES**).

An IRFA has been prepared for this rule, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities, and consists of the draft IRFA in Framework 8, this preamble, and the following summary. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this proposed rule and in the background, purpose, and need discussion (Section 2.0) of the EA prepared for this action. A copy of this analysis is available from the New England Council (see **ADDRESSES**).

The Councils fully analyzed and considered three principal alternatives for changes to monkfish DAS and landing limits in the NFMA, and four alternatives for similar measures in the SFMA (see Table 5). Two alternatives (No Action and the proposed alternative described above) were each considered for modifying monkfish DAS usage provisions and the Category H border. The proposed action would eliminate the existing prohibition on using monkfish-only DAS until all groundfish DAS have been used, while the No Action Alternative would retain this prohibition. The proposed action would also revise the current northern border for Category H vessels to reflect the SFMA boundary, while the No Action Alternative would retain the northern border at 38°40′ N. lat. For a more complete description of the alternatives considered in this action, refer to the EA prepared for this action (see **ADDRESSES**).

TABLE 5—MONKFISH DAS AND LANDING LIMIT ALTERNATIVES CONSIDERED IN FRAMEWORK 8

Management area	Alternative	Incidental landing limit * (tail weight/DAS)	A,C daily landing limit (tail weight/DAS)	B,D daily landing limit (tail weight/DAS)	DAS
NFMA	1—No Action	Status quo	1,250 lb (567 kg)	600 lb (272 kg)	40
	2	Status quo	1,250 lb (567 kg)	600 lb (272 kg)	64
	3 (Proposed)	600 lb (272 kg) for C permit and 500 lb (227 kg) for D permit when fishing under a groundfish DAS (elimination of 25% landings threshold), status quo all others.	1,250 lb (567 kg)	600 lb (272 kg)	46
SFMA	1—No Action	Status quo	550 lb (249 kg)	450 lb (204 kg)	28
	2 (Proposed)	Status quo	610 lb (277 kg)	500 lb (227 kg)	32
	3	Status quo	550 lb (249 kg)	450 lb (204 kg)	51
	4	Status quo	610 lb (277 kg)	500 lb (227 kg)	28

* Existing monkfish incidental landing limits are summarized at: *http://www.nero.noaa.gov/sustainable/species/monkfish/.*

This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

This proposed action does not contain any new recordkeeping or reporting requirements, and does not impose any additional costs to affected vessels.

Description and Estimate of the Number of Small Entities to Which the Proposed Rule Would Apply

The proposed action would affect any vessel issued a valid Federal limited access monkfish permit. As of April 1, 2014, 625 limited access monkfish permits were issued during FY 2013, including 20 Category A permits, 41 Category B permits, 279 Category C permits, 264 Category D permits, 14 Category F permits, and 7 Category H permits. Also, there were 1,594 open access Category E monkfish permits. In recent years, the number of active permits (i.e., those actually landing monkfish during the FY) has been lower than the number issued permits. Therefore, it is likely that a subset of these entities will be affected by this action. A more complete description of the monkfish fishery is found in Section 4.0 of the EA prepared for this action (see **ADDRESSES**).

The Small Business Administration (SBA) defines a small business in the finfish fishing sector (NAICS code 114111) as a firm or affiliate group with gross revenue less than $19.0 million; and the shellfish fishing sector (NAICS code 114112) as a firm or affiliate group

with gross revenue less than $5.0 million. NMFS guidelines identify the affiliate group (or ''entity'') rather than permit as the appropriate level of analysis for regulatory actions. Affiliate groups were identified using permit ownership data recently added to the NMFS permit database, with designations of large and small entities based on each entity's 3-year average ex-vessel revenue. Data from FY 2012 are the most complete data available with which to make a determination regarding the size of entities affected by the proposed action. During FY 2012, 651 entities landed at least one pound of monkfish. Of these, 534 entities were composed of a single vessel permit, 110 were composed of 2 to 5 permits, and 7 were composed of 6 or more permits. Further, 401 entities were plurality-finfish, while 250 are plurality-shellfish. Using the above criteria, of the 651 entities that landed monkfish during FY 2012, 629 entities were classified as ''small,'' while the remaining 22 were classified as ''large.''

Economic Impacts of the Proposed Action Compared to Significant Non-Selected Alternatives

The economic value of monkfish landings depends upon several factors, including the area fished (NFMA vs. SFMA); whether the vessel is directly targeting monkfish (i.e., fishing under a monkfish DAS), or landing monkfish incidentally when targeting another species; volumes landed; and market category landed. Together, these factors may affect realized economic impacts that may differ from those analyzed in support of this action and described below.

Estimates of the economic impacts from adjustments to monkfish DAS allocation/usage limit and landing limits were derived using a model that incorporated proportional increases in monkfish landings based on the fishing patterns observed during FY 2012. Resultant projected landings for each alternative were then multiplied by the expected market price after incorporating a flexibility assumption of −0.41 percent assumed to apply throughout the fishery. This means that for every 1-percent increase in monkfish landings, it is expected that price would decrease by 0.41 percent. Under these assumptions, even if the proposed measures would not change landings for a vessel compared to FY 2012, ex-vessel revenues could decrease due to increased monkfish landings in another area by other vessels. It should be noted that this price flexibility assumption was based on a very small sample set. Further, monkfish revenue recorded during periods in which similar amounts of monkfish expected under this action were landed suggests that the price flexibility assumption may actually underestimate benefits associated with proposed measures (i.e., market price may not fall as much as expected despite increased monkfish landings). Therefore, the revenue streams listed below may provide a lower bound for potential economic benefits resulting from this action. A detailed description of the methods used to estimate economic impacts of the proposed action is provided in the Framework 8 EA (see **ADDRESSES**).

Under the combination of proposed measures described above, Framework 8 analysis estimated overall monkfish revenues would be approximately $21.7 million during FY 2014. The proposed measures would result in approximately an 11.3-percent increase in revenue across all ports, with minor to significant positive economic impacts across all individual ports and increased revenues for all vessel size classes ranging from 15 to 18.5 percent. However, it is expected that ex-vessel price would decrease by approximately 7.8 percent overall due to the price flexibility associated with increased monkfish landings throughout the fishery. Of the 629 small entities that would be directly affected under the proposed action, 309 would likely have a net decline in revenues, while 319 would likely have an increase in net revenues under the proposed action. The mean change would be +0.7 percent, suggesting that mean effect of this action would be positive in terms of vessel revenues. Only one entity would have a decrease in expected revenues greater than 5 percent, and a total of 11 entities would have a decrease in expected revenues greater than 1 percent. The potential economic impacts may change, however, if the price flexibility assumption proves incorrect, or if vessel operators can alter fishing behavior in a manner that would offset any potential losses.

Considered separately, the proposed measures for the NFMA would likely result in about $10.7 million in vessel revenue from monkfish alone, while proposed measures for the SFMA would likely result in about $11.9 million in vessel revenue from monkfish. When compared to other alternatives considered, the proposed NFMA measures would result in approximately $0.6 million more in revenue than existing measures (No Action Alternative), but about $650,000 less revenue than Alternative 2 measures (increasing monkfish DAS allocations to 64 DAS while maintaining existing monkfish landing limits). The proposed SFMA measures would result in about $0.7 million more monkfish revenue than expected under existing measures (No Action Alternative), $3.2 million less monkfish revenue than under Alternative 3 (increasing monkfish DAS allocations to 51 DAS while maintaining existing monkfish landing limits) and $1.5 million more in monkfish revenue than under Alternative 4 (existing monkfish DAS usage limit, but higher directed landing limits).

The other two measures proposed under Framework 8 (allowing monkfish DAS to be used throughout the year and Category H permits to fish throughout the SFMA) are expected to generally increase monkfish fishing opportunities and increase the operational efficiency of affected entities. By allowing monkfish-only DAS to be used at any time throughout the FY, vessels can more effectively target monkfish earlier in the FY when monkfish are more prevalent, and preserve monkfish-groundfish combination DAS until groundfish are more readily available later in the FY, particularly in the SFMA. This could increase vessel returns for monkfish Category C and D vessels by allowing vessels to land more groundfish later in the FY under both a monkfish and groundfish DAS. Similarly, Category H vessels would have additional flexibility to fish for monkfish throughout the SFMA rather than being confined to fishing below 38°40′ N. lat. and during times when turtle and harbor porpoise measures allow. Under both proposed measures, it is likely that affected entities will benefit from such changes, although precise economic benefits would depend upon the composition and volume of catch associated with any additional monkfish effort realized from such gains in efficiency and operational flexibility.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: May 20, 2014.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.2, add a definition for ''Monkfish-only DAS'' in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Monkfish-only DAS means monkfish DAS allocated to a limited access monkfish Category C, D, F, G, or H permit that are in excess of that permit's initial allocation of Northeast multispecies Category A DAS at the beginning of a fishing year.

* * * * *

■ 3. In § 648.92, revise paragraphs (b)(1)(i), (b)(1)(ii), (b)(2), (b)(3), and (b)(9)(i) to read as follows:

§ 648.92 Effort-control program for monkfish limited access vessels.

* * * * *

(b) * * *

(1) * * *

(i) *General provision.* Each vessel issued a limited access monkfish permit shall be allocated 46 monkfish DAS each fishing year which must be used in accordance with the provisions of this paragraph (b), unless otherwise specified by paragraph (b)(1)(ii) of this section or modified by § 648.96(b)(3), or unless the permit is enrolled in the Offshore Fishery Program in the SFMA, as specified in paragraph (b)(1)(iv) of this section. The annual allocation of monkfish DAS to each limited access monkfish permit shall be reduced by the amount calculated in paragraph (b)(1)(v) of this section for the research DAS set-aside. Unless otherwise specified under this subpart F, a vessel issued a limited access NE multispecies or limited access sea scallop permit that is also issued a limited access monkfish permit must use a NE multispecies or sea scallop DAS concurrently with each monkfish DAS utilized, except as provided in paragraph (b)(2) of this section.

(ii) *DAS restrictions for vessels fishing in the SFMA.* A vessel issued a limited access monkfish permit may not use more than 32 of its 46 monkfish DAS allocation in the SFMA during each fishing year. Each vessel issued a limited access monkfish permit fishing in the SFMA must declare that it is fishing in this area through the vessel call-in system or VMS prior to the start of every trip. In addition, if a vessel does not possess a valid letter of authorization from the Regional Administrator to fish in the NFMA as described in § 648.94(f), NMFS shall presume that any monkfish DAS used were fished in the SFMA.

* * * * *

(2) *Category C, D, F, G, or H limited access monkfish permit holders.* (i) *General provision.* Unless otherwise specified in paragraph (b)(2)(ii) of this section, each monkfish DAS used by a vessel issued a limited access monkfish Category C, D, F, G, or H permit and a limited access NE multispecies or scallop DAS permit shall also be counted as a NE multispecies or scallop DAS, as applicable. A vessel issued a limited access monkfish Category C, D, F, or H permit may not use a NE multispecies Category B Regular DAS under the NE Multispecies Regular B DAS Program, as specified under § 648.85(b)(6), in order to satisfy the requirement of this paragraph (b)(2)(i) to use a NE multispecies DAS concurrently with a monkfish DAS.

(ii) *Monkfish-only DAS.* When a vessel issued a limited access monkfish Category C, D, F, G, or H permit and a limited access NE multispecies DAS permit has an allocation of NE multispecies Category A DAS, specified under § 648.82(d)(1), that is less than the number of monkfish DAS allocated for the fishing year May 1 through April 30, that vessel shall be allocated ''monkfish-only'' DAS equal to the difference between the number of its allocated monkfish DAS and the number of its allocated NE multispecies Category A DAS at the start of a fishing year. For example, if a vessel issued a limited access monkfish Category D permit is allocated 46 monkfish DAS and 26 NE multispecies Category A DAS, it would be allocated 20 monkfish-only DAS at the start of each fishing year. The available balance of monkfish-only DAS may vary throughout the fishing year based upon monkfish-only DAS usage and the acquisition or relinquishment of NE multispecies DAS under the NE Multispecies DAS Leasing Program, as specified in paragraph (b)(2)(iii) of this section. A vessel issued a limited access monkfish Category C, D, F, G, or H permit may use monkfish-only DAS without the concurrent use of a NE multispecies DAS at any time throughout the fishing year, regardless of the number of NE multispecies Category A DAS available. When fishing under a monkfish-only DAS, the vessel must fish under the regulations pertaining to a limited access monkfish Category A or B permit, as applicable, and may not retain any regulated NE multispecies. For example, a vessel issued a limited access monkfish Category C permit must comply with the monkfish landing limits applicable to a Category A monkfish permit when fishing under a monkfish-only DAS.

(iii) *Category C, D, F, G, or H vessels that lease NE multispecies DAS.* (A) A vessel issued a limited access monkfish Category C, D, F, G, or H permit that has monkfish-only DAS, as specified in paragraph (b)(2)(ii) of this section, and that leases NE multispecies DAS from another vessel pursuant to § 648.82(k), must fish its available monkfish-only DAS in conjunction with its leased NE multispecies DAS, to the extent that the vessel has NE multispecies DAS available.

(B) A vessel issued a limited access monkfish Category C, D, F, G, or H permit that leases NE multispecies DAS to another vessel(s), pursuant to § 648.82(k), must forfeit a monkfish DAS for each NE multispecies DAS that the vessel leases, equal in number to the difference between the number of remaining NE multispecies DAS and the number of unused monkfish DAS at the time of the lease. For example, if a lessor vessel that had 31 unused monkfish DAS and 35 allocated NE multispecies DAS leased 10 of its NE multispecies DAS to another vessel, the lessor would forfeit 6 of its monkfish DAS (10-(35 NE multispecies DAS–31 monkfish DAS) = 6).

(3) *Accrual of DAS.* Unless otherwise provided in § 648.92(b)(8)(v), all monkfish DAS fished shall be charged to the nearest minute.

* * * * *

(9) * * *

(i) A vessel issued a limited access monkfish Category G or H permit may fish under a monkfish DAS only in the SFMA, as defined at § 648.91(b).

* * * * *

§ 648.93 [Amended]

■ 4. In § 648.93, remove paragraph (b), and redesignate paragraphs (a)(1) and (a)(2) as paragraphs (a) and (b), respectively.

■ 5. In § 648.94, revise paragraphs (b)(1)(ii), (b)(2)(i), (b)(2)(ii), (b)(3)(i), (c)(1)(i), and (f) to read as follows:

§ 648.94 Monkfish possession and landing restrictions.

* * * * *

(b) * * *

(1) * * *

(ii) *Category B and D vessels.* Limited access monkfish Category B and D vessels that fish under a monkfish DAS exclusively in the NFMA may land up to 600 lb (272 kg) tail weight or 1,746 lb (792 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail-only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

* * * * *

(2) * * *

(i) *Category A, C, and G vessels.* A vessel issued a limited access monkfish Category A, C, or G permit that fishes under a monkfish DAS in the SFMA may land up to 610 lb (277 kg) tail weight or 1,775 lb (805 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail-only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(ii) *Category B, D, and H vessels.* A vessel issued a limited access monkfish Category B, D, or H permit that fishes under a monkfish DAS in the SFMA may land up to 500 lb (227 kg) tail weight or 1,455 lb (660 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg)) of tail-only weight landed, the vessel may land up to 1.91 lb (0.87) of monkfish heads only, as described in paragraph (a) of this section.

* * * * *

(3) * * *

(i) *NFMA.* A vessel issued a limited access monkfish Category C or F permit that fishes under a NE multispecies DAS, and not a monkfish DAS, exclusively in the NFMA may land up to 600 lb (272 kg) tail weight or 1,746 lb (792 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). A vessel issued a limited access monkfish Category D or F permit that fishes under a NE multispecies DAS, and not a monkfish DAS, exclusively in the NFMA may land up to 500 lb (227 kg) tail weight or 1,455 lb (660 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). A vessel issued a limited access monkfish Category C, D, or F permit participating in the NE Multispecies Regular B DAS program, as specified under § 648.85(b)(6), is also subject to the incidental landing limit specified in paragraph (c)(1)(i) of this section on such trips.

* * * * *

(c) * * *

(1) * * *

(i) *NFMA.* A vessel issued a valid monkfish incidental catch (Category E) permit fishing under a NE multispecies DAS exclusively in the NFMA may land up to 300 lb (136 kg) tail weight or 873 lb (396 kg) whole weight of monkfish per DAS, or 25 percent (where the weight of all monkfish is converted to tail weight) of the total weight of fish on board, whichever is less. For the purpose of converting whole weight to tail weight, the amount of whole weight possessed or landed is divided by 2.91. For every 1 lb (0.45 kg) of tail-only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

* * * * *

(f) *Area declaration requirement for a vessel fishing exclusively in the NFMA.* A vessel intending to fish for, or fishing for, possessing or landing monkfish under a multispecies, scallop, or monkfish DAS under the less restrictive management measures of the NFMA, must fish exclusively in the NFMA for the entire trip. In addition, a vessel fishing under a monkfish DAS must declare its intent to fish in the NFMA through the vessel's VMS unit or through the vessel call-in system, as applicable. A vessel that is not required to and does not possess a VMS unit must also declare its intent to fish in the NFMA by obtaining a letter of authorization from the Regional Administrator, for a period of not less than 7 days. A vessel that has not declared into the NFMA under this paragraph (f) shall be presumed to have fished in the SFMA, and shall be subject to the more restrictive requirements of that area. A vessel that has declared into the NFMA may transit the SFMA, providing that it complies with the transiting and gear storage provision described in paragraph (e) of this section, and provided that it does not fish for or catch monkfish, or any other fish, in the SFMA.

* * * * *

■ 6. In § 648.95, revise paragraphs (a)(2), (c), (e)(3), (f), (g) introductory heading, (g)(1), and (g)(3); and add paragraph (g)(4) to read as follows:

§ 648.95 Offshore Fishery Program in the SFMA.

(a) * * *

(2) A vessel issued a limited access monkfish Category C or D permit that applies for and is issued a Category F permit remains subject to the provisions specific to Category C and D vessels, unless otherwise specified under this subpart F.

* * * * *

(c) *Offshore Fishery Program Area.* The Offshore Fishery Program Area is bounded on the south by 38°00′ N. lat. and on the north, west, and east by the following coordinates, connected in the order listed by rhumb lines.

Point	N. Latitude	W. Longitude
1	41°18.6′	66°24.8′
2	40°55.5′	66°38.0′
3	40°45.5′	68°00.0′
4	40°37.0′	68°00.0′
5	40°30.0′	69°00.0′
6	40°22.7′	69°00.0′
7	40°18.7′	69°40.0′
8	40°21.0′	71°03.0′
9	39°41.0′	72°32.0′
10	38°47.0′	73°11.0′
11	38°04.0′	74°06.0′

* * * * *

(e) * * *

(3) A vessel issued a limited access monkfish Category F permit fishing on a monkfish DAS is subject to the minimum mesh size requirements specified in § 648.91(c)(1)(i) and (c)(1)(iii), as well as the other gear requirements specified in § 648.91(c)(2) and (c)(3).

* * * * *

(f) *Transiting.* A vessel issued a limited access monkfish Category F permit fishing under a monkfish DAS that is transiting to or from the Offshore Fishery Program Area, described in paragraph (c) of this section, shall have all gear stowed and not available for immediate use in accordance with the gear stowage provisions specified in § 648.23(b).

* * * * *

(g) *Monkfish landing limits and DAS allocations.* (1) A vessel issued a limited access monkfish Category F permit may land up to 1,600 lb (726 kg) tail weight or 4,656 lb (2,112 kg) whole weight of monkfish per monkfish DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91).

* * * * *

(3) A vessel issued a limited access monkfish Category F permit that is fishing under a NE multispecies DAS in the NFMA is subject to the incidental landing limit specified at § 648.94(b)(3).

(4) When not fishing on a monkfish DAS, a vessel issued a limited access monkfish Category F permit may fish under the regulations applicable to the monkfish incidental catch (Category E) permit, specified at § 648.94(c).

* * * * *

[FR Doc. 2014–12059 Filed 5–23–14; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 79, No. 101

Tuesday, May 27, 2014

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 20, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques and other forms of information technology.

Comments regarding this information collection received by June 26, 2014 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC, 20503. Commentors are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: Timber Sale Contract Operations and Administration.

OMB Control Number: 0596–0225.

Summary of Collection: The Forest Service (FS) is authorized under the National Forest Management Act (16 U.S.C. 472a); Contract Disputes Act of 1978; Food, Conservation, and Energy Act of 2008; Executive Order 11246, as amended by EO 11375 and EO 12086; 36 CFR 223.30–60 and 36 CFR 223.110–118; 40 CFR 112 and Forest Resources Conservation and Shortage Relief Act of 1990, § 620d Monitoring and Enforcement, as amended in 1997 by Public Law 105–83 and current through Public Law 110–450 and Agricultural Act of 2014, Title VIII Forestry, to collect information associated with operations and administration of bilateral contracts for the sale of timber and other forest products.

Need and Use of the Information: The information is needed by the FS for a variety of uses associated with operations and administration of contracts for the sale and disposal of National Forest System timber and other forest products. The information collected includes plans, inspections, requests for action by the other party, agreements, modifications, acceptance of work, and notices necessary for operations under the terms of the contracts. Each contract specifies the information the contractor will be required to provide, including the timing and frequency of the information collection. The information is submitted in a variety of formats including FS forms; Government Standard forms; forms developed by individual contractors, charts, maps, email messages and letters.

Description of Respondents: Business or other for-profit; Farms; Not-for-profit institutions.

Number of Respondents: 1,539.

Frequency of Responses: Reporting: Annually; Semi-annually; Monthly; On occasion.

Total Burden Hours: 91,355.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–12038 Filed 5–23–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

2014 Farm Bill Implementation Listening Session—Strategic Economic and Community Development

AGENCY: Rural Development, USDA.

ACTION: Notice of Public Listening Session.

SUMMARY: As part of our implementation of the Agricultural Act of 2014 (commonly referred to as the 2014 Farm Bill), Rural Development is hosting a listening session for public input about the Strategic Economic and Community Development priority funding to be made available for certain Rural Development programs. The 2014 Farm Bill contains a provision outlining the details of this priority funding in *Section 6025*.

The listening session will provide an opportunity for stakeholders to voice their comments, concerns, or requests regarding the implementation of this priority funding.

Instructions regarding registering for and attending the listening session are in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: *Listening session:* The listening session will be on Thursday, June 5, 2014, and will begin at 1:00 p.m. and is scheduled to end by 4:00 p.m.

Registration: You must register by June 3, 2014, to attend in person and to provide oral comments during the listening session.

Comments: Public comments during the listening session on June 5, 2014 will be recorded. Written comments are due by June 12, 2014. Written comments must be submitted electronically via the Federal eRulmaking Portal: Regulations.gov (see below).

ADDRESSES: The listening session will be held in Room 108–A of the Whitten Building at 14th Street and Independence Ave. SW., Washington, DC 20250. We invite you to participate in the listening session. The listening session is open to the members of the public who register (see below).

For participants who cannot make it to the listening session in person, remote participation will be available:

- Dial 1–800–981–3173 and enter Conference ID: 5173.

We invite all participants to submit comments by any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments; or
- Orally at the listening session; please also provide a written copy of your comments online as specified.

FOR FURTHER INFORMATION CONTACT: Primary program point of contact is Chad Maisel, Phone: 202–720–4581, Email: *chad.maisel@osec.usda.gov*. Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION: On February 7, 2014, the 2014 Farm Bill (Pub. L. 113–79) was signed into law. The Secretary of Agriculture and the respective USDA agencies, including Rural Development, are working to implement the provisions of the 2014 Farm Bill as expeditiously as possible to meet the needs of stakeholders. To plan and implement the newly authorized Strategic Economic and Community Development priority funding, it is important to engage with our stakeholders to learn and understand their comments, concerns, or requests.

Rural Development will hold the Strategic Economic and Community Development priority funding listening session on Thursday, June 5, 2014, to receive oral comments from stakeholders and the public. Oral comments received from this listening session will be documented and/or recorded. All attendees of this listening session who submit oral comments are requested to submit a written copy to help Rural Development accurately capture public input. (See the **ADDRESSES** section above for information about submitting written comments.) In addition, stakeholders and the public who do not wish to attend or speak at the listening session are invited to submit written comments, which must be received by June 12, 2014, via regulations.gov, as described above.

At the listening session, the focus is for Rural Development to hear from the public; this is not a discussion with Rural Development officials or a question and answer session. As noted above, the purpose is to receive public input that Rural Development can consider in order to implement the Strategic Economic and Community Development provision of the 2014 Farm Bill. Rural Development is interested in receiving input on all aspects on the implementation of this provision, including, but not limited to, defining ''multi-jurisdictional'' and ''strategic economic and community development plan'' and application requirements for applicants seeking funding under this provision.

Date: Thursday, June 5, 2014.

Time: 1:00 p.m.—4:00 p.m.

Location information: USDA headquarters, in the Whitten Building, Room 108–A, 14th Street and Jefferson Ave. SW., Washington, DC 20250.

The listening session will begin with brief opening remarks from USDA leadership in Rural Development. Individual speakers providing oral comments are requested to be succinct (no more than 5 min) as we do not know at this time how many participants there will be. As noted above, we request that speakers providing oral comments also provide a written copy of their comments. (See the **ADDRESSES** section above for information about submitting written comments.) All stakeholders and interested members of the public are welcome to register to provide oral comments; however, if necessary due to time constraints, a limited number will be selected on a first come, first serve basis.

Instructions for Attending the Listening Session

Space for attendance at the listening session is limited. Due to USDA headquarters security and space requirements, all persons wishing to attend the listening session in person or via phone must send an email to *chad.maisel@osec.usda.gov* by June 3, 2014, to register. Registrations will be accepted until maximum capacity is reached. To register, provide the following information:

- First Name
- Last Name
- Organization
- Title
- Email
- Phone Number
- City
- State

Upon arrival at the USDA Whitten Building, registered persons must provide valid photo identification in order to enter the building; visitors need to enter the Whitten Building on the mall side. Please allow extra time to get through security. Additional information about the listening session, agenda, directions to get to the listening session, and how to provide comments is available at the USDA Farm Bill Web site *http://www.usda.gov/wps/portal/usda/usdahome?navid=farmbill*.

All written comments received will be publicly available on *www.regulations.gov*. If you require special accommodations, such as a sign language interpreter, use the contact information above. The listening session location is accessible to persons with disabilities.

Dated: May 22, 2014.

Doug O'Brien,

Acting Under Secretary, Rural Development.

[FR Doc. 2014–12332 Filed 5–23–14; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tongass National Forest; Alaska; Forest Plan Amendment

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service, will prepare an environmental impact statement (EIS) that evaluates an amendment to the 2008 Tongass National Forest Plan. The Record of Decision will consider and identify changes, if any, to the current 2008 Forest Plan.

DATES: Comments concerning the scope of the analysis must be received by June 26, 2014. The draft environmental impact statement is expected to be mailed by August 2015, which will begin a 90-day public comment period. Public meetings and subsistence hearings will be scheduled during the 90-day comment period. The Record of Decision is expected to be signed by August 2016.

ADDRESSES: Send written comments to: Forest Supervisor, Tongass National Forest, Attn: Forest Plan Amendment, 648 Mission Street Ketchikan, AK 99901. Comments may also be sent via email to: *comments-alaska-tongass@fs.fed.us*, or via facsimile to (907) 772–5895.

FOR FURTHER INFORMATION CONTACT: Additional information is available on the Tongass Forest Plan Internet site at *http://www.fs.usda.gov/land/tongass/landmanagement*. General and specific comments on the amendment can be submitted online at this Internet site. Questions about the project can be also directed to Rick Abt, Operations and Planning Staff Officer, (Telephone 907–228–6289, or email *rabt@fs.fed.us*).

Written inquiries can be directed to: Forest Supervisor, Tongass National Forest, Attn: Forest Plan Amendment, 648 Mission Street Ketchikan, AK 99901.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On July 2, 2013, Secretary of Agriculture Thomas Vilsack issued Memorandum 1044–009, *Addressing Sustainable Forestry in Southeast Alaska.* The Memorandum expresses the Secretary's intent to transition the Tongass National Forest to a more ecologically, socially, and economically sustainable forest management program:

> To conserve the Tongass National Forest under the principles of the Multiple-Use Sustained-Yield Act of 1960, Tongass Timber Reform Act and other relevant statutes, we must speed the transition away from old-growth timber harvesting and towards a forest industry that utilizes second growth—or young growth—forests. Moreover, we must do this in a way that preserves a viable timber industry that provides jobs and opportunities for residents of Southeast Alaska. . . USDA's goal is to effectuate this transition over the next 10 to 15 years, so that at the end of this period the vast majority of timber sold by the Tongass will be young growth.

The Secretary's Memorandum also asks the Forest Service to take several steps needed to achieve this goal, including:

> Strongly consider whether to pursue an amendment to the Tongass Forest Plan. Such an amendment would evaluate which lands will be available for timber harvest, especially young growth timber stands, which lands should be excluded, and additional opportunities to promote and speed transition to young growth management.

The Forest Service has also recently completed a 5-year review of the Tongass National Forest Land and Resource Management Plan (Forest Plan). Based on that review and the Secretary's Memorandum, the Forest Service has determined that the Forest Plan needs to be changed to accomplish the transition to a timber sale program on the Tongass based primarily on young growth management within the next 10 to 15 years, while maintaining a viable timber industry and increasing the use of young growth, as specified by the Secretary in Memorandum 1044–009. The Forest Service is initiating the process to amend the Forest Plan under the forest planning regulations found at 36 CFR part 219. As called for in the Secretary's Memorandum, the Forest Service is establishing an advisory committee under the Federal Advisory Committee Act to provide advice on how to expedite the transition to young growth management, which may include advice on how to amend the Forest Plan.

Purpose and Need for Action

The Forest Service is preparing an Environmental Impact Statement (EIS) to describe the effects of making proposed changes to the Tongass Forest Plan to accomplish the transition to young growth management as provided in the Secretary's Memorandum. The Forest Service will evaluate which lands should be available for timber harvest, especially young growth timber stands, and any proposed changes to standards and guidelines and other management direction to promote and speed the transition to young growth management while maintaining a viable timber industry in Southeast Alaska. It will also evaluate other changes suggested in the 5-year review.

Proposed Action

The Forest Service proposes to amend the Tongass Forest Plan, using the 2012 Planning Rule, as needed to accomplish the transition to young growth management over the next 10 to 15 years while retaining the expertise and infrastructure of a viable timber industry in Southeast Alaska, as outlined by the Secretary in Memorandum 1044–009. The amendment process will address: Identifying areas suitable and not suitable for timber harvest to achieve the transition to young growth management; whether the Tongass needs to be able to harvest young growth forest stands before they reach their maximum rate of growth; what changes in management direction should be made to promote young growth management; whether the inventory of roadless areas should be updated, which may require additional rulemaking; whether changes are needed to provide for development of hydropower; updating the upper limit on the quantity of timber that may be sold from the Tongass to reflect other changes made; and how to modify the monitoring provisions of the Plan as required by the 2012 Planning Rule, including identifying focal species to monitor instead of management indicator species as required by the former planning regulations. The amendment process may address other topics relevant to promoting and speeding the transition to young growth management. It is not expected that changes made to the Tongass Forest Plan will affect the overall integrity of the Plan's conservation strategy.

Responsible Official

The Forest Supervisor of the Tongass National Forest is the Responsible Official for this amendment.

Nature of Decision To Be Made

The Responsible Official will decide what changes to make to the Tongass Forest Plan to accomplish the transition to young-growth management as directed by the Secretary in Memorandum 1044–009.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. A variety of methods will be used to notify and involve the public. One of the primary methods for communicating with the public will be through a Forest Planning Web site. This site will include a variety of information about the Forest Plan Amendment process, including descriptions of the planning process, work products and evaluation reports, newsletters, draft and final EIS, and other key documents. The posting of work products and evaluation reports throughout the process will be accompanied by a request for public comment and a defined public comment period. In this way, public participation will be an ongoing process and public input through comments will influence the process as it evolves. The Web site will also provide electronic methods for providing comments (email or direct on-line entry) and may be used for public open houses or hearings. It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

Dated: May 15, 2014.

Forrest Cole,

Tongass Forest Supervisor.

[FR Doc. 2014–12061 Filed 5–23–14; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the Grain Inspection, Packers and Stockyards Administration's (GIPSA) intention to request that the Office of Management and Budget (OMB) approve a 3-year extension of a currently approved information collection for the ''Reporting and Recordkeeping Requirements under the United States Grain Standards Act (USGSA) and under the Agricultural Marketing Act of 1946 (AMA).'' This approval is required under the Paperwork Reduction Act of 1995 (PRA).

DATES: We will consider comments that we receive by July 28, 2014.

ADDRESSES: We invite you to submit comments on this notice. You may submit comments by any of the following methods:

- Internet: Go to *http://www.regulations.gov* and follow the on-line instructions for submitting comments.
- Mail, hand delivery or courier to: Irene Omade, GIPSA, USDA, 1400 Independence Avenue SW., Room 2530–S, Washington, DC 20250–3604.
- Fax: (202) 690–2173.

Instructions: All comments should be identified as ''FGIS Information Collection,'' and should reference the date and page number of this issue of the **Federal Register**. Information collection package and other documents relating to this action will be available for public inspection in Room 2530–S, 1400 Independence Avenue SW, Washington, DC 20250–3604 during regular business hours. All comments will be available for public inspection in the above office during regular business hours (7 CFR 1.27(b)). Please call the Management and Budget Services Staff of GIPSA at (202) 720–7486 to arrange to inspect comments.

SUPPLEMENTARY INFORMATION: Congress enacted the United States Grain Standards Act (USGSA) (7 U.S.C. 71—87k) and the Agricultural Marketing Act (AMA) (7 U.S.C. 1621—1627) to facilitate the marketing of grain, oilseeds, pulses, rice, and related commodities. These statutes provide for the establishment of standards and terms which accurately and consistently measure the quality of grain and related products, provide for uniform official inspection and weighing, provide regulatory and service responsibilities, and furnish the framework for commodity quality improvement incentives to both domestic and foreign buyers. GIPSA's Federal Grain Inspection Service (FGIS) establishes policies, guidelines, and regulations to carry out the objectives of the USGSA and the AMA. Regulations appear at 7 CFR parts 800, 801, and 802 for the USGSA and 7 CFR part 868 for the AMA.

The USGSA, with few exceptions, requires official inspection of export grain sold by grade. Official services are provided, upon request, for grain in domestic commerce. The AMA authorizes similar inspection and weighing services, upon request, for rice, pulses, flour, corn meal, and certain other agricultural products. Conversely, the regulations promulgated under the USGSA and the AMA require specific information collection and recordkeeping necessary to carry out requests for official services. Applicants for official services must specify the kind and level of service, the identification of the product, the location, the amount, and other pertinent information in order that official personnel can efficiently respond to their needs.

Official services under the USGSA are provided through FGIS field offices and delegated and/or designated State and private agencies. Delegated agencies are State agencies delegated authority under the USGSA to provide official inspection service, Class X or Class Y weighing services, or both, at one or more export port locations in the State. Designated agencies are State or local governmental agencies or persons designated under the USGSA to provide official inspection services, Class X or Class Y weighing services, or both, at locations other than export port locations. State and private agencies, as a requirement for delegation and/or designation, must comply with all regulations, procedures, and instructions in accordance with provisions established under the USGSA. FGIS field offices oversee the performance of these agencies and provide technical guidance as needed.

Official services under the AMA are performed, upon request, on a fee basis for domestic and export shipments either by FGIS employees, individual contractors, or cooperators. Contractors are persons who enter into a contract with FGIS to perform specified sampling and inspection services. Cooperators are agencies or departments of the Federal Government which have an interagency agreement, State agencies, or other entities which have a reimbursable agreement with FGIS.

Title: Reporting and Recordkeeping Requirements (United States Grain Standards Act and Agricultural Marketing Act of 1946).

OMB Number: 0580–0013.

Expiration Date of Approval: October 31, 2014.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The USGSA and the AMA authorize USDA to inspect, certify and identify the class, quality, quantity and condition of agricultural products shipped or received in interstate and foreign commerce.

Estimate of Burden: Public reporting and record keeping burden for this collection of information is estimated to average .13 hours per response.

Respondents: Grain producers, buyers, and sellers, elevator operators, grain merchandisers, and official grain inspection agencies.

Estimated Number of Respondents: 8,610.

Estimated Number of Responses per Respondent: 144.30.

Estimated Total Annual Burden on Respondents: 158,144 hours.

As required by the PRA (44 U.S.C. 3506(c)(2)(A)) and its implementing regulations (5 CFR 1320.8(d)(1)(i)), GIPSA specifically requests comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Susan B. Keith,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2014–12182 Filed 5–23–14; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request; Correction

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments; correction.

SUMMARY: The Rural Utilities Service (RUS) published a document in the **Federal Register** on April 16, 2014, at 79 FR 21436. The document reported an inaccurate number for the Agency's estimate of respondent burden hours for OMB Control Number 0572–0076 in connection with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by July 28, 2014.

FOR FURTHER INFORMATION CONTACT: Michele L. Brooks, Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave. SW., STOP 1522, Room 5162, South Building, Washington, DC 20250–1522. Telephone: (202) 690–1078, FAX: (202) 720–8435 or email *Michele.brooks@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for approval.

Comments are invited on: (a) Wwhether 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 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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Michele L. Brooks, Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave. SW., Washington, DC 20250–1522. Telephone (202) 690–1078, FAX: (202)720–8435 or email *Michele.brooks@wdc.usda.gov.*

Title: RUS Specification for Quality Control and Inspection of Timber Products.

OMB Control Number: 0572–0076.

Type of Request: Revision of a currently approved collection.

Abstract: RUS Bulletin 1728H–702 and 7 CFR 1728.202 describe the responsibilities and procedures pertaining to the quality control by producers and pertaining to inspection of timber products produced in accordance with RUS specifications. In order to ensure the security of loan funds, adequate quality control of timber products is vital to loan security on electric power systems where hundreds of thousands of wood poles and cross-arms are used. Since RUS and its borrowers do not have the expertise or manpower to quickly determine imperfections in the wood products or their preservatives treatments, they must obtain service of an inspection agency to insure that the specifications for wood poles and cross-arms are being met. Copies of test reports on various preservatives must accompany each load of poles treated at the same time in a pressure cylinder (charge) as required by 7 CFR 1728.202(i). RUS feels the importance of safety concerns are enough to justify requiring test reports so that the purchaser, inspectors, and RUS will be able to spot check the general accuracy and reliability of the tests. The Agency has evaluated the current caseload and activity in the area of transmission and distribution and determined that a significant reduction in burden hours is necessary due to the number of alternative materials in use today. RUS also consulted agencies responsible for the majority of RUS borrowers' pole inspection and determined that the inspection time for one million poles, instead of a previously estimated two million, is a more realistic estimate to use in calculating burden hours.

Estimate of Burden: This collection of information is estimated to average 1 hour per response.

Respondents: Not-for-profit institutions; Business or other for profit.

Estimated Number of Respondents: 25.

Estimated Number of Responses per Respondent: 800.

Estimated Total Annual Burden on Respondents: 20,000 hours.

Copies of this information collection can be obtained from Rebecca Hunt, Program Development and Regulatory Analysis, at (202) 205–3660, FAX: (202)720–8435 or email: *Rebecca.hunt@wdc.usda.gov.*

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.

Dated: May 16, 2014.

John Charles Padalino,

Administrator, Rural Utilities Service.

[FR Doc. 2014–12040 Filed 5–23–14; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1937]

Expansion of Foreign-Trade Zone 84; Houston, Texas

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Port of Houston Authority, grantee of Foreign-Trade Zone 84, submitted an application to the Board for authority to expand FTZ 84 to include two sites in Harris County, Texas, adjacent to the Houston Customs and Border Protection port of entry (B–66–2013, docketed 6–25–2013);

Whereas, notice inviting public comment has been given in the **Federal Register** (78 FR 39254, 7–1–2013) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations would be satisfied if subject to a sunset provision;

Now, therefore, the Board hereby orders:

The application to expand FTZ 84 is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the overall zone, and to a sunset provision that would terminate authority on May 31, 2019, for Sites 28 and 29 where no activity has occurred under FTZ procedures before that date.

Signed at Washington, DC, this 16th day of May 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary of Commerce for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–12060 Filed 5–23–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–40–2014]

Foreign-Trade Zone 38—Spartanburg County, South Carolina; Application for Production Authority; Subzone 38G; Kravet Inc. (Commercial Samples); Anderson, South Carolina

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the South Carolina State Ports Authority, grantee of FTZ 38, requesting production authority on behalf of Kravet Inc. (Kravet), within Subzone 38G located in Anderson, South Carolina. The application conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.23) was docketed on May 20, 2014.

The Kravet facility (275 employees, 66.5 acres) is located within Subzone 38G. The facility is used for the cutting and tagging of textiles, paper wall coverings and decorative trimmings to be used as samples. Production under FTZ procedures could exempt Kravet from customs duty payments on the foreign components used in export production. The company anticipates that some 12 percent of the plant's shipments will be exported. On its domestic sales, Kravet would be able to choose the duty rates during customs entry procedures that apply to commercial samples of fabric, paper wall coverings and decorative trimmings (duty-free) for the foreign inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment. The request indicates that the savings from FTZ procedures would help improve the plant's international competitiveness.

Components and materials sourced from abroad (representing 20% of the value of the finished product) include: vinyl-based decorative wall coverings; imitation patent leather, PVC-based and polyurethane-based decorative upholstery products; analine dyed leather hides; leather hides for upholstery use; decorative wallpapers; silk-based fabrics for upholstery or drapery use; wool-based, horsehair-based and striped cotton decorative upholstery fabrics; boucle-style cotton/poly decorative upholstery fabrics; printed cotton and embroidered satin twill decorative multipurpose fabrics; sheer cotton decorative drapery fabrics; cotton-based, cotton-texture, cotton twill, printed cotton-blend, cotton-blend and cotton decorative multipurpose fabrics; printed and embroidered cotton decorative multipurpose fabrics; plain textured cotton decorative multipurpose fabrics; cotton denim decorative upholstery fabrics; cotton texture and velvet decorative upholstery fabrics; printed and embroidered cotton decorative multipurpose fabrics; cotton blend decorative drapery fabrics; cotton blend textured or embroidered decorative multipurpose fabrics; cotton blend satin decorative multipurpose fabrics; embroidered linen decorative upholstery fabrics; cotton blend ottoman decorative multipurpose fabrics; cotton blend decorative upholstery fabrics; cotton, cotton-blend, cotton-texture, and cotton blend textured decorative upholstery fabrics; cotton and silk blend decorative upholstery fabrics; cotton and linen blend decorative upholstery fabrics; cotton and linen blend printed decorative upholstery fabrics; embroidered linen decorative drapery fabrics; linen blend embroidered decorative drapery fabrics; cotton blend embroidered decorative drapery fabrics; linen and linen blend decorative multipurpose fabrics; raffia decorative wallcoverings; grasscloth decorative wallcoverings; hemp, jute and/or cellulose blend decorative wallcoverings and fabrics; cellulose raffia decorative wallcoverings; polyester decorative drapery fabrics; outdoor decorative upholstery fabrics; embroidered polyester decorative upholstery fabrics; nylon-based faux suede decorative upholstery fabrics; polyester decorative upholstery, multipurpose and drapery fabrics; viscose or polyester blend decorative upholstery fabrics; polyester sheers/casements decorative drapery fabrics; polyester blend decorative drapery, multipurpose and upholstery fabrics; polyester blend sheer/casement decorative drapery fabrics; embroidered polyester blend decorative multipurpose fabrics; polyester blend chenille decorative multipurpose fabrics; viscose or rayon blend decorative multipurpose fabrics; rayon blend decorative drapery fabrics; rayon/viscose blend textured decorative upholstery fabrics; rayon/viscose blend decorative upholstery fabrics; viscose/silk blend sheer/casements decorative drapery fabrics; rayon/linen blend embroidered decorative multipurpose fabrics; linen/viscose blend embroidered decorative drapery fabrics; cotton/poly blend sheer/casement decorative drapery fabrics; poly/linen blend sheer/casement decorative drapery fabrics; polyester or poly blend decorative multipurpose fabrics; acrylic or acrylic blend decorative upholstery fabrics; poly/acrylic blend decorative upholstery fabrics; poly/cotton blend sheer/casement decorative drapery fabrics; viscose/linen blend decorative upholstery fabrics; polyester and poly/linen blend sheer/casement decorative multipurpose fabrics; polyester blend decorative multipurpose fabrics; polyester/wool blend decorative upholstery fabrics; polyester/linen blend decorative multipurpose fabrics; acrylic/wool blend decorative upholstery fabrics; poly blend decorative multipurpose fabrics; viscose blend velvet decorative upholstery fabrics; viscose decorative upholstery fabrics; viscose or rayon blend decorative upholstery, multipurpose or drapery fabrics; viscose or polyester blend decorative multipurpose fabrics; rayon/poly blend decorative multipurpose fabrics; viscose/linen blend decorative upholstery fabrics; viscose blend decorative upholstery fabrics; polyester or poly blend faux suede decorative upholstery fabrics; flocked decorative wallpaper; nylon or poly blend faux suede decorative upholstery fabrics; decorative trimmings; mohair, chenille, silk velvet or velvet decorative upholstery fabrics; sheer poly decorative drapery fabrics; velvet and/or chenille decorative upholstery fabrics; sheer/casement decorative drapery fabrics; decorative tapes; metallic silk sheer decorative drapery fabrics; embroidered or crewel decorative multipurpose fabrics; linen or cotton blend embroidered decorative multipurpose fabrics; quilted decorative upholstery fabrics; vinyl decorative upholstery goods; decorative textile wallcoverings; high-durability decorative upholstery fabrics; blackout/lining drapery fabrics; faux fur decorative multipurpose fabrics; sheer/casement decorative drapery fabrics; velvet/faux suede decorative upholstery fabrics; and, decorative glass bead trimmings (duty rate ranges from duty-free to 25%).

In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application

and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is July 28, 2014. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to August 11, 2014.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

FOR FURTHER INFORMATION CONTACT: Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: May 20, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–12160 Filed 5–23–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1939]

Reorganization of Foreign-Trade Zone 39 (Expansion of Service Area) under Alternative Site Framework; Dallas/Fort Worth, Texas

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the Dallas/Fort Worth International Airport Board, grantee of Foreign-Trade Zone 39, submitted an application to the Board (FTZ Docket B–84–2013, 9–13–2013) for authority to expand the service area of the zone to include Hunt County, Texas, as described in the application, adjacent to the Dallas/Fort Worth Customs and Border Protection port of entry;

Whereas, notice inviting public comment was given in the **Federal Register** (78 FR 57618, 9–19–2013) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 39 to expand the service area under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and to the Board's standard 2,000-acre activation limit for the zone.

Signed at Washington, DC, this 16th day of May 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary of Commerce, for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

ATTEST:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–12049 Filed 5–23–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1938]

Reorganization of Foreign-Trade Zone 15 under Alternative Site Framework, Kansas City, Missouri

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the Greater Kansas City Foreign Trade Zone, Inc., grantee of Foreign-Trade Zone 15, submitted an application to the Board (FTZ Docket B–93–2013, docketed 11–5–2013) for authority to reorganize under the ASF with a service area of Andrew, Bates, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Henry, Howard, Jackson, Johnson, Lafayette, Livingston, Pettis, Platte, Ray and Saline Counties, Missouri, in and adjacent to the Kansas City Customs and Border Protection port of entry, FTZ 15's existing Sites 1, 2, 3, 4, 7, 8, 14, 16 and 17 would be categorized as magnet sites, Sites 9, 10, 11, 13 and 15 would be categorized as usage-driven sites, and Sites 5 and 18 would be deleted;

Whereas, notice inviting public comment was given in the **Federal Register** (78 FR 67333–67334, 11–12–2013) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendation of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 15 under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, to a five-year ASF sunset provision for magnet sites that would terminate authority for Sites 1, 2, 4, 7, 8, 14, 16 and 17 if not activated by May 31, 2019, and to a three-year ASF sunset provision for usage-driven sites that would terminate authority for Sites 9, 10, 11, 13 and 15 if no foreign-status merchandise is admitted for a *bona fide* customs purpose by May 31, 2017.

Signed at Washington, DC, this 16th day of May 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary of Commerce for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–12050 Filed 5–23–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Import, End-User, and Delivery Verification Certificates

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before July 28, 2014.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616,

14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Lawrence Hall, BIS Office of Administration, 14th and Pennsylvania Ave, NW., HCHB 6622, Washington, DC 20230, 703–675–9944, *lohall.work@comcast.net.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information provides the certification of the overseas importer to the U.S. Government that specific commodities will be imported from the U.S. and will not be re-exported, except in accordance with U.S. export regulations.

II. Method of Collection

Collected electronically or on paper.

III. Data

OMB Control Number: 0694–0093.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 7,861.

Estimated Time per Response: 15 to 30 minutes per response.

Estimated Total Annual Burden Hours: 2,124.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 21, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–12139 Filed 5–23–14; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Additional Protocol Report Forms

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before July 28, 2014.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at JJessup@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Lawrence Hall, BIS Office of Administration, 14th and Pennsylvania Ave NW., HCHB 6622, Washington, DC 20230, 703–675–9944, *lohall.work@comcast.net.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Additional Protocol requires the United States to submit declaration forms to the International Atomic Energy Agency (IAEA) on a number of commercial nuclear and nuclear-related items, materials, and activities that may be used for peaceful nuclear purposes, but also would be necessary elements for a nuclear weapons program. These forms provides the IAEA with information about additional aspects of the U.S. commercial nuclear fuel cycle, including: mining and milling of nuclear materials; buildings on sites of facilities selected by the IAEA from the U.S. Eligible Facilities List; nuclear-related equipment manufacturing, assembly, or construction; import and export of nuclear and nuclear-related items and materials; and research and development. The Protocol also expands IAEA access to locations where these activities occur in order to verify the form data.

II. Method of Collection

Collected electronically or on paper.

III. Data

OMB Control Number: 0694–0135.

Form Number(s): AP–A, AP–B, AP–C, AP–D, AP–E, AP–F, AP–G, AP–H, AP–I, AP–J, AP–K, AP–L, AP–M, AP–N, AP–O, AP–P, and AP–Q.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time Per Response: 22 to 360 minutes, depending on the form.

Estimated Total Annual Burden Hours: 844.

Estimated Total Annual Cost to Public: $5,400.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 21, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–12098 Filed 5–23–14; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–933]

Frontseating Service Valves From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; Preliminary Determination of No Shipments; 2012–2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on frontseating service valves from the People's Republic of China (''PRC''). The period of review (''POR'') is April 1, 2012, through March 31, 2013. The review covers two exporters of subject merchandise, Zhejiang DunAn Hetian Metal Co., Ltd. (''DunAn'') and Zhejiang Sanhua Co., Ltd. (''Sanhua''). The Department preliminarily finds that DunAn did not have reviewable transactions during the POR. In addition, we preliminarily determine that Sanhua made sales of subject merchandise at less than normal value during the POR. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* May 27, 2014.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita, Enforcement and Compliance, Office III, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4243.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by this order is frontseating service valves, assembled or unassembled, complete or incomplete, and certain parts thereof of any size, configuration, material composition or connection type.[1] Frontseating service valves are classified under subheading 8481.80.1095, and also have been classified under subheading 8415.90.80.85, of the Harmonized Tariff Schedule of the United States (''HTSUS''). It is possible for frontseating service valves to be manufactured out of primary materials other than copper and brass, in which case they would be classified under HTSUS subheadings 8481.80.3040, 8481.80.3090, or 8481.80.5090. In addition, if unassembled or incomplete frontseating service valves are imported, the various parts or components would be classified under HTSUS subheadings 8481.90.1000, 8481.90.3000, or 8481.90.5000. The HTSUS subheadings are provided for convenience and customs purposes, but the written description of the scope of this proceeding is dispositive.

Preliminary Determination of No Shipments for DunAn

DunAn submitted a timely-filed certification indicating that it had no shipments of subject merchandise to the United States during the POR.[2] Consistent with its practice, the Department asked U.S. Customs and Border Protection (''CBP'') to conduct a query on potential shipments made by DunAn during the POR; CBP did not provide any evidence that contradicts DunAn's claim of no shipments.[3] Further, on December 23, 2013, the Department released to interested parties the results of the CBP query that it intended to use for corroboration of DunAn's no shipment claims.[4] The Department received no comments from interested parties concerning the results of the CBP query.

Based on DunAn's certification and our analysis of CBP information, we preliminarily determine that DunAn did not have any reviewable transactions during the POR. In addition, the Department finds that, consistent with its assessment practice in non-market economy (''NME'') cases, it is appropriate not to rescind the review in part in this circumstance, but rather to complete the review with respect to DunAn and issue appropriate instructions to CBP based on the final results of the review.[5]

Methodology

The Department conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (''the Act''). Constructed export prices have been calculated in accordance with section 772(b) of the Act. Because the PRC is an NME within the meaning of section 771(18) of the Act, normal value has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our preliminary results, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/enforcement/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margin exists for the POR April 1, 2012, through March 31, 2013:

Exporter	Weighted-Average Dumping Margin (Percent)
Zhejiang Sanhua Co., Ltd.	0.98

Disclosure and Public Comment

The Department intends to disclose to the parties the calculations performed for these preliminary results within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). As discussed in the Preliminary Decision Memorandum, the Department intends to place labor data from Bulgaria on the record of this review after issuing the preliminary results. Once this occurs, the Department will establish a schedule for the submission of written argument pursuant to 19 CFR 351.309(c) and (d) and a hearing pursuant to 19 CFR 351.310.

Unless otherwise extended, the Department intends to issue the final results of this administrative review, which will include the results of its

[1] *See* ''Decision Memorandum for Preliminary Results of 2012–2013 Antidumping Duty Administrative Review: Frontseating Service Valves From the People's Republic of China,'' dated concurrently with this notice and herein incorporated by reference (''Preliminary Decision Memorandum'') for a complete description of the Scope of the Order.

[2] *See* letter from DunAn, ''No Shipment Letter for Zhejiang DunAn Hetian Metal Co., Ltd.: Fourth Annual Administrative Review of the Antidumping Duty Order on Frontseating Service Valves from the People's Republic of China, A–570–933 (POR: 04/01/12–03/31/13),'' dated July 24, 2013.

[3] *See* CBP Message Number, 4021305, dated 1/21/2014.

[4] *See* Memorandum to the File, ''2012–2013 Administrative Review of Frontseating Service Valves From the People's Republic of China: U.S. Customs and Border Protection Data,'' dated December 23, 2013.

[5] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011) and the ''Assessment Rates'' section, below.

analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rate

Upon issuance of the final results of this review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[6] The Department intends to issue appropriate assessment instructions to CBP 15 days after publication of the final results of this review.

For any individually examined respondent whose weighted-average dumping margin is above *de minimis,* we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[7] For duty assessment rates calculated on this basis, we will direct CBP to assess the resulting *ad valorem* rate against the entered customs values for the subject merchandise.

The Department 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 PRC-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 PRC-wide rate.[8]

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements, when imposed, will apply to all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) For DunAn, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to DunAn in the most recently completed review of the company; (2) for Sanhua, which has a separate rate, the cash deposit rate will be the one established in the final results of this review (except, if the rate is zero or *de minimis,* then zero cash deposit will be required); (3) for any previously investigated or reviewed PRC and non-PRC exporter that is 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 recent period; (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 the PRC-wide rate of 55.62 percent, which is rate assigned to the PRC-Wide Entity in the investigation;[9] 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(s) that supplied that non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing notice of these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 16, 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Preliminary Decision Memorandum

1. Background
2. Scope of the Order
3. Non-Market Economy Country
4. Separate Rates
5. Surrogate Country and Surrogate Value Data
6. Surrogate Country
7. Economic Comparability
8. Significant Producers of Identical or Comparable Merchandise
9. Data Availability
10. Date of Sale
11. Comparisons to Normal Value
12. Constructed Export Price
13. Value-Added Tax
14. Normal Value
15. Factor Valuations
16. Currency Conversion

[FR Doc. 2014–12035 Filed 5–23–14; 8:45 am]

BILLING CODE 3510–DS–P

[6] *See* 19 CFR 351.212(b)(1).

[7] In these preliminary results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[8] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011).

[9] *See Frontseating Service Valves From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances,* 74 FR 10886 (March 13, 2009) (''*Final Determination*'').

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–009]

Calcium Hypochlorite From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers/exporters of calcium hypochlorite from the People's Republic of China (PRC). The period of investigation is January 1, 2012, through December 31, 2012. Interested parties are invited to comment on this preliminary determination.

DATES: *Effective Date:* May 27, 2014.

FOR FURTHER INFORMATION CONTACT: Katie Marksberry, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–7906.

SUPPLEMENTARY INFORMATION:

Alignment of Final Countervailing Duty (CVD) Determination with Final Antidumping Duty (AD) Determination

The Department published its notice of initiation of this investigation on January 14, 2014.[1] On the same day the Department initiated this CVD

[1] *See Calcium Hypochlorite from the People's Republic of China: Initiation of Antidumping Duty Investigation,* 79 FR 2410 (January 14, 2014).

investigation, the Department also initiated an AD investigation of calcium hypochlorite from the PRC.[2] The CVD investigation and the AD investigation cover the same merchandise. On May 5, 2014, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), alignment of the final CVD determination with the final AD determination of calcium hypochlorite from the PRC was requested by Arch Chemicals Inc (Petitioner). Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final CVD determination with the final AD determination. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than September 29, 2014, unless postponed.

Scope of the Investigation

The product covered by this investigation is calcium hypochlorite, regardless of form (*e.g.,* powder, tablet (compressed), crystalline (granular), or in liquid solution), whether or not blended with other materials, containing at least 10% available chlorine measured by actual weight. The scope also includes bleaching powder and hemibasic calcium hypochlorite.

For a complete description of the scope of the investigation, *see* Appendix 1 to this notice.

Methodology

The Department is conducting this countervailing duty investigation in accordance with section 701 of the Act. For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.[3] The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *https://iaaccess.trade.gov,* and is available to all parties in the Department's Central Records Unit, located at room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/*. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

For this preliminary determination, we have relied on facts available pursuant to section776(a) of the Act for the Government of the PRC and for Hubei Dinglong Chemical Co., Ltd. (''Hubei Dinglong'') and W&W Marketing Corporation (''W&W Marketing''), the companies originally selected for individual examination, *i.e.,* mandatory company-respondents, and Tianjin Jinbin International Trade Co., Ltd. (''Tianjin Jinbin''), the additional mandatory respondent. The Government of the PRC, Hubei Dinglong and W&W marketing withheld information requested by the Department. Furthermore, these entities as well as Tianjin Jinbin refused to participate as respondents, and therefore, significantly impeded the investigation.[4] Further, because they failed to cooperate by not acting to the best of their ability to respond to the Department's requests for information, pursuant to section 776(b) of the Act we have drawn an adverse inference in selecting from among the facts otherwise available to calculate the *ad valorem* estimated countervailable subsidy rate for Hubei Dinglong, W&W Marketing, and Tianjin Jinbin. For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an estimated countervailing duty rate for the individually investigated producer/exporters of the subject merchandise, Hubei Dinglong, W&W Marketing, and Tianjin Jinbin.

With respect to the all-others rate, section 705(c)(5)(A)(ii) of the Act provides that if the countervailable subsidy rates established for all exporters and producers individually investigated are determined entirely in accordance with section 776 of the Act, the Department may use any reasonable method to establish an all-others rate for exporters and producers not individually investigated. In this case, the countervailable subsidy rate calculated for the investigated companies is based entirely on facts available under section 776 of the Act. There is no other information on the record upon which to determine an all-others rate. As a result, we have used the rate assigned for Hubei Dinglong, W&W Marketing, and Tianjin Jinbin as the all-others rate. This method is consistent with the Department's past practice.[5]

We preliminarily determine the countervailable subsidy rates to be:

Company	Subsidy Rate (percent)
Hubei Dinglong Chemical Co., Ltd.	71.72
W&W Marketing Corporation	71.72
Tianjin Jinbin International Trade Co., Ltd.	71.72
All Others	71.72

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing U.S. Customs and Border Protection to suspend liquidation of all entries of calcium hypochlorite from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit for such entries of merchandise in the amounts indicated above.

Disclosure and Public Comment

Because the Department has reached its conclusions on the basis of adverse facts available, the calculations performed in connection with this preliminary determination are not proprietary in nature, and are described in the Preliminary Decision Memorandum. Case briefs or other written comments for all non-scope issues may be submitted to IA ACCESS no later than 30 days after the publication of this preliminary determination in the **Federal Register,** and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[6] Case briefs or other written comments on scope issues may be submitted no later than 30 days after the publication of this preliminary determination in the **Federal Register,** and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for the case briefs. For any briefs filed on scope issues, parties must file separate and identical documents on

[2] *See id.*

[3] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, From Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Re: Decision Memorandum for Preliminary Determination of Countervailing Duty Investigation: Calcium Hypochlorite from the People's Republic of China, dated concurrently with this notice (''Preliminary Decision Memorandum'').

[4] *See* sections 776(a)(2)(A) and (C) of the Act.

[5] *See, e.g., Circular Welded Carbon-Quality Steel Pipe From India: Final Affirmative Countervailing Duty Determination,* 77 FR 64468 (October 22, 2012); *see also Certain Potassium Phosphate Salts From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Termination of Critical Circumstances Inquiry,* 75 FR 30375 (June 1, 2010).

[6] *See* 19 CFR 351.309.

the record for the concurrent antidumping duty investigation.

Interested parties, who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using Enforcement and Compliances's IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5:00 p.m. Eastern Standard Time, within 30 days after the date of publication of this notice.[7] Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a date, time and location to be determined. Parties will be notified of the date, time and location of any hearing.

U.S. International Trade Commission (ITC) Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act.

Dated: May 19, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix 1

Scope of the Investigation

The product covered by this investigation is calcium hypochlorite, regardless of form (*e.g.,* powder, tablet (compressed), crystalline (granular), or in liquid solution), whether or not blended with other materials, containing at least 10% available chlorine measured by actual weight. The scope also includes bleaching powder and hemibasic calcium hypochlorite.

Calcium hypochlorite has the general chemical formulation $Ca(OCl)_2$, but may also be sold in a more dilute form as bleaching powder with the chemical formulation, $Ca(OCl)_2.CaCl_2.Ca(OH)_2.2H_2O$ or hemibasic calcium hypochlorite with the chemical formula of $2Ca(OCl)_2.Ca(OH)_2$ or $Ca(OCl)_2.0.5Ca(OH)_2$. Calcium hypochlorite has a Chemical Abstract Service (''CAS'') registry number of 7778–54–3, and a U.S. Environmental Protection Agency (''EPA) Pesticide Code (''PC'') Number of 014701. The subject calcium hypochlorite has an International Maritime Dangerous Goods (''IMDG'') code of Class 5.1 UN 1748, 2880, or 2208 or Class 5.1/8 UN 3485, 3486, or 3487.

Calcium hypochlorite is currently classifiable under the subheading 2828.10.0000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The subheading covers commercial calcium hypochlorite and other calcium hypochlorite. When tableted or blended with other materials, calcium hypochlorite may be entered under other tariff classifications, such as 3808.94.5000 and 3808.99.9500, which cover disinfectants and similar products. While the HTSUS subheadings, the CAS registry number, the U.S. EPA PC number, and the IMDG codes are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix 2

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope Comments
4. Scope of the Investigation
5. Injury Test
6. Application of the Countervailing Duty Law to Imports from the PRC
7. Use of Facts Otherwise Available and Adverse Inferences
8. ITC Notification
9. Disclosure and Public Comment
10. Conclusion

[FR Doc. 2014–12157 Filed 5–23–14; 8:45 am]

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[7] *See* 19 CFR 351.310(c).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–010, A–583–853]

Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China and Taiwan: Postponement of Preliminary Determination of Antidumping Duty Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* May 27, 2014.

FOR FURTHER INFORMATION CONTACT: Jeffrey Pedersen at (202) 482–2769 (the People's Republic of China (''PRC'')); or Magd Zalok at (202) 482–4162 (Taiwan), AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Postponement of Preliminary Determinations

On January 29, 2014, the Department of Commerce (the ''Department'') published a notice of initiation of antidumping duty investigations of certain crystalline silicon photovoltaic products from the PRC and and Taiwan.[1] The notice of initiation stated that the Department, in accordance with section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the ''Act''), and 19 CFR 351.205(b)(1), would issue its preliminary determinations for these investigations, unless postponed, no later than 140 days after the date of the initiation. The preliminary determinations of these antidumping duty investigations are currently due no later than June 11, 2014.

Pursuant to section 733(c)(1)(B) of the Act and 19 CFR 351.205(b)(2), the Department concludes that the parties involved in these investigations are cooperating and determines that these investigations are extraordinarily complicated by reason of the number and complexity of the transactions to be investigated and adjustments to be considered and the number of firms whose activities must be investigated. Therefore, in accordance with section 733(c)(1)(B) of the Act, the Department determines that it is appropriate to postpone the preliminary determinations in these investigations. Specifically, the Department determines that a 43-day postponement of the preliminary determinations is needed in order to provide the Department with sufficient time to review and analyze questionnaire responses and issue appropriate requests for clarification and additional information.

For the reasons stated above, the Department, in accordance with section 733(c)(1)(B) of the Act, is postponing the deadline for the preliminary determinations to no later than 183 days after the date on which the Department initiated these investigations. Therefore, the new deadline for issuing these preliminary determinations is July 24, 2014. In accordance with section

[1] *See Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China and Taiwan: Initiation of Antidumping Duty Investigations,* 79 FR 4661 (January 29, 2014).

735(a)(1) of the Act, the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: May 16, 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–12033 Filed 5–23–14; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Renewable Energy and Energy Efficiency Advisory Committee

May 15, 2014.

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The Renewable Energy and Energy Efficiency Advisory Committee (RE&EEAC) will meet on June 12, 2014 to consider proposed recommendations from the U.S. Competitiveness, Trade Policy, Finance and Trade Promotion Subcommittees that address issues affecting U.S. competitiveness in exporting renewable energy and energy efficiency (RE&EE) products and services. This will be the final meeting of the RE&EE Advisory Committee under its current charter.

DATES: June 12, 2014; 9:00 a.m.–5:00 p.m. Eastern Daylight Time (EDT).

ADDRESSES: The meeting will be held in room 4830 at the U.S. Department of Commerce; 1401 Constitution Avenue NW; Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ryan Mulholland, Office of Energy and Environmental Technologies Industries (OEEI), International Trade Administration, U.S. Department of Commerce at (202) 482–4693; email: ryan.mulholland@trade.gov. This conference call is accessible to people with disabilities. Requests for auxiliary aids should be directed to OEEI at (202) 482–4693 at least 3 working days prior to the event.

SUPPLEMENTARY INFORMATION:

Background: The Secretary of Commerce established the RE&EEAC pursuant to his discretionary authority and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) on June 19, 2012. The RE&EEAC provides the Secretary of Commerce with consensus advice from the private sector on the development and administration of programs and policies to enhance the international competitiveness of the U.S. RE&EE industries. The RE&EEAC held its first meeting on February 20, 2013 and several subsequent meetings throughout 2013 and 2014. The Committee's charter expires June 18, 2014.

The meeting is open to the public. Members of the public wishing to attend the conference call must notify Mr. Ryan Mulholland at the contact information above by 5:00 p.m. EDT on Friday, June 6, in order to pre-register and receive call-in instructions. Please specify any request for reasonable accommodation by Friday, June 6. Last minute requests will be accepted, but may be impossible to fill.

Any member of the public may submit pertinent written comments concerning the RE&EEAC's affairs at any time before or after the meeting. Comments may be submitted to ryan.mulholland@trade.gov or to the Renewable Energy and Energy Efficiency Advisory Committee, Office of Energy and Environmental Technologies Industries (OEEI), International Trade Administration, Room 4053; 1401 Constitution Avenue, NW., Washington, DC 20230. To be considered during the meeting, comments must be received no later than 5:00 p.m. EDT on Friday, June 6, 2014, to ensure transmission to the Committee prior to the meeting. Comments received after that date will be distributed to the members, but may not be considered at the meeting.

Copies of RE&EEAC meeting minutes will be available within 30 days of the meeting.

Catherine P. Vial,

Team Leader for Environmental Industries, Office of Energy and Environmental Industries.

[FR Doc. 2014–11942 Filed 5–23–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Pacific Islands Region Vessel and Gear Identification Requirements

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before July 28, 2014.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Walter Ikehara, (808) 725–5175, or Walter.Ikehara@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

Regulations at 50 CFR 665.16 require that all U.S. vessels with Federal permits fishing for Western Pacific fishery management unit species display identification markings on the vessel and gear, as specified in 50 CFR part 665 and 50 CFR part 300. Vessels registered for use with a permit issued under Subparts B through E and Subparts G through I of 50 CFR part 665, must display the vessel's official number on both sides of the deckhouse or hull, and on an appropriate weather deck. Vessels fishing in the Western and Central Pacific Convention (WCPFC) Area with a WCPFC Area Endorsement, or required to have a WCPFC Area Endorsement, must comply with the regulations at 50 CFR 300.14 and 50 CFR 300.217. These regulations require that vessels must display their international radio call sign on both sides of the deckhouse or hull, and on an appropriate weather deck, unless specifically exempted. Regulations at 50 CFR 300.35 require that vessels fishing under the South Pacific Tuna Treaty must display their international radio call sign on the hull, the deck, and on the sides of auxiliary equipment such as skiffs and helicopters. The numbers must be a specific size at specified locations. The display of the identifying numbers aids in fishery law enforcement.

Western Pacific fisheries regulations at 50 CFR 665.128, 665.228, 665.428, 665,628 and 665.804 require that certain fishing gear must be marked. In the pelagic longline fisheries, the vessel operator must ensure that the official

number of the vessel is affixed to every longline buoy and float. In the coral reef ecosystem fisheries, the vessel number must be affixed to all fish and crab traps. The marking of gear links fishing or other activity to the vessel, aids law enforcement, and is valuable in actions concerning the damage, loss of gear, and civil proceedings.

II. Method of Collection

Third party disclosure.

III. Data

OMB Control Number: 0648–0360.

Form Number: None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations; individuals or households.

Estimated Number of Respondents: 344.

Estimated Time per Response: 45 minutes per Pacific Islands fishing vessel; one hour and 15 minutes per South Pacific purse seine vessel; 5 minutes per gear marking.

Estimated Total Annual Burden Hours: 2,352.

Estimated Total Annual Cost to Public: $51,600.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 21, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–12141 Filed 5–23–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Health Board, Public Health Subcommittee; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Health Board, Public Health Subcommittee will take place.

DATES:

Wednesday, June 11, 2014.

8:00 a.m.–10:00 a.m. (Open Session)

10:15 a.m.–5:00 p.m. (Administrative and Preparatory Working Meeting)

ADDRESSES: Defense Health Headquarters (DHHQ), Conference Room 3M305, 7700 Arlington Blvd., Falls Church, Virginia 22042 (escort required; see guidance in **SUPPLEMENTARY INFORMATION**, ''Public's Accessibility to the Meeting.'')

FOR FURTHER INFORMATION CONTACT: The Director of the Defense Health Board is Ms. Christine Bader, 7700 Arlington Boulevard, Suite 5101, Falls Church, Virginia 22042, (703) 681–6653, Fax: (703) 681–9539, *Christine.bader@dha.mil.* For meeting information, please contact Ms. Kendal Brown, 7700 Arlington Boulevard, Suite 5101, Falls Church, Virginia 22042, *Kendal.Brown.ctr@dha.mil,* (703) 681–6670, Fax: (703) 681–9539.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, and in accordance with section 10(a)(2) of the Federal Advisory Committee Act.

Purpose of the Meeting

The purpose of the meeting is for the Public Health Subcommittee members to receive public comments concerning deployment pulmonary health during an open forum. The Subcommittee is reviewing evidence relevant to deployment-related pulmonary disease in Service members and veterans. Comments from the public range from insight on deployment-related pulmonary health issues to personal accounts and objective input.

Agenda

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165 and subject to availability of space, the Public Health Subcommittee meeting is open to the public from 8:00 a.m. to 10:00 a.m. on June 11, 2014. On June 11, 2014, the Public Health Subcommittee will receive public comments on deployment-related pulmonary health issues. The DFO, in conjunction with the Subcommittee Chair, may restrict speaking time per person.

Availability of Materials for the Meeting

A copy of the agenda or any updates to the agenda for the June 11, 2014 meeting, as well as any other materials presented in the meeting, may be obtained at the meeting.

Public's Accessibility to the Meeting

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165 and subject to availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis. All members of the public who wish to attend the public meeting must contact Ms. Kendal Brown at the number listed in the section **FOR FURTHER INFORMATION CONTACT** no later than 12:00 p.m. on Monday, June 2 to register and make arrangements for a DHHQ escort, if necessary. Public attendees requiring escort should arrive at the DHHQ Visitor's Entrance with sufficient time to complete security screening no later than 7:30 a.m. on June 11. To complete security screening, please come prepared to present two forms of identification and one must be a picture identification card.

Special Accommodations

Individuals requiring special accommodations to access the public meeting should contact Ms. Kendal Brown at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Written Statements

Any member of the public wishing to provide comments to the DHB Public Health Subcommittee may do so in accordance with 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, and the procedures described in this notice.

Individuals desiring to provide comments to the DHB's Public Health Subcommittee may do so by submitting a written statement to the DHB Designated Federal Officer (DFO) (see

FOR FURTHER INFORMATION CONTACT). Written statements should address the following details: The issue, discussion, and a recommended course of action. Supporting documentation may also be included, as needed, to establish the appropriate historical context and to provide any necessary background information.

If the written statement is not received at least five (5) business days prior to the meeting, the DFO may choose to postpone consideration of the statement until the next open meeting.

The DFO will review all timely submissions with the Subcommittee Chair and ensure they are provided to members of the Public Health Subcommittee before the meeting that is subject to this notice. After reviewing the written comments, the President and the DFO may choose to invite the submitter to orally present their issue during an open portion of this meeting or at a future DHB meeting. The DFO, in consultation with the Subcommittee Chair, may allot time for members of the public to present their issues for review and discussion by the Public Health Subcommittee.

Dated: May 20, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–12064 Filed 5–23–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Military Family Readiness Council; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing this notice to announce a Federal advisory committee meeting of the Department of Defense Military Family Readiness Council (MFRC). This meeting will be open to the public.

DATES: Wednesday, June 25, 2014, from 1:30 p.m. to 3:30 p.m.

ADDRESSES: Pentagon Conference Center B6 (escorts will be provided from the Pentagon Metro entrance).

FOR FURTHER INFORMATION CONTACT: Ms. Melody McDonald or Ms. Betsy Graham, Office of the Deputy Assistant Secretary of Defense (Military Community & Family Policy), 4800 Mark Center Drive Alexandria, VA 22350–2300, Room 3G15. Telephones (571) 372–0880; (571) 372–0881 and/or email: OSD Pentagon OUSD P–R Mailbox Family Readiness Council, *osd.pentagon.ousd-p-r.mbx.family-readiness-council@mail.mil*.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150. The purpose of the Council meeting is to review and make recommendations to the Secretary of Defense regarding policy and plans; monitor requirements for the support of military family readiness by the Department of Defense; evaluate and assess the effectiveness of the military family readiness programs and activities of the Department of Defense.

Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, this meeting is open to the public, subject to the availability of space. Persons desiring to attend may contact Ms. Melody McDonald at 571–372–0880 or email OSD Pentagon OUSD P–R Mailbox Family Readiness Council, *osd.pentagon.ousd-p-r.mbx.family-readiness-council@mail.mil* no later than 5:00 p.m., on Friday, June 13, 2014 to arrange for escort inside the Pentagon to the Conference Room area.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, interested persons may submit a written statement for consideration by the Council. Persons desiring to submit a written statement to the Council must notify the point of contact listed in **FOR FURTHER INFORMATION CONTACT** no later than 5:00 p.m., on Friday, June 13, 2014.

The purpose of this meeting is to introduce and discuss Military Family Readiness Council focus items for 2014.

Wednesday, June 25, 2014 Meeting agenda

Welcome & Administrative Remarks

Introduction and discussion of 2014 Military Family Readiness Council focus items.

Closing Remarks

Note: Exact order may vary.

Dated: May 21, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–12119 Filed 5–23–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency National Intelligence University Board of Visitors; Notice of Federal Advisory Committee Meeting

AGENCY: National Intelligence University, Defense Intelligence Agency, Department of Defense.

ACTION: Notice of closed meeting.

SUMMARY: The Department of Defense is publishing this notice to announce that the following Federal Advisory Committee meeting of the National Intelligence University Board of Visitors has been scheduled. The meeting is closed to the public.

DATES: Tuesday, June 17, 2014 (7 a.m. to 5 p.m.) and Wednesday, June 18, 2014 (8 a.m. to 12 p.m.).

ADDRESSES: National Intelligence University, Joint Base Anacostia-Bolling, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Dr. David R. Ellison, President, DIA National Intelligence University, Washington, DC 20340–5100, Phone: (202) 231–3344.

SUPPLEMENTARY INFORMATION: This meeting is being held pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by section 5 of Public Law 94–409.

Purpose: The Board will discuss several current critical intelligence issues and advise the Director, DIA, as to the successful accomplishment of the mission assigned to the National Intelligence University.

Agenda: The following topics are listed on the National Intelligence University Board of Visitors meeting agenda: Governance and Oversight, Bethesda Update, Faculty Hiring pilot, JPME Update, NI Scholars, Succession Planning, Honorary Degrees, Research Presentations, Denial and Deception Program, and Executive Session.

The entire meeting is devoted to the discussion of classified information as defined in 5 U.S.C. 552b(c)(1) and therefore will be closed. Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the National Intelligence University Board of Visitors about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of a planned meeting of the National Intelligence University Board of Visitors. All written statements shall be submitted to the Designated Federal

Officer for the National Intelligence University Board of Visitors, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Designated Federal Officer can be obtained from the GSA's FACA Database—*http://www.facadatabase.gov/*.

Dated: May 20, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–12048 Filed 5–23–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: Defense Travel Management Office, DoD.

ACTION: Notice of Revised Non-Foreign Overseas Per Diem Rates.

SUMMARY: The Defense Travel Management Office is publishing Civilian Personnel Per Diem Bulletin Number 292. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States when applicable. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 292 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

DATES: *Effective Date:* June 1, 2014.

FOR FURTHER INFORMATION CONTACT: Mrs. Sonia Malik, 571–372–1276.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Defense Travel Management Office for non-foreign areas outside the contiguous United States. It supersedes Civilian Personnel Per Diem Bulletin Number 291. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. Civilian Bulletin 292 includes updated rates for Alaska.

Dated: May 21, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA						
[OTHER]						
01/01 - 12/31	110		118		228	01/01/2013
ADAK						
01/01 - 12/31	120		79		199	07/01/2003
ANCHORAGE [INCL NAV RES]						
05/16 - 09/30	190		102		292	12/01/2013
10/01 - 05/15	99		93		192	12/01/2013
BARROW						
05/15 - 09/14	177		94		271	04/01/2013
09/15 - 05/14	159		93		252	04/01/2013
BETHEL						
01/01 - 12/31	179		109		288	12/01/2013
BETTLES						
01/01 - 12/31	175		83		258	06/01/2014
CLEAR AB						
01/01 - 12/31	90		82		172	10/01/2006
COLDFOOT						
01/01 - 12/31	165		70		235	10/01/2006
COPPER CENTER						
05/15 - 09/15	149		85		234	01/01/2013
09/16 - 05/14	99		80		179	01/01/2013
CORDOVA						
01/01 - 12/31	95		102		197	12/01/2013
CRAIG						
04/01 - 09/30	129		77		206	06/01/2014
10/01 - 03/31	85		72		157	06/01/2014
DEADHORSE						
01/01 - 12/31	170		70		240	05/01/2014
DELTA JUNCTION						
01/01 - 12/31	128		54		182	12/01/2013

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
DENALI NATIONAL PARK						
05/01 - 09/30	159		94		253	12/01/2013
10/01 - 04/30	89		87		176	12/01/2013
DILLINGHAM						
05/15 - 10/15	185		111		296	01/01/2011
10/16 - 05/14	169		109		278	01/01/2011
DUTCH HARBOR-UNALASKA						
01/01 - 12/31	121		102		223	02/01/2012
EARECKSON AIR STATION						
01/01 - 12/31	90		77		167	06/01/2007
EIELSON AFB						
05/15 - 09/15	154		96		250	01/01/2013
09/16 - 05/14	75		88		163	01/01/2013
ELFIN COVE						
05/15 - 09/10	175		46		221	01/01/2013
09/11 - 05/14	150		44		194	01/01/2013
ELMENDORF AFB						
05/16 - 09/30	190		102		292	12/01/2013
10/01 - 05/15	99		93		192	12/01/2013
FAIRBANKS						
09/16 - 05/14	75		88		163	01/01/2013
05/15 - 09/15	154		96		250	01/01/2013
FOOTLOOSE						
01/01 - 12/31	175		18		193	10/01/2002
FT. GREELY						
01/01 - 12/31	128		54		182	12/01/2013
FT. RICHARDSON						
05/16 - 09/30	190		102		292	12/01/2013
10/01 - 05/15	99		93		192	12/01/2013
FT. WAINWRIGHT						
05/15 - 09/15	154		96		250	01/01/2013
09/16 - 05/14	75		88		163	01/01/2013
GAMBELL						
01/01 - 12/31	137		59		196	06/01/2014

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
GLENNALLEN						
05/15 - 09/15	149		85		234	01/01/2013
09/16 - 05/14	99		80		179	01/01/2013
HAINES						
01/01 - 12/31	107		101		208	01/01/2011
HEALY						
10/01 - 04/30	89		87		176	12/01/2013
05/01 - 09/30	159		94		253	12/01/2013
HOMER						
05/05 - 09/16	159		99		258	12/01/2013
09/17 - 05/04	89		92		181	12/01/2013
JUNEAU						
05/16 - 09/15	159		104		263	12/01/2013
09/16 - 05/15	135		102		237	12/01/2013
KAKTOVIK						
01/01 - 12/31	165		86		251	10/01/2002
KAVIK CAMP						
01/01 - 12/31	200		65		265	06/01/2014
KENAI-SOLDOTNA						
05/01 - 10/31	99		110		209	01/01/2013
11/01 - 04/30	79		108		187	01/01/2013
KENNICOTT						
01/01 - 12/31	275		109		384	01/01/2013
KETCHIKAN						
05/01 - 09/30	135		88		223	01/01/2013
10/01 - 04/30	99		85		184	01/01/2013
KING SALMON						
05/01 - 10/01	225		91		316	10/01/2002
10/02 - 04/30	125		81		206	10/01/2002
KLAWOCK						
04/01 - 09/30	129		77		206	06/01/2014
10/01 - 03/31	85		72		157	06/01/2014
KODIAK						
05/01 - 09/30	152		93		245	02/01/2012

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
10/01 - 04/30	100		88		188	02/01/2012
KOTZEBUE						
01/01 - 12/31	219		115		334	02/01/2012
KULIS AGS						
05/16 - 09/30	190		102		292	12/01/2013
10/01 - 05/15	99		93		192	12/01/2013
MCCARTHY						
01/01 - 12/31	275		109		384	01/01/2013
MCGRATH						
01/01 - 12/31	165		69		234	10/01/2006
MURPHY DOME						
05/15 - 09/15	154		96		250	01/01/2013
09/16 - 05/14	75		88		163	01/01/2013
NOME						
01/01 - 12/31	150		132		282	01/01/2013
NUIQSUT						
01/01 - 12/31	180		53		233	10/01/2002
PETERSBURG						
01/01 - 12/31	110		118		228	01/01/2013
POINT HOPE						
01/01 - 12/31	181		81		262	06/01/2014
POINT LAY						
01/01 - 12/31	225		51		276	08/01/2011
PORT ALEXANDER						
01/01 - 12/31	150		43		193	08/01/2010
PORT ALSWORTH						
01/01 - 12/31	135		88		223	10/01/2002
PRUDHOE BAY						
01/01 - 12/31	170		70		240	05/01/2014
SELDOVIA						
05/05 - 09/16	159		99		258	12/01/2013
09/17 - 05/04	89		92		181	12/01/2013
SEWARD						
10/16 - 04/30	84		85		169	01/01/2013

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
05/01 - 10/15	174		94		268	01/01/2013
SITKA-MT. EDGECUMBE						
10/01 - 04/30	169		113		282	01/01/2013
05/01 - 09/30	209		117		326	01/01/2013
SKAGWAY						
05/01 - 09/30	135		88		223	01/01/2013
10/01 - 04/30	99		85		184	01/01/2013
SLANA						
05/01 - 09/30	139		55		194	02/01/2005
10/01 - 04/30	99		55		154	02/01/2005
SPRUCE CAPE						
05/01 - 09/30	152		93		245	02/01/2012
10/01 - 04/30	100		88		188	02/01/2012
ST. GEORGE						
01/01 - 12/31	220		51		271	05/01/2014
TALKEETNA						
01/01 - 12/31	100		89		189	10/01/2002
TANANA						
01/01 - 12/31	150		132		282	01/01/2013
TOK						
10/01 - 05/14	85		84		169	01/01/2013
05/15 - 09/30	95		85		180	01/01/2013
UMIAT						
01/01 - 12/31	350		64		414	02/01/2012
VALDEZ						
05/16 - 09/14	219		121		340	01/01/2013
09/15 - 05/15	139		113		252	01/01/2013
WAINWRIGHT						
01/01 - 12/31	175		83		258	01/01/2011
WASILLA						
05/01 - 09/30	164		103		267	01/01/2013
10/01 - 04/30	96		96		192	01/01/2013
WRANGELL						
05/01 - 09/30	135		88		223	01/01/2013

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
10/01 - 04/30	99		85		184	01/01/2013
YAKUTAT						
01/01 - 12/31	105		94		199	01/01/2011
AMERICAN SAMOA						
AMERICAN SAMOA						
01/01 - 12/31	139		96		235	09/01/2012
GUAM						
GUAM (INCL ALL MIL INSTAL)						
01/01 - 12/31	159		84		243	12/01/2013
HAWAII						
[OTHER]						
07/01 - 08/21	145		98		243	05/01/2014
08/22 - 06/30	115		98		213	05/01/2014
CAMP H M SMITH						
01/01 - 12/31	177		111		288	05/01/2014
EASTPAC NAVAL COMP TELE AREA						
01/01 - 12/31	177		111		288	05/01/2014
FT. DERUSSEY						
01/01 - 12/31	177		111		288	05/01/2014
FT. SHAFTER						
01/01 - 12/31	177		111		288	05/01/2014
HICKAM AFB						
01/01 - 12/31	177		111		288	05/01/2014
HONOLULU						
01/01 - 12/31	177		111		288	05/01/2014
ISLE OF HAWAII: HILO						
07/01 - 08/21	145		98		243	05/01/2014
08/22 - 06/30	115		98		213	05/01/2014
ISLE OF HAWAII: OTHER						
01/01 - 12/31	189		134		323	05/01/2014
ISLE OF KAUAI						
01/01 - 12/31	305		141		446	05/01/2014
ISLE OF MAUI						
01/01 - 12/31	259		131		390	05/01/2014

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ISLE OF OAHU						
01/01 - 12/31	177		111		288	05/01/2014
KEKAHA PACIFIC MISSILE RANGE FAC						
01/01 - 12/31	305		141		446	05/01/2014
KILAUEA MILITARY CAMP						
07/01 - 08/21	145		98		243	05/01/2014
08/22 - 06/30	115		98		213	05/01/2014
LANAI						
01/01 - 12/31	229		121		350	05/01/2014
LUALUALEI NAVAL MAGAZINE						
01/01 - 12/31	177		111		288	05/01/2014
MCB HAWAII						
01/01 - 12/31	177		111		288	05/01/2014
MOLOKAI						
01/01 - 12/31	157		77		234	05/01/2014
NAS BARBERS POINT						
01/01 - 12/31	177		111		288	05/01/2014
PEARL HARBOR						
01/01 - 12/31	177		111		288	05/01/2014
SCHOFIELD BARRACKS						
01/01 - 12/31	177		111		288	05/01/2014
WHEELER ARMY AIRFIELD						
01/01 - 12/31	177		111		288	05/01/2014
MIDWAY ISLANDS						
MIDWAY ISLANDS						
01/01 - 12/31	125		77		202	05/01/2014
NORTHERN MARIANA ISLANDS						
[OTHER]						
01/01 - 12/31	85		76		161	07/01/2012
ROTA						
01/01 - 12/31	140		106		246	12/01/2013
SAIPAN						
01/01 - 12/31	140		96		236	12/01/2013
TINIAN						

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
01/01 - 12/31	85		76		161	07/01/2012
PUERTO RICO						
[OTHER]						
01/01 - 12/31	109		112		221	06/01/2012
AGUADILLA						
01/01 - 12/31	124		76		200	10/01/2012
BAYAMON						
01/01 - 12/31	195		128		323	09/01/2010
CAROLINA						
01/01 - 12/31	195		128		323	09/01/2010
CEIBA						
01/01 - 12/31	139		92		231	10/01/2012
CULEBRA						
01/01 - 12/31	150		98		248	03/01/2012
FAJARDO [INCL ROOSEVELT RDS NAVSTAT]						
01/01 - 12/31	139		92		231	10/01/2012
FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO]						
01/01 - 12/31	195		128		323	09/01/2010
HUMACAO						
01/01 - 12/31	139		92		231	10/01/2012
LUIS MUNOZ MARIN IAP AGS						
01/01 - 12/31	195		128		323	09/01/2010
LUQUILLO						
01/01 - 12/31	139		92		231	10/01/2012
MAYAGUEZ						
01/01 - 12/31	109		112		221	09/01/2010
PONCE						
01/01 - 12/31	149		89		238	09/01/2012
RIO GRANDE						
01/01 - 12/31	169		123		292	06/01/2012
SABANA SECA [INCL ALL MILITARY]						
01/01 - 12/31	195		128		323	09/01/2010
SAN JUAN & NAV RES STA						
01/01 - 12/31	195		128		323	09/01/2010

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
VIEQUES						
01/01 - 12/31	175		95		270	03/01/2012
VIRGIN ISLANDS (U.S.)						
ST. CROIX						
04/15 - 12/14	135		92		227	05/01/2006
12/15 - 04/14	187		97		284	05/01/2006
ST. JOHN						
04/15 - 12/14	163		98		261	05/01/2006
12/15 - 04/14	220		104		324	05/01/2006
ST. THOMAS						
04/15 - 12/14	240		105		345	05/01/2006
12/15 - 04/14	299		111		410	05/01/2006
WAKE ISLAND						
WAKE ISLAND						
01/01 - 12/31	173		55		228	07/01/2013

[FR Doc. 2014–12202 Filed 5–23–14; 8:45 am]
BILLING CODE 5001–06–C

DELAWARE RIVER BASIN COMMISSION

Notice of Public Hearing and Business Meeting

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Tuesday, June 10, 2014. A business meeting will be held the following day on Wednesday, June 11, 2014. The hearing and business meeting are open to the public and will be held at the Washington Crossing Historic Park Visitor Center, 1112 River Road, Washington Crossing, Pennsylvania.

Public Hearing. The public hearing on June 10, 2014 will begin at 1:30 p.m. Hearing items will include draft dockets for withdrawals, discharges and other water-related projects subject to the Commission's review, and resolutions: (1) Extending the Commission's Monitoring Advisory Committee; (2) authorizing the Executive Director to contract for laboratory analysis of ambient main stem and tributary samples for chronic toxicity; and (3) authorizing the Executive Director to enter into a Memorandum of Understanding with the U.S. Army Corps of Engineers for repairs and improvements at Blue Marsh Dam. The list of projects scheduled for hearing, including project descriptions, will be posted on the Commission's Web site, *www.drbc.net*, in a long form of this notice at least ten days before the hearing date. Written comments on draft dockets and resolutions scheduled for hearing on June 10 will be accepted through the close of the hearing that day. After the hearing on all scheduled matters has been completed, there will be an opportunity for public dialogue.

Because hearings on particular projects may be postponed to allow additional time for the commission's review, interested parties are advised to check the Commission's Web site during the week immediately prior to the hearing date. Any postponements will be duly noted there.

Public Meeting. The public meeting on June 11, 2014 will begin at 12:15 p.m. and will consist of a business meeting to include the following items: adoption of the Minutes of the Commission's March 12, 2014 business meeting, announcements of upcoming meetings and events, a report on hydrologic conditions, reports by the Executive Director and the Commission's General Counsel, and consideration of any items for which a hearing has been completed or is not required.

There will be no opportunity for additional public comments at the June 10 business meeting on hearing items for which the hearing was completed on June 10 or a previous date. Commission consideration on June 11 of items for which the public hearing is closed may result in either approval of the item (docket or resolution) as proposed, approval with changes, denial, or deferral. When the Commissioners defer an action, they may announce an additional period for written comment on the item, with or without an additional hearing date, or they may take additional time to consider the input they have already received without requesting further public input. Any deferred items will be considered for action at a public meeting of the Commission on a future date.

Advance Sign-Up for Oral Comment. Individuals who wish to comment for the record at the public hearing on June 10 or to address the Commissioners informally during the public dialogue portion of the hearing on June 10 are asked to sign up in advance by contacting Ms. Paula Schmitt of the Commission staff, at *paula.schmitt@drbc.state.nj.us* or by phoning Ms. Schmitt at 609–883–9500 ext. 224.

Addresses for Written Comment. Written comment on items scheduled for hearing may be delivered by hand at

the public hearing or in advance of the hearing, either: By hand, U.S. Mail or private carrier to: Commission Secretary, P.O. Box 7360, 25 State Police Drive, West Trenton, NJ 08628; by fax to Commission Secretary, DRBC at 609–883–9522; or by email to *paula.schmitt@drbc.state.nj.us.* If submitted by email in advance of the hearing date, written comments on a docket should also be sent to Mr. William Muszynski, Manager, Water Resources Management at *william.muszynski@drbc.state.nj.us.*

Accommodations for Special Needs. Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the Commission Secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how we can accommodate your needs.

Updates. Items scheduled for hearing are occasionally postponed to allow more time for the Commission to consider them. Other meeting items also are subject to change. Please check the Commission's Web site, www.drbc.net, closer to the meeting date for changes that may be made after the deadline for filing this notice.

Additional Information, Contacts. The list of projects scheduled for hearing, with descriptions, will be posted on the Commission's Web site, *www.drbc.net*, in a long form of this notice at least ten days before the hearing date. Draft dockets and resolutions for hearing items will be available as hyperlinks from the posted notice. Additional public records relating to hearing items may be examined at the Commission's offices by appointment by contacting Carol Adamovic, 609–883–9500, ext. 249. For other questions concerning hearing items, please contact Project Review Section assistant Victoria Lawson at 609–883–9500, ext. 216.

Dated: May 19, 2014.

Pamela M. Bush,

Commission Secretary and Assistant General Counsel.

[FR Doc. 2014–12115 Filed 5–23–14; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0045]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Federal Direct Loan Program and Federal Family Education Loan Program Teacher Loan Forgiveness Forms

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before June 26, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0045 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E103, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Jon Utz, 202–377–4040.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Federal Direct Loan Program and Federal Family Education Loan Program Teacher Loan Forgiveness Forms.

OMB Control Number: 1845–0059.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 8,700.

Total Estimated Number of Annual Burden Hours: 2,871.

Abstract: These forms serve as the means by which eligible borrowers in the William D. Ford Federal Direct Loan Program and the Federal Family Education Loan Program apply for teacher loan forgiveness and request forbearance on their loans while performing qualifying teaching service. Borrowers apply for loan forgiveness after they have completed five years of qualifying teaching service at a low-income elementary school, secondary school, or educational service agency. The Teacher Loan Forgiveness Forbearance Request serves as the means by which a borrower who intends to apply for teacher loan forgiveness requests forbearance (permission to temporarily cease making payments) on the loans for which he or she is seeking forgiveness while performing the teaching service applicable that will qualify the borrower for loan forgiveness.

Dated: May 21, 2014.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–12100 Filed 5–23–14; 8:45 a.m.]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Charter Schools Program (CSP) Grants to Non-State Educational Agency (Non-SEA) Eligible Applicants for Planning, Program Design, and Initial Implementation and for Dissemination

AGENCY: Office of Innovation and Improvement, Department of Education.

ACTION: Notice.

Overview Information:

CSP Grants to Non-SEA Eligible Applicants for Planning, Program Design, and Initial Implementation and for Dissemination.

Notice inviting applications for new awards for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.282B and 84.282C.

DATES:

Applications Available: May 27, 2014.

Dates of Pre-Application Webinars (all times are Washington, DC time):

1. May 28, 2014, 10:00 a.m. to 11:30 a.m.; and
2. June 4, 2014, 2:30 p.m. to 4:00 p.m.

Deadline for Transmittal of Applications: July 11, 2014.

Deadline for Intergovernmental Review: September 24, 2014.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the CSP is to increase national understanding of the charter school model by expanding the number of high-quality charter schools available to students across the Nation; providing financial assistance for the planning, program design, and initial implementation of charter schools; and evaluating the effects of charter schools, including their effects on students, student academic achievement, staff, and parents.

This notice invites applications from non-SEA eligible applicants for two types of grants: (1) Planning, Program Design, and Initial Implementation (CFDA 84.282B); and (2) Dissemination (CFDA 84.282C). Each type of grant has its own eligibility requirements and selection criteria. Information pertaining to each type of grant is provided in subsequent sections of this notice.

Non-SEA eligible applicants are those that are qualified to participate based on requirements set forth in this notice. Non-SEA eligible applicants must be from States in which the SEA does not have an approved application under the CSP. States with approved CSP applications are Arizona, Arkansas, California, Colorado, District of Columbia, Florida, Georgia, Indiana, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Rhode Island, South Carolina, Tennessee, Texas, and Wisconsin.

Non-SEA eligible applicants that propose to use grant funds for planning, program design, and initial implementation of charter schools must apply under CFDA number 84.282B. Non-SEA eligible applicants that request funds for dissemination activities must apply under CFDA number 84.282C.

Priorities: This notice includes one absolute priority, two competitive preference priorities, and one invitational priority. The absolute priority and competitive preference priorities are from the notice of final supplemental priorities and definitions for discretionary grant programs published in the **Federal Register** on December 15, 2010 (75 FR 78486), and corrected on May 12, 2011 (76 FR 27637).

Background:

The absolute and competitive preference priorities focus this competition on assisting educationally disadvantaged students and other students—specifically students attending high-poverty schools, students with disabilities, English learners, military-connected students, and students in rural areas—in meeting State academic content standards and State student academic achievement standards.

The competitive preference priorities for students with disabilities and English learners are included for the following two reasons. First, recent reports have indicated that charter schools may be serving students with disabilities at a lower rate than traditional public schools;[1] and second, across the Nation, the number of public school students identified as English learners increased significantly from 2002 to 2010, with the 2013 National Assessment of Education Progress reports showing significant achievement gaps between English learners and their peers.[2]

The Secretary also recognizes that military-connected students often face distinct obstacles in receiving a high-quality education due to such factors as significant parental absence and frequent relocations.[3]

Lastly, the Department understands that rural schools confront their own unique challenges and seeks to encourage rural education leaders to use charter schools, as appropriate, as part of their overall school improvement efforts.

The absolute priority and competitive preference priorities are intended to encourage applicants to develop innovative projects designed to eliminate achievement gaps between the subgroups described in this notice and the highest-achieving subgroups in their States. The priorities are also intended to encourage applicants to develop innovative projects for students facing unique educational challenges.

The invitational priority builds on these goals by focusing on applicants who are designing charter schools that will attract and serve students from diverse backgrounds. The Department encourages the meaningful inclusion of diversity in charter school models, and looks to learn more about successful practices through this invitational priority.

All charter schools receiving CSP funds, as outlined in section 5210(1)(G) of the Elementary and Secondary Education Act of 1965, as amended (ESEA), must comply with various non-discrimination laws, including the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, part B of the Individuals with Disabilities Education Act (i.e., rights afforded to students with disabilities and their parents), and applicable State laws.

Absolute Priority: For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Improving Achievement and High School Graduation Rates [High-Poverty].

Accelerating learning and helping to improve high school graduation rates (as defined in this notice) and college enrollment rates in high-poverty schools (as defined in this notice).

Note 1: To meet this priority, an applicant for either a dissemination grant (CFDA 84.282C) or a planning, program design, and

[1] Government Accountability Office. GAO–12–543, June 2012. ''Additional Federal Attention Needed to Help Protect Access for Students with Disabilities,'' available online at *www.gao.gov/assets/600/591435.pdf.*

[2] U.S. Department of Education, National Center for Education Statistics. 2013. ''The Condition of Education 2013 (NCES 2013–037),'' available online at *http://nces.ed.gov/pubs2013/2013037.pdf.*

[3] The White House. January 2011. ''Strengthening Our Military Families: Meeting America's Commitment.'' Available online at *www.defense.gov/home/features/2011/0111_initiative/strengthening_our_military_january_2011.pdf.*

initial implementation grant (84.282B) whose charter school has enrolled students must demonstrate that the school is a high-poverty school (as defined in this notice) by providing enrollment data. An applicant for a planning, program design, and initial implementation grant whose charter school has not yet enrolled students must demonstrate, consistent with the definition of *high-poverty school,* that it will target for enrollment students who are eligible for free or reduced-price lunches under the Richard B. Russell National School Lunch Act or students who are from low-income families as determined using one of the criteria specified under section 1113(a)(5) of the ESEA.

Note 2: Applications approved for funding must meet the absolute priority throughout the performance period.

Competitive Preference Priorities: For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we will award up to an additional four points to an application depending on how well the application addresses *Competitive Preference Priority 1* and up to an additional three points to an application depending on how well the application addresses *Competitive Preference Priority 2.* The maximum number of points an application can receive under these priorities is seven.

Note: In order to be eligible to receive points under these competitive preference priorities, the applicant must identify the priority or priorities that it believes it addresses, provide a detailed explanation of how the project addresses the priority or priorities, and provide documentation supporting its claims.

These priorities are:

Competitive Preference Priority 1—Improving Achievement and High School Graduation Rates [Rural Students, Students with Disabilities, and English Learners] (up to 4 points).

Projects that are designed to address one or more of the following priority areas:

(a) Accelerating learning and helping to improve high school graduation rates (as defined in this notice) and college enrollment rates for students in rural local educational agencies (as defined in this notice).

(b) Accelerating learning and helping to improve high school graduation rates (as defined in this notice) and college enrollment rates for students with disabilities.

(c) Accelerating learning and helping to improve high school graduation rates (as defined in this notice) and college enrollment rates for English Learners.

Note: The Department encourages the applicant to provide a thoughtful, in-depth response to the priority area(s) to which it is well-suited to respond. Applicants may choose to respond to one or more of the priority areas and are not required to respond to each priority area in order to receive the maximum available points under this competitive preference priority.

Competitive Preference Priority 2—Support for Military Families (up to 3 points).

Projects that are designed to address the needs of military-connected students (as defined in this notice).

Note: To receive points under this priority, an applicant's project must target military-connected students who are current or prospective public charter school students. The applicant's recruitment and admissions policies and practices must comply with the State's charter school law and CSP program requirements (for information on admissions and the lottery under the CSP, see ''Charter Schools Program Nonregulatory Guidance'' at *http://www2.ed.gov/programs/charter/nonregulatory-guidance.html*).

Invitational Priority: For FY 2014 and any subsequent year in which we make awards based on the list of unfunded applicants from this competition, this priority is an invitational priority. Under 34 CFR 75.105(c)(1), we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Promoting Diversity.

The Secretary is particularly interested in applications from charter school developers planning schools, or from charter schools, that are designed to attract and serve students from diverse backgrounds, including students from different racial and ethnic groups and educationally disadvantaged students (e.g., economically disadvantaged students, students with disabilities, migrant students, English learners, neglected or delinquent students, and homeless students), as reflected in the charter school's (a) mission statement, (b) vision of the charter school, or (c) charter or performance agreement between the charter school and its authorizers.

Note: For information on permissible ways to address this priority, please refer to the joint guidance issued by the Department of Education and the Department of Justice entitled, ''Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in Elementary and Secondary Schools'' at *http://www2.ed.gov/about/offices/list/ocr/docs/guidance-ese-201111.pdf* and to Section E of the CSP Nonregulatory Guidance at *http://www2.ed.gov/programs/charter/nonregulatory-guidance.html.*

Definitions

The following definitions applicable to this competition are from the notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 15, 2010 (75 FR 78486) and corrected on May 12, 2011 (76 FR 27637); and from 34 CFR 77.1(c).

Ambitious means promoting continued, meaningful improvement for program participants or for other individuals or entities affected by the grant, or representing a significant advancement in the field of education research, practices, or methodologies. When used to describe a performance target, whether a performance target is ambitious depends upon the context of the relevant performance measure and the baseline for that measure.

Baseline means the starting point from which performance is measured and targets are set.

Graduation rate means a four-year adjusted cohort graduation rate consistent with 34 CFR 200.19(b)(1) and may also include an extended-year adjusted cohort graduation rate consistent with 34 CFR 200.19(b)(1)(v) if the State in which the proposed project is implemented has been approved by the Secretary to use such a rate under Title I of the ESEA.

Note: The regulations regarding graduation rate at 34 CFR 200.19(b)(1) require that adjusted cohort graduation rates be calculated based on the number of students who graduate with a regular high school diploma. Under 34 CFR 200.19(b)(1)(iv), the term ''regular high school diploma'' means the standard high school diploma that is awarded to students in the State and that is fully aligned with the State's academic content standards or a higher diploma and does not include a General Educational Development (GED) credential, certificate of attendance, or any alternative award.

High-poverty school means a school in which at least 50 percent of students are eligible for free or reduced-price lunches under the Richard B. Russell National School Lunch Act or in which at least 50 percent of students are from low-income families as determined using one of the criteria specified under section 1113(a)(5) of the ESEA. For middle and high schools, eligibility may be calculated on the basis of comparable data from feeder schools. Eligibility as a high-poverty school under this definition is determined on the basis of the most currently available data.

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (i.e., the active ''ingredients'' that are

hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally.

Military-connected student means: (a) A child participating in an early learning program, a student in preschool through grade 12, or a student enrolled in postsecondary education or training who has a parent or guardian on active duty in the uniformed services (as defined by 37 U.S.C. 101, in the Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard, or the reserve component of any of the aforementioned services) or (b) a student who is a veteran of the uniformed services, who is on active duty, or who is the spouse of an active-duty service member.

Performance measure means any quantitative indicator, statistic, or metric used to gauge program or project performance.

Performance target means a level of performance that an applicant would seek to meet during the course of a project or as a result of a project.

Relevant outcome means the student outcome(s) (or the ultimate outcome if not related to students) the proposed process, product, strategy, or practice is designed to improve; consistent with the specific goals of a program.

Rural local educational agency means a local educational agency (LEA) that is eligible under the Small Rural School Achievement (SRSA) program or the Rural and Low-Income School (RLIS) program authorized under Title VI, Part B of the ESEA. Eligible applicants may determine whether a particular LEA is eligible for these programs by referring to information on the Department's Web site at *http://www2.ed.gov/nclb/freedom/local/reap.html.*

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model.

Requirements: Applicants approved for funding under this competition must attend an in-person, two-day meeting for project directors during each year of the project.

Note: The applicant is encouraged to include the cost of attending this meeting in its proposed budgets.

Program Authority: 20 U.S.C. 7221–7221i.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 76, 77, 79, 80, 81, 82, 84, 86, 97, 98, and 99. (b) The Education Department suspension and debarment regulations in 2 CFR part 3485. (c) The notice of final supplemental priorities and definitions for discretionary grant programs published in the **Federal Register** on December 15, 2010 (75 FR 78486), and corrected on May 12, 2011 (76 FR 27637).

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply only to institutions of higher education.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $4,000,000.

Contingent upon the availability of funds and quality of applications, we may make additional awards in FY 2015 from the list of unfunded applications from this competition.

Note: The Consolidated Appropriations Act, 2014 states that ''funds available for part B of title V of the ESEA may be used for grants that support preschool education in charter schools.'' An application submitted under this competition may propose to use CSP funds to support preschool education in a charter school, provided that the charter school meets the definition of ''charter school'' in section 5210(1) of the ESEA, including the requirement that the charter school provide a program of elementary or secondary education, or both. Under section 9101(18) of the ESEA, ''elementary school'' means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law. In a number of States, preschool education is part of elementary education under State law. In such States, CSP funds may be used to support preschool education in charter schools (as defined in section 5210(1)) that provide elementary or secondary education beyond preschool, as well as in charter schools that provide only preschool education. In States in which preschool education is not part of elementary education under State law, CSP funds may be used to support preschool education so long as the preschool program is offered as part of a school that meets the definition of ''charter school'' in section 5210(1)—i.e., the school provides elementary or secondary education, or both. Thus, in States in which preschool education is not part of elementary education under State law, CSP funds may not be used to support charter schools that provide only preschool education. In the coming weeks, the Department plans to release nonregulatory guidance that will provide additional information about how CSP funds may be used to support preschool education in charter schools. Please continue to check the Charter Schools Program Web site for updates.

Estimated Range of Awards (84.282B): $150,000 to $250,000 per year.

Estimated Range of Awards (84.282C): $100,000 to $300,000 per year.

Estimated Average Size of Awards: $200,000 per year.

Estimated Number of Awards: 18–22.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months for planning, program design, and initial implementation grants under CFDA number 84.282B. Up to 24 months for dissemination grants under CFDA number 84.282C.

Note: For planning, program design, and initial implementation grants awarded by the Secretary to non-SEA eligible applicants under CFDA number 84.282B, no more than 18 months may be used for planning and program design and no more than 24 months may be used for the initial implementation of a charter school.

III. Eligibility Information

1. *Eligible Applicants:*

(a) *Planning, Program Design, and Initial Implementation grants (CFDA number 84.282B):* A developer that has (1) applied to an authorized public chartering authority to operate a charter school; and (2) provided adequate and timely notice to that authority under section 5203(d)(3) of the ESEA (20 U.S.C. 7221b(d)(3)). In accordance with section 5203(d)(3) of the ESEA, an applicant for a pre-charter planning grant may include, in section V of its application, a request for a waiver from the Secretary of the requirement that the eligible applicant provide its authorized public chartering authority timely notice, and a copy, of its application for CSP funds (20 U.S.C. 7221b(d)(3)).

Note: Section 5210(2) of the ESEA (20 U.S.C. 7221i(2)) defines ''developer'' as an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out. Additionally, the charter school must be located in a State with a State statute specifically authorizing the establishment of charter schools and in which the SEA does not have an application approved under the CSP.

(b) *Dissemination grants (CFDA number 84.282C):* Charter schools, as defined in section 5210(1) of the ESEA (20 U.S.C. 7221i(1)), that have been in operation for at least three consecutive years and have demonstrated overall success, including—

(1) Substantial progress in improving student academic achievement;

(2) High levels of parent satisfaction; and

(3) The management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

Note: Consistent with section 5204(f)(6) of the ESEA (20 U.S.C. 7221c(f)(6)), a charter school may apply for funds to carry out dissemination activities, whether or not the charter school previously applied for or received funds under the CSP for planning, program design, or implementation.

Note: These competitions (CFDA numbers 84.282B and 84.282C) are limited to eligible applicants in States in which the SEA does not have an approved application under the CSP (or will not have an approved application as of October 1, 2014). The following States currently have approved applications under the CSP: Arizona, Arkansas, California, Colorado, District of Columbia, Florida, Georgia, Indiana, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Rhode Island, South Carolina, Tennessee, Texas, and Wisconsin.

Eligible applicants, including charter schools, located in States with currently approved CSP applications that are interested in participating in the CSP should contact the SEA for information related to the State's CSP subgrant competition. Further information is available at *http://www2.ed.gov/about/offices/list/oii/csp/funding.html.*

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* Brian Martin, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W224, Washington, DC 20202–5970. Telephone: (202) 205–9085 or by email: *brian.martin@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the program contact person listed in this section.

2.a. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. The Secretary strongly encourages applicants to limit Part III to the equivalent of no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1'' margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

b. *Submission of Proprietary Information:*

Given the types of projects that may be proposed in applications for the CSP Non-SEA Grants for Planning, Program Design, and Initial Implementation and for Dissemination, an application may include business information that the applicant considers proprietary. The Department's regulations define ''business information'' in 34 CFR 5.11.

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you feel is exempt from disclosure under Exemption 4 of the Freedom of Information Act. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Submission Dates and Times:*

Applications Available: May 27, 2014.

Dates of Pre-Application Webinar: The Department will hold a pre-application Webinar for prospective applicants on the following dates (all times are Washington, DC time):

1. May 28, 2014, 10:00 a.m. to 11:30 a.m.; and
2. June 4, 2014, 2:30 p.m. to 4:00 p.m.

Individuals interested in attending one of the Webinars are encouraged to pre-register by emailing their name, organization, contact information, and preferred Webinar date and time with the subject heading NON-SEA PRE-APPLICATION MEETING to *Charterschools@ed.gov.* There is no registration fee for attending this Webinar.

For further information about the pre-application Webinar, contact Brian Martin, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W224, Washington, DC 20202–5970. Telephone: (202) 205–9085 or by email: *brian.martin@ed.gov.*

Deadline for Transmittal of Applications: July 11, 2014

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: September 24, 2014.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:*

Use of Funds for Post-Award Planning and Design of the Educational Program and Initial Implementation of the Charter School. A non-SEA eligible applicant receiving a grant under CFDA number 84.282B may use the grant funds only for—

(a) Post-award planning and design of the educational program, which may include (1) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and (2) professional development of teachers and other staff who will work in the charter school; and

(b) Initial implementation of the charter school, which may include (1) informing the community about the school; (2) acquiring necessary

equipment and educational materials and supplies; (3) acquiring or developing curriculum materials; and (4) other initial operational costs that cannot be met from State or local sources. (20 U.S.C. 7221c(f)(3))

Note: CSP funds awarded under CFDA number 84.282B may be used only for the planning and initial implementation of a charter school. As a general matter, the Secretary considers charter schools that have been in operation for more than three years to be past the initial implementation phase and, therefore, ineligible to receive CSP funds to support the initial implementation of a charter school.

Use of Funds for Dissemination Activities. A charter school receiving a grant under CFDA number 84.282C may use the grant funds to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as—

(a) Assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

(b) Developing partnerships with other public schools, including charter schools, designed to improve student academic achievement in each of the schools participating in the partnership;

(c) Developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

(d) Conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools. (20 U.S.C. 7221c(f)(6))

We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section in this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one-to-two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available through Grants.gov and before you can submit an application in Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the CSP, CFDA Numbers 84.282B and 84.282C, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the CSP at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.282, not 84.282B or 282C).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Brian Martin, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W224, Washington, DC 20202–5970.

FAX: (202) 205–5630.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.282B or 84.282C), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.282B or 84.282C), 550 12th Street, SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Application Requirements.* An applicant applying for CSP grant funds, under either CFDA number 84.282B or 84.282C, must address the following application requirements, which are based on section 5203(b) of the ESEA (20 U.S.C. 7221b(b)), as well as the applicable selection criteria in this notice, and may choose to respond to the application requirements in the context of its responses to the selection criteria.

(a) Describe the educational program to be implemented by the proposed charter school, including how the program will enable all students to meet challenging State student academic achievement standards, the grade levels or ages of children to be served, and the curriculum and instructional practices to be used;

Note: An applicant proposing to create or substantially expand a single-sex charter school should include in its application a detailed description of how it is complying with applicable nondiscrimination laws, including the Equal Protection Clause of the U.S. Constitution (as interpreted in United States v. Virginia, 518 U.S. 515 (1996) and other cases) and Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and its regulations, including 34 CFR 106.34(c). Specifically, the applicant should provide a written justification for a proposed single-sex charter school that explains (1) how the single-sex charter school is based on an important governmental objective(s); and (2) how the single-sex nature of the charter school is substantially related to the stated objective(s). An applicant proposing to operate a single-sex charter school that is part of an LEA and not a single-school LEA under State law, should also provide (1) information about whether there is a substantially equal single-sex school(s) for students of the excluded sex, and, if so, a detailed description of both the proposed single-sex charter school and the substantially equal single-sex school(s) based on the factors in 34 CFR 106.34(c)(3); and (2) information about whether there is a substantially equal coeducational school(s) for students of the excluded sex, and, if so, a detailed description of both the proposed single-sex charter school and the substantially equal coeducational school(s) based on the factors in 34 CFR 106.34(c)(3).

(b) Describe how the charter school will be managed;

(c) Describe the objectives of the charter school and the methods by which the charter school will determine its progress toward achieving those objectives;

Note: The applicant should review the Performance Measures section of this notice for information on the requirements for developing project-specific performance measures and targets consistent with the objectives of the proposed project. The applicant may choose to include a discussion of the project-specific performance measures and targets it develops in response to the Performance Measures requirement as part of its response to this application requirement.

(d) Describe the administrative relationship between the charter school and the authorized public chartering agency;

(e) Describe how parents and other members of the community will be involved in the planning, program design, and implementation of the charter school;

(f) Describe how the authorized public chartering agency will provide for continued operation of the charter school once the Federal grant has expired, if that agency determines that the charter school has met its objectives as described in paragraph (c) of this section;

(g) If the charter school desires the Secretary to consider waivers under the authority of the CSP, include a request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school. Each applicant for a planning, program design, and initial implementation grant under CFDA number 84.282B that is requesting a waiver of the requirement under section 5203(d)(3) of the ESEA (20 U.S.C. 7221b(d)(3)) to provide its authorized public chartering agency with notice, and a copy, of its CSP application should indicate whether it has applied for a charter previously and, if so, the name of the authorized public chartering authority and the disposition of the charter application;

(h) Describe how the grant funds will be used, including a description of how these funds will be used in conjunction with other Federal programs administered by the Secretary;

(i) Describe how students in the community will be informed about the charter school and be given an equal opportunity to attend the charter school;

Note: The applicant should provide a detailed description of its recruitment and admissions policies and practices, including a description of the lottery it plans to employ if more students apply for admission than can be accommodated. The applicant should also describe any current or planned use of a weighted lottery or exemptions of certain categories of students from the lottery and how the use of such weights or exemptions is consistent with State law and the CSP authorizing statute. For information on the CSP lottery requirement, including permissible exemptions from the lottery and the circumstances under which charter schools receiving CSP funds may use weighted lotteries, see Section E of the CSP Nonregulatory Guidance at *http://www2.ed.gov/programs/charter/nonregulatory-guidance.html.*

An applicant that proposes to use a weighted lottery should provide the following:

(1) Information concerning the circumstances in which a weighted lottery would be used, including the specific categories of students the weighted lottery would favor;

(2) Evidence that (a) the use of a weighted lottery is necessary to comply with Federal or State law; or (b) the State permits the use of a weighted lottery under the circumstances in which a weighted lottery is proposed to be used (e.g., in favor of educationally disadvantaged students). State permission to use a weighted lottery can be evidenced by the fact that weighted lotteries for such students are expressly permitted under the State charter school law, a State regulation, or a written State policy consistent with the State charter school law or regulation, or, in the

absence of express authorization, confirmation from the State's Attorney General, in writing, that State law permits the use of weighted lotteries in favor of such students;

(3) Information concerning the mechanisms that exist (if any) for an oversight entity (e.g., the SEA or an authorized public chartering agency) to review, approve, or monitor specific lottery practices, including the establishment of weight amounts if applicable;

(4) Information concerning how the use of a weighted lottery for a permitted purpose is within the scope and objectives of the proposed project; and

(5) Information concerning the amount or range of lottery weights that will be employed or permitted and the rationale for these weights.

(j) Describe how a charter school that is considered an LEA under State law, or an LEA in which a charter school is located, will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act (IDEA)(for additional information on IDEA, please see *http://idea.ed.gov/explore/view/p/%2Croot%2Cstatute%2CI%2CB%2C613%2C)*; and

(k) If the eligible applicant desires to use grant funds for dissemination activities under section 5202(c)(2)(c) of the ESEA (20 U.S.C 7221a(c)(2)(C)), describe those activities and how those activities will involve charter schools and other public schools, LEAs, charter school developers, and potential charter school developers.

2. *Selection Criteria:* The selection criteria for this competition are from sections 5203, 5204, and 5210 of the ESEA (20 U.S.C. 7221b, 7221c, and 7221i) and 34 CFR 75.210.

The selection criteria for applicants submitting applications under CFDA number 84.282B are listed in paragraph (a) of this section, and the selection criteria for applicants submitting applications under CFDA number 84.282C are listed in paragraph (b) of this section.

(a) *Selection Criteria for Planning, Program Design, and Initial Implementation Grants (CFDA number 84.282B).*

The following selection criteria are based on sections 5203, 5204, and 5210 of the ESEA (20 U.S.C. 7221b, 7221c, and 7221i) and 34 CFR 75.210. The maximum possible score for addressing all of the criteria in this section is 100 points. The maximum possible score for addressing each criterion is indicated in parentheses following the criterion. In evaluating an application for a planning, program design, and implementation grant, the Secretary considers the following criteria:

(1) *Quality of the proposed curriculum and instructional practices (20 U.S.C. 7221c(b)(1)) (up to 15 points).*

Note: The Secretary encourages the applicant to describe the quality of the educational program to be implemented by the proposed charter school, including: how the program will enable all students to meet challenging State student academic achievement and content standards; the grade levels or ages of students to be served; and the curriculum and instructional practices to be used. If the curriculum and instructional practices have been successfully used in other schools operated or managed by the applicant, the Secretary encourages the applicant to describe the implementation of such practices and the academic results achieved.

(2) *The extent to which the proposed project will assist educationally disadvantaged students in meeting State academic content standards and State student academic achievement standards (20 U.S.C. 7221c(a)(1)) (up to 5 points).*

(3) *The quality of the strategy for assessing achievement of the charter school's objectives (20 U.S.C. 7221c(a)(4)) (up to 15 points).*

Note: The Secretary encourages the applicant to propose a comprehensive plan for assessing the achievement of the charter school's objectives, including developing performance measures and performance targets for its proposed grant project that are consistent with those objectives. The applicant should clearly identify the project-specific performance measures and performance targets in its plan and should review the Performance Measures section of this notice for information on the requirements for developing those performance measures and performance targets consistent with the objectives of the proposed project. The applicant may choose to include a discussion of the project-specific performance measures and targets it develops in response to the Performance Measures requirements when addressing this criterion.

(4) *The extent of community support and parental and community involvement (20 U.S.C. 7221c(b)(3); 20 U.S.C. 7221b(b)(3)(E)) (up to 10 points).*

The Secretary considers the extent of community support for, and parental and community involvement in, the charter school. In determining the extent of community support for, and parental and community involvement in, the charter school, the Secretary considers—

(i) The extent of community support for the application (up to 5 points); and

(ii) The extent to which the proposed project encourages parental and community involvement in the planning, program design, and implementation of the charter school (up to 5 points).

Note: In describing the extent to which the proposed project encourages parental and community involvement in the planning, program design, and implementation of the charter school, the Secretary encourages the applicant to describe how parents and other members of the community will be informed about the charter school and how students will be given an equal opportunity to attend the charter school.

(5) *Quality of project personnel (34 CFR 75.210(e)(1), (e)(2), and (e)(3)(ii)) (up to 22 points).*

(i) The Secretary considers the quality of the personnel who will carry out the proposed project.

(ii) In determining the quality of project personnel, the Secretary considers—

(A) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (up to 2 points); and

(B) The qualifications, including relevant training and experience, of key project personnel (up to 20 points).

Note: The Secretary encourages the applicant to provide evidence of the key project personnel's skills, experience, and success in the following areas: launching a high-quality charter school; developing an innovative school design; managing or leading a non-profit organization; establishing or maintaining school governance by a board of trustees; developing and implementing an effective curriculum; recruiting and evaluating effective educators; and strengthening fiscal management.

(6) *Quality of the management plan (34 CFR 75.210(g)(1) and (g)(2)(i)) (up to 15 points).*

(i) The Secretary considers the quality of the management plan for the proposed project.

(ii) In determining the quality of the management plan for the proposed project, the Secretary considers the adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(7) *Existence and quality of a charter or performance contract between the charter school and its authorized public chartering agency (20 U.S.C. 7221i(1)(L)) (up to 15 points).*

The existence of a written charter or performance contract between the charter school and its authorized public chartering agency and the extent to which the charter or performance

contract describes how student performance will be measured in the charter school pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

Note: The applicant is encouraged to submit a copy of its approved charter or performance contract. If the applicant has had an application for a charter denied, the applicant should describe the circumstances surrounding such denial and how it plans to revise the charter application before resubmitting it to the authorized public chartering agency.

(8) *The degree of flexibility afforded by the SEA and, if applicable, the LEA to the charter school (20 U.S.C. 7721c(b)(2)) (up to 3 points).*

Note: The Secretary encourages the applicant to describe the flexibility afforded under its State's charter school law in terms of establishing an administrative relationship between the charter school and the authorized public chartering agency, and whether charter schools are exempt from significant State or local rules that inhibit the flexible operation and management of public schools.

The Secretary also encourages the applicant to include a description of the degree of autonomy the charter school will have over such matters as the charter school's budget, expenditures, daily operations, curriculum, and personnel in accordance with its State's charter school law.

(b) *Selection Criteria for Dissemination Grants (CFDA number 84.282C).*

The following selection criteria are based on sections 5204 and 5210(1)(L) of the ESEA (20 U.S.C. 7221c and 7221i(1)(L)) and from 34 CFR 75.210. The maximum possible score for addressing all the criteria in this section is 100 points. The maximum possible score for addressing each criterion is indicated in parentheses following the criterion. In evaluating an application for a dissemination grant, the Secretary considers the following criteria:

(1) *Quality of project design (34 CFR 75.210(c)(1) and (c)(2)(xxix) and 20 U.S.C. 7221c(b)(7)) (up to 20 points).*

(i) The Secretary considers the quality of the design of the proposed project.

(ii) In determining the quality of the design of the proposed project, the Secretary considers the following factors—

(A) The quality of the proposed dissemination activities and the likelihood that those activities will improve student achievement (up to 10 points).

Note: The Secretary encourages the applicant to describe the objectives for the proposed dissemination activities and the methods by which the charter school will determine its progress toward achieving those objectives. The applicant should review the Performance Measures section of this notice for information on the requirements for developing project-specific performance measures and targets consistent with those objectives. The applicant may choose to include a discussion of the project-specific performance measures and targets it develops in response to the Performance Measures requirements when addressing this criterion.

(B) The extent to which the proposed project is supported by strong theory (as defined in 34 CFR 77.1(c)) (up to 10 points).

(2) *Existence of a charter or performance contract between the charter school and its authorized public chartering agency (20 U.S.C. 7221i(1)(L)) (up to 1 point).*

The existence of a written charter or performance contract between the charter school and its authorized public chartering agency and how the charter or performance contract requires student performance to be measured in the charter school pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

(3) *Demonstration of success (20 U.S.C. 7221c(f)(6)(A)) (up to 35 points).*

The extent to which the school has demonstrated overall success, including—

(i) Substantial progress in improving student academic achievement (up to 25 points);

(ii) High levels of parent satisfaction (up to 5 points); and

(iii) The management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school (up to 5 points).

Note: The Secretary encourages the applicant to provide performance data (both school-wide and by subgroup) for the past three years on State assessments as compared to all students in other schools in the State at the same grade level, and as compared to other schools serving similar populations of students (while maintaining the appropriate standards that protect personally identifiable information).

The Secretary also encourages the applicant to provide its most recent State or LEA Report Card.

(4) *Dissemination strategy (34 CFR 75.210(b)(2)(xii)) (up to 15 points).*

(i) The Secretary considers the significance of the proposed project.

(ii) In determining the significance of the proposed project, the Secretary considers the extent to which the results of the proposed project are to be disseminated in ways that will enable others to use the information or strategies.

(5) *Quality of project personnel (34 CFR 75.210(e)(1), (e)(2), and (e)(3)(i)) (up to 14 points).*

(i) The Secretary considers the quality of the personnel who will carry out the proposed project.

(ii) In determining the quality of project personnel, the Secretary considers—

(A) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (up to 3 points); and

(B) The qualifications, including relevant training and experience, of the project director or principal investigator (up to 11 points).

(6) *Quality of the management plan (34 CFR 75.210 (g)(1) and (g)(2)(i)) (up to 15 points).*

(i) The Secretary considers the quality of the management plan for the proposed project.

(ii) In determining the quality of the management plan for the proposed project, the Secretary considers the adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

3. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

4. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not

financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN), or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:*

(a) Program Performance Measures. The goal of the CSP is to support the creation and development of a large number of high-quality charter schools that are free from State or local rules that inhibit flexible operation, are held accountable for enabling students to reach challenging State performance standards, and are open to all students. The Secretary has two performance indicators to measure progress toward this goal: (1) The number of charter schools in operation around the Nation, and (2) the percentage of fourth- and eighth-grade charter school students who are achieving at or above the proficient level on State assessments in mathematics and reading/language arts. Additionally, the Secretary has established the following measure to examine the efficiency of the CSP: Federal cost per student in implementing a successful school (defined as a school in operation for three or more consecutive years).

All grantees must submit an annual performance report with information that is responsive to these performance measures.

(b) Project-Specific Performance Measures. Applicants must propose project-specific performance measures and performance targets consistent with the objectives of the proposed project. Applications must provide the following information as required under 34 CFR 75.110(b) and (c):

(1) Performance measures. How each proposed performance measure would accurately measure the performance of the project and how the proposed performance measure would be consistent with the performance measures established for the program funding the competition.

(2) Baseline data. (i) Why each proposed baseline is valid; or (ii) If the applicant has determined that there are no established baseline data for a particular performance measure, an explanation of why there is no established baseline and of how and when, during the project period, the applicant would establish a valid baseline for the performance measure.

(3) Performance targets. Why each proposed performance target is ambitious yet achievable compared to the baseline for the performance measure and when, during the project period, the applicant would meet the performance target(s).

Note: The Secretary encourages the applicant to consider measures and targets tied to its grant activities (for instance, if grant funds will support professional development for teachers and other staff, the applicant should include measures related to the outcomes for the professional development), as well as to student academic achievement during the grant period. The measures should be sufficient to gauge the progress throughout the grant period, show results by the end of the grant period, and be included in the logic model supporting a strong theory under Selection Criterion 7, *Quality of project design,* for Dissemination Grants (CFDA number 84.282C).

For technical assistance in developing effective performance measures, applicants are encouraged to review information provided by the Department's Regional Educational Laboratories (RELs). The RELs seek to build the capacity of States and school districts to incorporate data and research into education decision-making. Each REL provides research support and technical assistance to its region but makes learning opportunities available to educators everywhere. For example, the REL Northeast and Islands has created the following resource on logic models: *http://relpacific.mcrel.org/ELM.html.*

(3) Data Collection and Reporting. The applicant must also describe in the application: (i) the data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data, and (ii) the applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection, analysis, and reporting in other projects or research.

Note: If the applicant does not have experience with the collection and reporting of performance data through other projects or research, the applicant should provide other evidence of its capacity to successfully carry out data collection and reporting for the proposed project.

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Erin Pfeltz, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W228, Washington, DC 20202–5970; or Brian Martin, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W224, Washington, DC 20202–5970. Emails and telephone numbers:

erin.pfeltz@ed.gov or (202) 205–3525; *brian.martin@ed.gov* or (202) 205–9085.

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 21, 2014.

Nadya Chinoy Dabby,

Associate Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 2014–12161 Filed 5–23–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 13–69–LNG]

Venture Global LNG, LLC; Application for Long-Term Authorization to Export Liquefied Natural Gas Produced from Domestic Natural Gas Resources to Non-Free Trade Agreement Countries for a 25-Year Period

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application), filed on May 13, 2013, by Venture Global LNG, LLC (Venture Global), requesting long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG) [1] in a volume up to 5 million metric tons per year (mtpa), which is equivalent to approximately 243.6 billion cubic feet per year (Bcf/yr) of natural gas, or 0.67 Bcf per day (Bcf/d).[2] Venture Global seeks authorization to export the LNG by vessel [3] from the proposed Venture Global LNG Project (Project), a natural gas liquefaction and LNG export terminal to be located along the Calcasieu Ship Channel in Cameron Parish, Louisiana. Venture Global requests authorization to export this LNG for a 25-year term commencing on the earlier of the date of first export or eight years from the date the authorization is granted.

In the portion of Venture Global's Application subject to this Notice, Venture Global requests authorization to export LNG to any country with which the United States does not have a free trade agreement (FTA) requiring national treatment for trade in natural gas (non-FTA countries), and with which trade is not prohibited by U.S. law or policy. Venture Global requests this authorization both on its own behalf and as agent for other parties who hold title to the LNG at the time of export. The Application was filed under section 3 of the Natural Gas Act (NGA). Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, June 26, 2014.

ADDRESSES:

Electronic Filing by email

fergas@hq.doe.gov

Regular Mail

U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.)

U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585

FOR FURTHER INFORMATION CONTACT:

Larine Moore or Marc Talbert, U.S. Department of Energy (FE–34) Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., ≤ Washington, DC 20585, (202) 586–9478; (202) 586–9387

Cassandra Bernstein, U.S. Department of Energy (GC–76) Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9793

SUPPLEMENTARY INFORMATION:

Background

Applicant. Venture Global states that it is a Delaware limited liability company with its principal place of business in Washington, DC. Venture Global further states that it is wholly owned by its sole member, Venture Global Partners, LLC (VGP), which in turn is fifty percent owned and controlled by each of Robert B. Pender and Michael A. Sabel. Venture Global states that VGP and its affiliates, including Venture Global, are working to develop LNG liquefaction, export, import, storage, and re-gasification terminals, among other initiatives. Venture Global states that with the exception of its parent, VGP, and its affiliate, Venture Global Power, LLC,[4] Venture Global is not currently affiliated with any other energy company or governmental organization.

Procedural History. In the portion of the Application not subject to this Notice, Venture Global sought authorization to export LNG from the Project to FTA countries (*i.e.,* countries with which the United States currently has, or in the future will have, a free trade agreement requiring national treatment for trade in natural gas) [5] in a

[1] The Application states that Venture Global also seeks authority to export previously imported LNG, but by email dated September 13, 2013, Venture Global informed DOE/FE that it no longer seeks that authority. Rather, it seeks only to export domestically produced LNG, as stated above.

[2] Applicants are required to provide volumes of natural gas in Bcf, 10 CFR 590.202(b)(1), and therefore DOE/FE will address Venture Global's requested authorization in Bcf/yr.

[3] As discussed below, Venture Global informed DOE/FE by letter dated December 12, 2013, that it seeks authority to export LNG only by loading the LNG directly onto vessels, not also by using LNG containers transported on vessels, as the Application stated. *See* Ltr. From J. Patrick Nevins, Counsel to Venture Global LNG, LLC, to John Anders, U.S. Dep't of Energy, FE Docket No. 13–69–LNG (Dec. 12, 2013) [hereinafter Venture Global Ltr.].

[4] According to Venture Global, Venture Global Power, LLC is an affiliate of VGP and Venture Global. It is majority owned and controlled by Robert B. Pender and Michael A. Sabel.

[5] The United States currently has FTAs requiring national treatment for trade in natural gas with

Continued

volume equivalent to approximately 243.6 Bcf/yr of natural gas (0.67 Bcf/d)—the same volume requested for export to non-FTA countries. DOE/FE granted the FTA authorization on September 27, 2013, in DOE/FE Order No. 3345.[6] Venture Global states that the FTA and requested non-FTA volumes of LNG are for the same volume of natural gas and thus are not additive.

Liquefaction Project. Venture Global seeks long-term authorization to export LNG from the Project, which it states is a proposed mid-scale natural gas liquefaction and export terminal to be located at the entrance of the Calcasieu Ship Channel in Cameron Parish, Louisiana. Venture Global states that it is currently developing the Project.

In the Application, Venture Global states that it has executed an agreement for the exclusive right to lease approximately 69 acres for the Project site.[7] Subsequently, by letter to DOE/FE dated December 13, 2013, Venture Global informed DOE/FE that the original lease agreement referenced in the Application has been superseded by two definitive Lease Option Agreements, one for 59 acres and one for 10 acres.[8] Venture Global states that this land encompasses the same contiguous 69 acres covered by the original lease agreement. In the letter, Venture Global further states that it has entered into a third Lease Option agreement, for an additional 40 acres contiguous with the original 69 acres.[9] Thus, according to Venture Global, it currently holds options to acquire a project site totaling 109 acres.

Current Application

Venture Global seeks to export domestically produced LNG in a total volume equivalent to approximately 243.6 Bcf/yr of natural gas, or 0.67 Bcf/d. Venture Global states that it plans to export the LNG from the Project to any non-FTA country which has developed or in the future develops the capacity to import LNG, and with which trade is not prohibited by U.S. law or policy. Venture Global requests this authorization for a 25-year term commencing on the earlier of the date of first export or eight years from the date the requested authorization is granted.

Venture Global seeks to export the requested LNG on its own behalf and as agent for third parties who hold title to the LNG at the time of export. Venture Global states that these third parties may include its ''Contract Parties,'' which Venture Global states are both (i) reputable, experienced, and credit-worthy international companies focusing on global infrastructure that will provide equity and project finance debt, and (ii) international energy and logistics companies that are experts in various aspects of natural gas and LNG businesses (including liquefaction, marine transportation, LNG terminal, LNG storage and regasification, and power generation businesses).[10]

Venture Global states that it will comply with all DOE/FE requirements for exporters and agents as set forth in recent DOE/FE orders, including registering each LNG title holder for whom Venture Global seeks to export as agent. Venture Global proposes that this registration include a written statement by the title holder acknowledging and agreeing to comply with all applicable requirements set forth in Venture Global's export authorization, and to include those requirements in any subsequent purchase or sale agreement entered into by that title holder.

Venture Global states that either directly, together with, or through one or more of its Contract Parties, Venture Global plans to procure natural gas supplies in the United States for liquefaction and export from the Project to supply its international projects. Venture Global also will arrange for the transportation of the LNG to LNG import facilities via ocean-going carriers.[11]

Venture Global states that it has projects under development in multiple countries. It emphasizes its discussions with the Republic of Haiti (a non-FTA country) for the potential delivery of approximately 200,000 to 350,000 metric tons per annum over the project term to serve power generation and related energy needs in the Republic of Haiti. According to Venture Global, if it receives the requested non-FTA export authorization, it intends to dedicate this portion of the total authorized volume of LNG to deliveries from the Project to the Republic of Haiti (one of the poorest countries in the world)—a proposal that Venture Globe states is a unique and significant benefit in the public interest.

Venture Global states that it seeks authorization to export LNG produced from the United States natural gas supply and transmission network. Venture Global states that natural gas will be procured from the interstate and intrastate natural gas grid at points of liquidity upstream from the Project. Venture Global states that the Project site is located in close proximity to various interstate and intrastate pipeline systems, including those of Tennessee Gas Pipeline Company, ANR Pipeline Company, Bridgeline Holdings, L.P., Columbia Gulf Transmission Company, and Natural Gas Pipeline Company of America. Venture Global anticipates that the Project will be connected to one or more of these (or other) interstate or Louisiana intrastate pipeline systems through newly constructed, relatively short lateral pipeline(s). Venture Global further states that access to the pipeline grid will enable it to purchase natural gas from multiple sources of conventional and non-conventional U.S. production. Venture Global states that such supplies could be produced across the Gulf Coast region, both onshore and offshore, including traditional production regions and supplies produced from onshore shale formations, including the Barnett, Haynesville, and Bossier shale gas formations. Venture Global states that this supply may be sourced in requisite volumes in the spot market or pursued under long-term arrangements. Venture Global commits to filing all executed long-term purchase agreements with DOE/FE under seal, as set forth in recent DOE/FE orders.[12]

Public Interest Considerations

Venture Global states that the proposed export of LNG to non-FTA countries is consistent with the public interest under section 3(a) of the NGA, 15 U.S.C. 717b(a). In support of this position, Venture Global discusses: (i) The domestic need for the LNG proposed to be exported; (ii) domestic

Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas.

[6] *Venture Global LNG, LLC,* DOE/FE Order No. 3345, Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Proposed Export Venture Global LNG Project in Cameron Parish, Louisiana to Free Trade Agreement Nations (Sept. 27, 2013).

[7] The Project site lease agreement is attached, in redacted form, to Venture Global's Application as Exhibit D.

[8] *See* Venture Global Ltr., at 1.

[9] Copies of the three executed Lease Option Agreements, in redacted form, are attached to the Venture Global Letter.

[10] App. at 5.

[11] As noted above, the Application states that Venture Global intends to export LNG ''either directly or by use of approved LNG containers transported on ocean-going carriers'' (App. at 4), but Venture Global later clarified that it no longer seeks authority to export LNG using LNG containers. Venture Global Ltr. at 1.

[12] DOE/FE has previously determined that this commitment meets the requirements of 10 CFR 590.202(b), which requires applicants to supply transaction-specific information ''to the extent practicable.'' *See, e.g., Sabine Pass Liquefaction, LLC,* DOE/FE Order No. 2833, Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Sabine Pass LNG Terminal to Free Trade Nations, at 5–6 (Sept. 7, 2010).

energy security and international impacts, including its plan to devote a portion of the exports from its Project to the Republic of Haiti; and (iii) other public benefits associated with its proposed exports, including impacts on the price of U.S. natural gas, environmental benefits, benefits to national security and foreign relations, and economic benefits.

Focusing on domestic need for the LNG, Venture Global states that domestic natural gas resources are abundant, environmentally friendly, and affordable. It asserts that domestic resources are sufficient to meet both the domestic consumption demand and any expected level of LNG exports—including those proposed by Venture Global—in the long-term. According to Venture Global, recent technological developments in the natural gas industry have led to significant increases in domestically-produced natural gas, particularly with regard to non-conventional production from onshore shale formations. Citing data from the U.S. Energy Information Administration (EIA), Venture Global states that total dry natural gas production in the United States was approximately 24.04 trillion cubic feet (Tcf) in 2011—the highest level in U.S. history to that point and an increase of approximately 27% compared to production of approximately 18.05 Tcf in 2005.[13]

Focusing on projections from EIA's Annual Energy Outlook 2013 Early Release (AEO 2013 Early Release),[14] Venture Global states that U.S. production will continue to increase significantly in the coming years. According to Venture Global, the Reference Case in the AEO 2013 Early Release projects that domestic dry gas production will increase to 33.14 Tcf by 2040,[15] an increase of 44% compared to the 2011 production levels. Citing this data, Venture Global contends that the United States will become a net exporter of LNG in 2016 and a net exporter of natural gas in 2020.[16] Venture Global further contends that, while domestic gas consumption is expected to increase over time and reach 29.83 Tcf in 2040, U.S. supply will grow faster, leading to increasing levels of excess supply over time.

Venture Global asserts that the increase in U.S. gas reserves in recent years has been as dramatic as the growth in production. According to Venture Global, EIA estimated proved dry natural gas reserves of approximately 304.6 Tcf as of year-end 2010—the largest level in U.S. history and an increase of roughly one-third compared to EIA's estimate of proved reserves of 204.4 Tcf as of 2005.[17]

Venture Global next states that the Potential Gas Committee, in its biennial report on potential U.S. supplies, concluded that the United States possesses a technically recoverable natural gas resource potential of 2,384 Tcf, the highest resource evaluation in the Potential Gas Committee's 48-year history.[18] Venture Global states that when the Potential Gas Committee's latest results are combined with EIA's latest available determination of proved dry-gas reserves (304.6 Tcf for 2010), the United States has a total available future supply of 2,688.5 Tcf, representing an increase of 486.1 Tcf over the Potential Gas Committee's evaluation in 2010.

Venture Global contends that, for purposes of comparison with current reserves, total U.S. gas consumption in 2011 was approximately 25.5 Tcf, meaning that the total available supply exceeds 105 years of the 2011 consumption levels. Venture Global asserts that, even if EIA's forecast for total consumption in 2040 (29.83 Tcf) is used for comparison, the current supply is equivalent to more than 90 years of consumption.

Venture Global further states that numerous reports have projected sufficient volumes of domestic natural gas to meet both domestic demand and LNG exports.[19] Citing the 2012 study conducted by NERA Economic Consulting (NERA) as part of DOE's LNG Export Study,[20] Venture Global states that LNG exports will provide a net economic benefit to the United States, regardless of the amount of LNG exported from the United States.

Venture Global maintains that it seeks to export relatively small volumes of LNG, as compared to other long-term LNG export applications granted by or pending before DOE/FE. Further, Venture Global states that its proposed volume of LNG—equivalent to approximately 243.6 Bcf/yr of natural gas—is *de minimis* in the national gas market, where growing supplies are far in excess of that domestic need. Venture Global states that, given the current and projected amounts of domestic supply and demand of natural gas described above, its proposed export authorization will not have a negative impact on domestic needs for natural gas and therefore is not inconsistent with the public interest.

Venture Global also contends that its proposed export volumes to non-FTA countries are sufficiently small that they will have a minimal effect, if any, on domestic energy supply. Further, according to Venture Global, the NERA study and other studies have demonstrated that the proposed export of LNG will not have a substantial impact on the domestic price of natural gas. Additional details can be found in Venture Global's Application, which is posted on the DOE/FE Web site at: *http://www.fossil.energy.gov/programs/gasregulation/authorizations/2013_applications/13_69_lng.pdf*

Environmental Impact

According to Venture Global, a grant of the Application would not constitute a federal action significantly affecting the human environment within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.* Venture Global states that it will be seeking all necessary federal, state, and local permits to construct the necessary export facilities for the Project. Once plans for the Project are developed further, it will request permission to commence the Federal Energy Regulatory Commission's (FERC) mandatory pre-filing process under NEPA and will file an application for the necessary FERC authorization for the construction and operation of its facilities. Venture Global states that, consistent with prior orders by DOE/FE, the requested authorization should be conditioned on its receipt of all necessary FERC authorizations of the facilities needed for the export of LNG.

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3(a) of the NGA, 15 U.S.C. 717b(a), and DOE will consider any issues required by law or policy. To the extent determined to be relevant, these issues will include the domestic need for the natural gas proposed to be exported, the adequacy of domestic natural gas supply, U.S. energy security, and the cumulative impact of the requested authorization and any other

[13] *See http://www.eia.gov/dnav/ng/hist/n9070us2a.htm.*

[14] U.S. Energy Information Administration, Annual Energy Outlook 2013 with Projections to 2040 (April 2013), *available at: http://www.eia.gov/forecasts/aeo/pdf/0383(2013).pdf.*

[15] *Id.,* EIA, 2013 AEO Early Release at Table A1.

[16] *Id.,* EIA, 2013 AEO Early Release at 11.

[17] *See http://www.eia.gov/dnav/ng/hist/rngr11nus_1a.htm.*

[18] *See http://potentialgas.org/press-release.*

[19] *See, e.g.,* Deloitte Center for Energy Solutions and Deloitte Market Point LLC, Made in America—The Economic Impact of LNG Exports from the Unites States, *available at: http://www.deloitte.com/view/en_US/us/Industries/oil-gas/9f70dd1cc9324310VgnVCM1000001a56f00aRCRD.htm.*

[20] Macroeconomic Impacts of LNG Export from the Unites States, NERA Economic Consulting, *available at: http://www.fossil.energy.gov/programs/gasregulation/reports/nera_lng_report.pdf.*

LNG export application(s) previously approved on domestic natural gas supply and demand fundamentals. DOE may also consider other factors bearing on the public interest, including the impact of the proposed exports on the U.S. economy (including GDP, consumers, and industry), job creation, the U.S. balance of trade, and international considerations; and whether the authorization is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this Application should address these issues in their comments and/or protests, as well as other issues deemed relevant to the Application.

NEPA requires DOE to give appropriate consideration to the environmental effects of its decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Due to the complexity of the issues raised by the Applicant, interested persons will be provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, notices of intervention, or motions for additional procedures.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention, as applicable. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 13–69–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Oil and Gas Global Security and Supply at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Oil and Gas Global Supply at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 13–69–LNG.

Please Note: If submitting a filing via email, please include all related documents and attachments (e.g., exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Division of Natural Gas Regulatory Activities docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on May 20, 2014.

John A. Anderson,

Director, Division of Natural Gas Regulatory Activities, Office of Oil and Gas Global Security and Supply, Office of Oil and Natural Gas.

[FR Doc. 2014–12210 Filed 5–23–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Crystal Springs Hatchery Program

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS) and notice of floodplain and wetlands assessment.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), BPA intends to prepare an EIS on its decision whether to fund the Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho (Tribes) proposal to construct and operate a hatchery for spring/summer Chinook salmon in the Salmon River subbasin and Yellowstone cutthroat trout in the Upper Snake River subbasin on Fort Hall Reservation.

The Tribes' proposed project that BPA is considering funding would involve construction of a hatchery and construction of two fish trapping (weir) facilities on US Forest Service (USFS) land. The hatchery would be constructed at the site of an obsolete trout hatchery owned by BPA on Crystal Springs in Bingham County, Idaho. The weirs would involve construction of a weir in the Yankee Fork of the Salmon River at the USFS Pole Flat Campground in Custer County, relocation of a section of Yankee Fork Road and associated facilities (RV pads), and construction of a weir on USFS land in Panther Creek in Lemhi County, Idaho. The USFS will be a cooperating agency on this EIS to inform their decision on whether to grant a special use permit for construction and operation of the two weirs and associated facilities and relocation of the road on forest service lands.

Operations of the hatchery would include collection of adult spring/summer Chinook for broodstock from existing hatcheries, incubation and rearing of juvenile Chinook, and release of smolts into the Yankee Fork and

Panther Creek. Over time, broodstock would be collected at the Yankee Fork and Panther Creek weirs. Chinook were extirpated from Panther Creek in the mid-1900s. In 1992, Chinook salmon native to Yankee Fork were listed as threatened under the Endangered Species Act (ESA); currently the population is classified at high risk of extinction and has been identified as an independent population of Snake River spring/summer Chinook salmon. The proposal would augment anadromous fish populations available for harvest and aid in establishing a naturally spawning Chinook population.

The hatchery would also produce up to 5,000 resident Yellowstone cutthroat trout for release in an isolated oxbow lake within the Fort Hall Reservation permit fishing area in the upper Snake River subbasin. Biologists would monitor Chinook salmon in Yankee Fork and Panther Creek and Yellowstone cutthroat trout in the oxbow lake to inform decisions on hatchery operations.

With this Notice of Intent, BPA is initiating the public scoping process for the EIS. BPA and the USFS are requesting comments about potential environmental impacts that should be considered as an EIS is prepared.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements, BPA will prepare a floodplain and wetlands assessment to avoid or minimize potential harm to or within any affected floodplains and wetlands. The assessment will be included in the EIS.

DATES: Written comments are due to the ad dress below no later than July 7, 2014. Comments may also be made at one of the three EIS scoping meetings to be held on June 10, 2014, June 11, 2014, and June 12, 2014 at the addresses below.

ADDRESSES: Comments on the proposed scope of the Draft EIS for funding this Tribal project and requests to be placed on the project mailing list may be mailed by letter to Bonneville Power Administration, Public Affairs Office—DKE–7, P.O. Box 14428, Portland, OR 97292–4428, or by fax to 503–230–4019. You also may call BPA's toll-free comment line at 1–800–622–4519 and leave a message (please include the name of this project), or submit comments online at *www.bpa.gov/comment*. All comment letters will be available via the project Web site at *www.bpa.gov/goto/CrystalSprings.*

On June 10, 2014, a scoping meeting will be held from 6:00 p.m. to 8:00 p.m. at the Shoshone-Bannock Hotel & Events Center, I–15 Exit 80, Simplot Rd, Fort Hall, Idaho 83203. Additional scoping meetings will be held on June 11, 2014 from 6:00 p.m. to 8:00 p.m. at the USFS Office, 1206 S. Challis Street Salmon, ID; and on June 12, 2014 from 6:00 p.m. to 8:00 p.m. at the USFS Office, 311 N. US HWY 93, Challis, ID. At these informal open-house meetings, we will have project information, maps, and members of the project team available to answer questions and accept verbal and written comments.

Forest Service Objection Process: The final EIS and USFS draft decision will be completed and mailed to those who have submitted comments, and to those who have requested to be included on the project mailing list. A copy of the final EIS and draft decision is planned to be mailed in early 2016.

The project implements land management plans and is not authorized under the Healthy Forest Restoration Act and is subject to 36 Code of **Federal Register** (CFR) 218.7 (a) and (b). There will be an objection process before the final USFS decision is made and after the final EIS and draft decision are mailed (reference 36 CFR part 218). In order to be eligible to file an objection, specific written comments related to the project must be submitted during scoping, by the comment period on the draft EIS in accordance with procedures in 40 CFR 1506.10, and any other periods public comment is specifically requested on this EIS (36 CFR 218.5). Individual members of organizations must have submitted their own comments to meet the requirements of eligibility as an individual. Objections received on behalf of an organization are considered as those of the organization only. Names and addresses of those who comment and/or file objections will become part of the public record.

For more information on how the objection process works for projects and activities implementing land and resource management plans and the requirements, contact Mary Hammer at 208–756–5109, email marylhammer@fs.fed.us, or you may read the regulations under 36 CFR part 218, subparts A and B on the National Forest Service Web site at *http://www.gpo.gov/fdsys/pkg/FR-2013-03-27/pdf/2013-06857.pdf.*

The environmental analysis will be mailed out to those who respond to this notice of intent, the scoping letter, to those who have requested the document, or are eligible to file an objection in accordance with 36 CFR 218.5(a).

FOR FURTHER INFORMATION CONTACT: Don Rose, Environmental Coordinator, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon 97208–3621; toll-free telephone 1–800–282–3713; direct telephone 503–230–3796; or email *dlrose@bpa.gov* or Joe DeHerrera, Project Manager, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon, 97208–3621; toll-free telephone number 1–800–622–4519; fax number 503–230–5699; email *jldeherrera@bpa.gov*. For questions specifically for the USFS, contact Mary Hammer at 208–756–5109, or email at *marylhammer@fs.fed.us*. Additional information can be found at the project Web site: *www.bpa.gov/goto/CrystalSprings.*

SUPPLEMENTARY INFORMATION: BPA's funding of the Tribes' project would support efforts to protect, mitigate, and enhance fish and wildlife affected by the development and operation of the Federal Columbia River Power System in the mainstem Columbia River and its tributaries pursuant to the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (Act) (16 U.S.C. 839b(h)(10)). The Act requires BPA to fund fish and wildlife protection, mitigation, and enhancement actions consistent with the Northwest Power and Conservation Council's (Council) Fish and Wildlife Program and the purposes of the Act. Under this program, the Council makes recommendations to BPA concerning which fish and wildlife projects to fund. The Tribes' proposed project is one of those projects recommended to BPA by the Council. BPA obligated to fund the Tribes' proposed project in the 2008 Shoshone-Bannock Tribes Fish Accord Memorandum of Agreement, and made funding contingent on satisfactory completion of applicable environmental compliance, such as NEPA. The Tribes's proposal is also consistent with BPA's Fish and Wildlife Implementation Plan policy which calls for protecting weak stocks, like the Salmon River spring/summer Chinook, while sustaining overall populations of fish for their economic and cultural value, including long-term harvest opportunities.

The Tribes proposed prject includes the Crystal Springs Hatchery, the Yankee Fork weir, and the Panther Creek weir. Construction of the hatchery would include a hatchery building (for administrative offices, incubation and rearing, and water treatment), outdoor rearing facilities, a shop building (for vehicle, equipment, and feed storage), an effluent control area, two new wells (to improve water temperatures and water quality from existing water sources), and staff housing.

Construction of the Yankee Fork weir would include construction of a bridge-supported bar-rack weir system, a fish ladder, broodstock and juvenile acclimation facilities, a spawning and egg take area, a staff working area, and realignment of a section of Yankee Fork Road.

Construction of the Panther Creek weir, would include construction of a bridge supported bar-rack weir system, a fish ladder, and broodstock and juvenile acclimation facilities.

The proposed hatchery would produce up to 1,000,000 yearling spring/summer Chinook smolts. Project operations would include collection of adult spring/summer Chinook for broodstock from the Sawtooth and Pahsimeroi hatcheries located in Custer and Lemhi counties, Idaho; incubation and rearing of juvenile spring/summer Chinook; and release of 400,000 smolts into Panther Creek and 600,000 smolts into Yankee Fork of the Salmon River in Idaho.

Once returning populations reach approximately 500–1,000 fish annually at each weir location, hatchery broodstock collection would cease and instead, harvest of approximately 800 adult Chinook would be allowed annually at the Panther Creek weir for broodstock and 1,000 adult spring/summer Chinook collected annually at the Yankee Fork weir for broodstock with excess adults allowed to pass the trap and return to key upriver habitat to spawn naturally. The Tribes' project would also contribute to the conservation and recovery of the Snake River spring/summer Chinook ESU by restoring a population of 500 locally adapted Chinook spawners in the Yankee Fork and 500 spawners in Panther Creek (a total of 1,000 fish). The tribe would implement a monitoring and evaluation program to determine if harvest and conservation and recovery objectives are being achieved, ensure that hatchery culture practices meet identified standards, quantify hatchery fish migration performance, document hatchery-origin adult stray rates to other out-of-basin streams, and track natural fish population abundance, productivity, life history diversity and spatial structure.

BPA will be the lead agency for preparation of the EIS. The USFS will be a cooperating agency and will assist BPA in evaluating alternatives and identifying issues that should be addressed in the EIS. The USFS could use the EIS to support a decision of whether to grant Special Use Permits to the Tribes and to identify what terms and conditions would be necessary if the Special Use Permits were granted. Additional cooperating agencies for the EIS may be identified as the proposed project proceeds through the NEPA process.

Alternatives Proposed for Consideration: In the EIS, BPA is considering the following alternatives: to fund the proposed hatchery and weir facilities; to fund the hatchery only; a No Action Alternative of not funding the proposal; and other viable alternatives brought forth during the scoping process.

Public Participation and Identification of Environmental Issues: The potential environmental issues identified so far for this project include effects of hatchery operations on water quality; the risk of competition for habitat between increasing numbers of reintroduced spring/summer Chinook and ESA-listed fish such as bull trout; the potential for adult spring/summer Chinook collection activities to affect other fish; potential effects on soil, aesthetics, and water quality due to the construction of permanent facilities and the relocation of Yankee Fork Road on USFS land; and the social, cultural, and economic effects of project construction and operations, as well as harvest.

In accordance with DOE regulations, a 45-day scoping period has been established by BPA, and supported by the USFS, during which the public is invited to comment on the scope of the proposed EIS. Scoping will help BPA and the USFS ensure they identify significant issues and develop alternatives in the EIS, and identify significant or potentially significant impacts that may result from the proposed project and alternatives.

When completed, the Draft EIS will be circulated for review and comment, and BPA and the USFS will hold at least one public comment meeting for the Draft EIS. BPA, in coordination with the USFS and the Tribes, will consider and respond in the Final EIS to comments received on the Draft EIS. BPA and the USFS will each issue their own decision documents.

Issued in Portland, Oregon on May 15, 2014.

Mark O. Gendron,

Acting Administrator and Chief Executive Officer.

[FR Doc. 2014–11994 Filed 5–23–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–316–004.
Applicants: NorthWestern Corporation.
Description: Schedule 3 Compliance Filing re Order Affirming Initial Decision to be effective 1/1/2011.
Filed Date: 5/19/14.
Accession Number: 20140519–5074.
Comments Due: 5 p.m. e.t. 6/9/14.

Docket Numbers: ER12–2178–008; *ER10–2172–019; ER11–2016–014; ER10–2184–019; ER10–2183–016; ER10–1048–016; ER10–2192–019; ER11–2056–013; ER10–2178–019; ER10–2174–019; ER11–2014–016; ER11–2013–016; ER10–3308–018; ER10–1020–015; ER13–1536–002; ER10–1078–015; ER10–1080–015; ER11–2010–016; ER10–1081–015; ER10–2180–019; ER11–2011–015; ER12–2528–007; ER11–2009–015; ER10–1143–015; ER11–2007–014; ER11–2005–016.*
Applicants: AV Solar Ranch 1, LLC, Baltimore Gas and Electric Company, Cassia Gulch Wind Park, LLC,CER Generation, LLC,CER Generation II, LLC, Commonwealth Edison Company, Constellation Energy Commodities Group M, Constellation Mystic Power, LLC, Constellation NewEnergy, Inc., Constellation Pwr Source Generation LLC,CR Clearing, LLC, Cow Branch Wind Power, LLC, Criterion Power Partners, LLC, Exelon Framingham, LLC, Exelon Generation Company, LLC, Exelon New Boston, LLC, Exelon West Medway, LLC, Exelon Wind 4, LLC, Exelon Wyman, LLC, Handsome Lake Energy, LLC, Harvest WindFarm, LLC, High Mesa Energy, LLC, Michigan Wind 1, LLC,PECO Energy Company, Tuana Springs Energy, LLC, Wind Capital Holdings, LLC.
Description: Amendment to December 30, 2013 Updated Market Power Analysis for the Northeast Region of the Exelon Market-Based Rate Entities.
Filed Date: 5/16/14.
Accession Number: 20140516–5239.
Comments Due: 5 p.m. e.t. 6/6/14.

Docket Numbers: ER13–103–005.
Applicants: California Independent System Operator Corporation.
Description: 2014–05–19_Order 1000_Regional_Third Compliance to be effective 10/1/2013.
Filed Date: 5/19/14.
Accession Number: 20140519–5200.
Comments Due: 5 p.m. e.t. 6/9/14.

Docket Numbers: ER13–2337–003.

Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–05–09_SA 2017 G540/G548 Barton-ITC GIA Settlement to be effective 8/1/2014.
Filed Date: 5/15/14.
Accession Number: 20140515–5255.
Comments Due: 5 p.m. e.t. 6/5/14.

Docket Numbers: ER13–2375–002.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–05–19 Attachment O Vectren Rate Protocol Compliance Filing to be effective 1/1/2014.
Filed Date: 5/19/14.
Accession Number: 20140519–5075.
Comments Due: 5 p.m. e.t. 6/9/14.

Docket Numbers: ER13–2376–002.
Applicants: Midcontinent Independent System Operator, Inc., Northern Indiana Public Service Company.
Description: 2014–05–19 Attachment O NIPSCO Rate Protocol Compliance Filing to be effective 1/1/2014.
Filed Date: 5/19/14.
Accession Number: 20140519–5090.
Comments Due: 5 p.m. e.t. 6/9/14.

Docket Numbers: ER13–2379–002.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–05–19_Attachment O CMMPA Compliance Filing to be effective 1/1/2014.
Filed Date: 5/19/14.
Accession Number: 20140519–5130.
Comments Due: 5 p.m. e.t. 6/9/14.

Docket Numbers: ER13–2379–003.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–05–19_Attachment O TO Rate Protocol Compliance Filing to be effective 1/1/2014.
Filed Date: 5/19/14.
Accession Number: 20140519–5192.
Comments Due: 5 p.m. e.t. 6/9/14.

Docket Numbers: ER14–381–001.
Applicants: PJM Interconnection, L.L.C.
Description: Compliance Filing per 4/17/2014 Order in Docket No. ER14–381 to be effective 5/19/2014.
Filed Date: 5/19/14.
Accession Number: 20140519–5195.
Comments Due: 5 p.m. e.t. 6/9/14.

Docket Numbers: ER14–1977–000.
Applicants: Niagara Mohawk Power Corporation.
Description: Niagara Mohawk Power Corporation submits tariff filing per 35.13(a)(2)(iii: Niagara Mohawk NFTA Agreement Filing to be effective 8/1/2014.
Filed Date: 5/16/14.
Accession Number: 20140516–5207.
Comments Due: 5 p.m. e.t. 6/6/14.

Docket Numbers: ER14–1978–000.
Applicants: Southern California Edison Company.
Description: True-Up SGIA & Distrib Serv Agmt with SCE's Generation Planning & Strategy to be effective 7/19/2014.
Filed Date: 5/19/14.
Accession Number: 20140519–5000.
Comments Due: 5 p.m. e.t. 6/9/14.

Docket Numbers: ER14–1979–000.
Applicants: Niagara Mohawk Power Corporation.
Description: Notice of Termination of Rate Schedule No. 136 of Niagara Mohawk Power Corporation.
Filed Date: 5/16/14.
Accession Number: 20140516–5240.
Comments Due: 5 p.m. e.t. 6/6/14.

Docket Numbers: ER14–1980–000.
Applicants: PJM Interconnection, L.L.C.
Description: Original Service Agreement No. 3801; Queue No. Z1–096 to be effective 4/29/2014.
Filed Date: 5/19/14.
Accession Number: 20140519–5072.
Comments Due: 5 p.m. e.t. 6/9/14.

Docket Numbers: ER14–1981–000.
Applicants: Cheyenne Light, Fuel and Power Company.
Description: Cheyenne Light, Fuel and Power Company Attachment H to be effective 5/20/2014.
Filed Date: 5/19/14.
Accession Number: 20140519–5073.
Comments Due: 5 p.m. e.t. 6/9/14.

Docket Numbers: ER14–1982–000.
Applicants: PJM Interconnection, L.L.C.
Description: Notice of Cancellation of Original Service Agreement No. 2838; Queue No. W1–119 to be effective 2/14/2012.
Filed Date: 5/19/14.
Accession Number: 20140519–5092.
Comments Due: 5 p.m. e.t. 6/9/14.

Docket Numbers: ER14–1983–000.
Applicants: PJM Interconnection, L.L.C.
Description: Queue Position None; Original Service Agreement No. 3831 to be effective 4/18/2014.
Filed Date: 5/19/14.
Accession Number: 20140519–5105.
Comments Due: 5 p.m. e.t. 6/9/14.

Docket Numbers: ER14–1985–000.
Applicants: ITC Midwest LLC.
Description: Filing of Joint Use Pole Agreement with Consumers Energy Cooperative to be effective 7/19/2014.
Filed Date: 5/19/14.
Accession Number: 20140519–5189.
Comments Due: 5 p.m. e.t. 6/9/14.

Docket Numbers: ER14–1986–000.
Applicants: PJM Interconnection, L.L.C.
Description: First Revised Service Agreement No. 3246; Queue No. W1–119 to be effective 4/30/2014.
Filed Date: 5/19/14.
Accession Number: 20140519–5210.
Comments Due: 5 p.m. e.t. 6/9/14.

Docket Numbers: ER14–1987–000.
Applicants: Oklahoma Gas and Electric Company.
Description: Compliance Filing to Docket EL14–13–000 to be effective 3/1/2014.
Filed Date: 5/19/14.
Accession Number: 20140519–5227.
Comments Due: 5 p.m. e.t. 6/9/14.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES14–35–000.
Applicants: Consumers Energy Company.
Description: Second Amendment to April 18, 2014 Application for Authority to Issue Securities of Consumers Energy Company.
Filed Date: 5/16/14.
Accession Number: 20140516–5214.
Comments Due: 5 p.m. e.t. 5/27/14.

Docket Numbers: ES14–40–000.
Applicants: Potomac Electric Power Company, Delmarva Power & Light Company, PHI Service Company.
Description: Amendment to April 30, 2014 Joint Application to Issue Securities of PHI Service Company on behalf of Delmarva Power & Light Company and Potomac Electric Power Company.
Filed Date: 5/16/14.
Accession Number: 20140516–5212.
Comments Due: 5 p.m. e.t. 5/27/14.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM14–2–000.
Applicants: Great River Energy.
Description: Application Pursuant to Section 292.310(A) for Authorization to Terminate the Mandatory Purchase Obligation from Qualifying Facilities with Net Capacity Over Twenty Megawatts on a Service Territory-Wide Basis of Great River Energy.
Filed Date: 5/16/14.
Accession Number: 20140516–5235.
Comments Due: 5 p.m. e.t. 6/13/14.

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.

Dated: May 19, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–12187 Filed 5–23–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC14–88–000.

Applicants: Tucson Electric Power Company, UNS Electric, Inc., Gila River Power LLC.

Description: Application under FPA Section 203 of Tucson Electric Power Company, et. al.

Filed Date: 5/15/14.

Accession Number: 20140515–5270.

Comments Due: 5 p.m. e.t. 6/16/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–4363–002*; ER11–4498–007; ER11–4499–007; ER14–325–003; ER11–4500–006; ER11–4507–006; ER12–128–004; ER11–4501–008; ER12–979–007; ER12–2542–004; ER12–2448–007; ER13–2409–003.*

Applicants: Osage Wind, LLC, Smoky Hills Wind Farm, LLC, Smoky Hills Wind Project II, LLC, Enel Cove Fort, LLC, Enel Stillwater, LLC, Canastota Windpower, LLC, EGP Stillwater Solar, LLC, Caney River Wind Project, LLC, Rocky Ridge Wind Project, LLC, Prairie Rose Wind, LLC, Chisholm View Wind Project, LLC, Buffalo Dunes Wind Project, LLC.

Description: Notice of Non-Material Change in Status of Osage Wind, LLC, et al.

Filed Date: 5/15/14.

Accession Number: 20140515–5274.

Comments Due: 5 p.m. e.t. 6/5/14.

Docket Numbers: ER13–2477–003; ER10–1946–006; ER11–3859–008; ER13–2476–003; ER11–3861–007; ER11–3864–008; ER13–2475–003; ER11–3866–008; ER12–192–006; ER11–3867–008; ER11–3857–008; ER12–1725–004; ER11–4266–007.

Applicants: Brayton Point Energy, LLC, Broad River Energy LLC, Dighton Power, LLC, Elwood Energy, LLC, Empire Generating Co, LLC, EquiPower Resources Management, LLC, Kincaid Generation, L.L.C., Lake Road Generating Company, L.P., Liberty Electric Power, LLC, MASSPOWER, Milford Power Company, LLC, Red Oak Power, LLC, Richland-Stryker Generation LLC.

Description: Motion to Suspend Energy Capital Partners? Market Based Rate Authority, et al.

Filed Date: 5/12/14.

Accession Number: 20140512–5250.

Comments Due: 5 p.m. e.t. 6/2/14.

Docket Numbers: ER14–456–002.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance Filing per 4/18/2014 Order in Docket No. ER14–456 to be effective 1/22/2014.

Filed Date: 5/16/14.

Accession Number: 20140516–5076.

Comments Due: 5 p.m. e.t. 6/6/14.

Docket Numbers: ER14–1970–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 2014–05–15 TOA revs re Prohibited Investments to be effective 7/15/2014.

Filed Date: 5/15/14.

Accession Number: 20140515–5257.

Comments Due: 5 p.m. e.t. 6/5/14.

Docket Numbers: ER14–1971–000.

Applicants: Southern California Edison Company.

Description: True-Up SGIA & Distrib Serv Agmt with SCE's Transmission & Distrib Business Unit to be effective 7/16/2014.

Filed Date: 5/16/14.

Accession Number: 20140516–5002.

Comments Due: 5 p.m. e.t. 6/6/14.

Docket Numbers: ER14–1972–000.

Applicants: Southern California Edison Company.

Description: Notices of Cancellation of GIA and Distribution Service Agmt with Searles to be effective 7/16/2014.

Filed Date: 5/16/14.

Accession Number: 20140516–5003.

Comments Due: 5 p.m. e.t. 6/6/14.

Docket Numbers: ER14–1973–000.

Applicants: PacifiCorp.

Description: PacifiCorp submits tariff filing per 35.15: Termination of IPCo Goshen-Kinport Line Com and Relay Mod Agreement to be effective 7/17/2014.

Filed Date: 5/16/14.

Accession Number: 20140516–5115.

Comments Due: 5 p.m. e.t. 6/6/14.

Docket Numbers: ER14–1974–000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation submits tariff filing per 35.13(a)(2)(iii: 2014–05–16_RiversideMSSA_Amendment to be effective 7/16/2014.

Filed Date: 5/16/14.

Accession Number: 20140516–5164.

Comments Due: 5 p.m. e.t. 6/6/14.

Docket Numbers: ER14–1975–000.

Applicants: Oklahoma Gas and Electric Company.

Description: Oklahoma Gas and Electric Company submits tariff filing per 35.15: Notice of Termination Schedule 106 to be effective 5/31/2014.

Filed Date: 5/16/14.

Accession Number: 20140516–5179.

Comments Due: 5 p.m. e.t. 6/6/14.

Docket Numbers: ER14–1976–000.

Applicants: Plainfield Renewable Energy, LLC.

Description: Plainfield Renewable Energy, LLC submits tariff filing per 35.13(a)(2)(iii: First Revised MBR Tariff to be effective 5/17/2014.

Filed Date: 5/16/14.

Accession Number: 20140516–5193.

Comments Due: 5 p.m. e.t. 6/6/14.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES14–42–000.

Applicants: MDU Resources Group, Inc.

Description: Application under Section 204 in connection Long-Term Performance-Based Incentive Plan of MDU Resources Group, Inc.

Filed Date: 5/16/14.

Accession Number: 20140516–5116.

Comments Due: 5 p.m. e.t. 6/6/14.

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: May 16, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–12186 Filed 5–23–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9911–41–OECA]

See the Item Specific Docket Numbers Provided in the Text; Proposed Information Collection Request; Comment Request; See Item Specific ICR Titles Provided in the Text

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), (See item specific ICR title, EPA ICR Number, and OMB Control Number provided in the text) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, see expiration date for each ICR provided in the text. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before July 28, 2014.

ADDRESSES: Submit your comments, referencing the Docket ID numbers provided for each item in the text, online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

(1) Docket ID Number: EPA–HQ–OECA–2014–0043; Title: NSPS for Polymeric Coating of Supporting Substrates Facilities (40 CFR Part 60, Subpart VVV); ICR Numbers: EPA ICR Number 1284.10, OMB Control Number 2060–0181; ICR Status: This ICR is scheduled to expire on October 31, 2014.

Abstract: Respondents are owners or operators of facilities performing polymeric coating of supporting substrates. NSPS Subpart VVV applies to each coating operation and any onsite mix preparation equipment used to prepare coating for the polymeric coating of supporting substrates, which commences construction, modification or reconstruction after April 30, 1987. The rule establishes standards for VOC use, emission reduction limits, and for capture and recovery of VOC emissions. The recordkeeping, monitoring and reporting requirements allow the regulatory agencies to determine compliance with the standard.

Form Numbers: None.

Respondents/affected entities: Owners or operators of facilities performing polymeric coating of supporting substrates.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart VVV).

Estimated number of respondents: 56 (total).

Frequency of response: Initially, quarterly, and semiannually.

Total estimated burden: 13,108 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,866,424 (per year), includes $636,500 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected increase in hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to an adjustment to the estimates to account for industry growth.

(2) Docket ID Number: EPA–HQ–OECA–2014–0054; Title: NESHAP for Pulp and Paper Production (40 CFR Part 63, Subpart S); ICR Numbers: EPA ICR Number 1657.08, OMB Control Number 2060–0387; ICR Status: This ICR is scheduled to expire on December 31, 2014.

Abstract: Respondents are owners or operators of facilities that produce pulp, paper, or paperboard by employing kraft, soda, sulfite, semi-chemical, or mechanical pulping processes using wood; or any process using secondary or non-wood fiber and that emits 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. Affected sources are all the hazardous air pollutant emission points or the HAP emission points in the pulping and bleaching system for mechanical pulping processes using wood and any process using secondary or non-wood fiber.

Form Numbers: None.

Respondents/affected entities: Owners or operators of pulp and paper production facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart S).

Estimated number of respondents: 115 (total).

Frequency of response: Initially, occasionally, quarterly, and semiannually.

Total estimated burden: 35,358 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $3,711,577 (per year), includes $372,500 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR

compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(3) Docket ID Number: EPA–HQ–OECA–2014–0027; Title: NSPS for Bulk Gasoline Terminals (40 CFR Part 60, Subpart XX); ICR Numbers: EPA ICR Number 0664.11, OMB Control Number 2060–0006; ICR Status: This ICR is scheduled to expire on January 31, 2015.

Abstract: This rule applies to affected facilities at bulk gasoline terminals which have a through put greater than 75,700 liters per day, delivering liquid product into gasoline tank trucks.

Form Numbers: None.

Respondents/affected entities: Bulk gasoline terminals.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart XX).

Estimated number of respondents: 40 (total).

Frequency of response: Initially and occasionally.

Total estimated burden: 13,165 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,260,230 (per year), includes zero annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(4) Docket ID Number: EPA–HQ–OECA–2014–0030; Title: NSPS for Metallic Mineral Processing Plants (40 CFR Part 60, Subpart LL); ICR Numbers: EPA ICR Number 0982.11, OMB Control Number 2060–0016; ICR Status: This ICR is scheduled to expire on January 31, 2015.

Abstract: This NSPS affects owners and operators of metallic mineral processing plants. Owners and operators must conduct initial performance tests, maintain records of startups, shutdowns, and malfunction and continuous monitoring system parameters, submit semi-annual reports.

Form Numbers: None.

Respondents/affected entities: Owners and operators of metallic mineral processing plants.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart LL).

Estimated number of respondents: 20 (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 2,306 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $233,712 (per year), includes $13,000 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(5) Docket ID Number: EPA–HQ–OECA–2014–0035; Title: NSPS for Sulfuric Acid Plants (40 CFR Part 60, Subpart H); ICR Numbers: EPA ICR Number 1057.13, OMB Control Number 2060–0041; ICR Status: This ICR is scheduled to expire on January 31, 2015.

Abstract: The NSPS applies to any sulfuric acid facility commencing construction, modification, or reconstruction after August 17, 1971. Owners/operators must notify EPA of construction, modifications, startups, shutdowns, malfunctions, and the date and results of initial performance test.

Form Numbers: None.

Respondents/affected entities: Owners and operators of sulfuric acid plants.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart H).

Estimated number of respondents: 53 (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 8,594 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,061,150 (per year), includes $238,500 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(6) Docket ID Number: EPA–HQ–OECA–2014–0045; Title: NSPS for Municipal Waste Combustors (40 CFR Part 60, Subpart Ea and Eb); ICR Numbers: EPA ICR Number 1506.13, OMB Control Number 2060–0210; ICR Status: This ICR is scheduled to expire on January 31, 2015.

Abstract: These standards apply to each municipal waste combustor (MWC) unit with a capacity greater than 250 tons per day of municipal solid waste which commended construction, modification or reconstruction after December 20, 1989. MWCs are required to keep records and periodically report their compliance status. Information required by the NSPS is necessary to ensure that emission standards are attained and that MWC's are properly operated and maintained.

Form Numbers: None.

Respondents/affected entities: Owners and operators of municipal waste combustor units.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart Ea and Eb).

Estimated number of respondents: 12 (total).

Frequency of response: Initially, quarterly, semiannually, and annually.

Total estimated burden: 20,421 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,916,503 (per year), includes $158,692 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected increase in hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to an adjustment to reflect an increased number of sources subject to Subpart Eb.

(7) Docket ID Number: EPA–HQ–OECA–2014–0057; Title: NESHAP for Wood Furniture Manufacturing Operations (40 CFR Part 63, Subpart JJ); ICR Numbers: EPA ICR Number 1716.09, OMB Control Number 2060–0324; ICR Status: This ICR is scheduled to expire on January 31, 2015.

Abstract: The potential respondents are owners or operators of any existing or new affected source with wood furniture manufacturing operations. There are an estimated 406 facilities subject to the Wood Furniture Manufacturing NESHAP. The affected source is any wood furniture manufacturing facility that is engaged, either in part or in whole, in the manufacture of wood furniture or wood furniture components and that is located at a plant site that is a major source as defined in 40 CFR Part 63.2, excluding sources that meet the criteria established in § 63.800(a). (b), and (c) of the Wood Furniture Manufacturing NESHAP.

Form Numbers: None.

Respondents/affected entities: Owners and operators of wood furniture manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart JJ).

Estimated number of respondents: 750 (total).

Frequency of response: Initially, occasionally, quarterly, semiannually, and annually.

Total estimated burden: 49,190 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $4,644,200 (per year), includes $18,000 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected increase in burden compared with the ICR currently approved by OMB. This is due to an adjustment to account for all burden associated with the NESHAP, including any amendments to the regulation. The most recent ICR only covers burden associated with the recent rule amendment.

(8) Docket ID Number: EPA–HQ–OECA–2014–0061; Title: NESHAP for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills (40 CFR Part 63, Subpart MM); ICR Numbers: EPA ICR Number 1805.07, OMB Control Number 2060–0377; ICR Status: This ICR is scheduled to expire on January 31, 2015.

Abstract: Respondents are owners or operators of kraft, soda, sulfite, and stand-alone semichemical pulp mills and must submit notification and reports and maintain records required by the general provisions (40 CFR Part 63, Subpart A). Recordkeeping of parameters related to process and air pollution control technology is required. The reports and records will be used to demonstrate compliance with the applicable emission limits and/or standards.

Form Numbers: None.

Respondents/affected entities: Owners and operators of kraft, soda, sulfite, and stand-alone semichemical pulp mills.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart MM).

Estimated number of respondents: 111 (total).

Frequency of response: Initially, occasionally, quarterly, and semiannually.

Total estimated burden: 126,207 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $742,840 (per year), includes $712,000 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(9) Docket ID Number: EPA–HQ–OECA–2014–0062; Title: NESHAP for Pesticide Active Ingredient Production (40 CFR Part 63, Subpart MMM); ICR Numbers: EPA ICR Number 1807.07, OMB Control Number 2060–0370; ICR Status: This ICR is scheduled to expire on January 31, 2015.

Abstract: Respondents are owners and operators of pesticides active ingredient production operations. Respondents must submit one-time reports of initial compliance and either semiannual reports or quarterly reports of compliance. Recordkeeping of parameters related to process and air pollution control technologies is required. The reports and records will be used to demonstrate compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Owners and operators of pesticides active ingredient production operations.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart MMM).

Estimated number of respondents: 15 (total).

Frequency of response: Initially, quarterly, and semiannually.

Total estimated burden: 3,666 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $623,903 (per year), includes $19,875 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(10) Docket ID Number: EPA–HQ–OECA–2014–0067; Title: NESHAP for Primary Copper Smelters (40 CFR Part 63, Subpart QQQ); ICR Numbers: EPA ICR Number 1850.07, OMB Control Number 2060–0476; ICR Status: This ICR is scheduled to expire on January 31, 2015.

Abstract: The NESHAP applies to owners and operators of each new and existing affected source at primary copper smelters. They are required to comply with the recordkeeping and reporting requirements of the NESHAP General Provisions (40 CFR Part 63, Subpart A) and maintain records of specific information needed by EPA to determine if compliance has been achieved.

Form Numbers: None.

Respondents/affected entities: Owners and operators of primary copper smelters.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart QQQ).

Estimated number of respondents: 3 (total).

Frequency of response: Initially, occasionally, monthly, semiannually, and annually.

Total estimated burden: 8,837 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $855,477 (per year), includes $8,220 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(11) Docket ID Number: EPA–HQ–OECA–2014–0080; Title: NESHAP for Cellulose Products Manufacturing (40 CFR Part 63, Subpart UUUU); ICR Numbers: EPA ICR Number 1974.07, OMB Control Number 2060–0488; ICR Status: This ICR is scheduled to expire on January 31, 2015.

Abstract: Respondents are owners or operators of cellulose products manufacturing facilities. Respondents would submit notifications and reports and maintain records required by the General Provisions 40 CFR Part 63, subpart A). Recordkeeping of parameters related to air pollution control technologies is required.

Form Numbers: None.

Respondents/affected entities: Cellulose products manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart UUUU).

Estimated number of respondents: 13 (total).

Frequency of response: Occasionally, weekly, and semiannually.

Total estimated burden: 12,088 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,258,056 (per year), includes $1,014 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(12) Docket ID Number: EPA–HQ–OECA–2014–0083; Title: NESHAP for Leather Finishing Operations (40 CFR Part 63, Subpart TTTT); ICR Numbers: EPA ICR Number 1985.06, OMB Control Number 2060–0478; ICR Status: This ICR is scheduled to expire on January 31, 2015.

Abstract: This NESHAP applies to owners and operators of existing, reconstructed, or new leather finishing operations. All owners and operators of leather finishing operations will develop and implement a plan for demonstrating compliance that explains the methods used to inventory the finishes, HAP content of finishes, and production levels from each leather product process operation necessary to comply with the NESHAP.

Form Numbers: None.

Respondents/affected entities: Owners and operators of leather finishing operations.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart TTTT).

Estimated number of respondents: 10 (total).

Frequency of response: Initially, occasionally, and annually.

Total estimated burden: 334 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $31,495 (per year), includes zero annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(13) Docket ID Number: EPA–HQ–OECA–2014–0085; Title: NESHAP—Reporting and Recordkeeping Requirements for the Friction Materials Manufacturing (40 CFR Part 63, Subpart QQQQQ); ICR Numbers: EPA ICR Number 2025.06, OMB Control Number 2060–0481; ICR Status: This ICR is scheduled to expire on January 31, 2015.

Abstract: Owners or operators of friction materials manufacturing facilities are required to comply with reporting and recordkeeping requirements, and maintain records of specific information needed by EPA to determine if compliance has been achieved. Friction materials manufacturing facilities manufacture friction material by using a solvent-based process.

Form Numbers: None.

Respondents/affected entities: Friction materials manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart QQQQQ).

Estimated number of respondents: 4 (total).

Frequency of response: Initially, occasionally, semiannually, and annually.

Total estimated burden: 1,296 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $123,461 (per year), includes $1,088 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(14) Docket ID Number: EPA–HQ–OECA–2014–0091; Title: NESHAP for Engine Test Cells/Stands (40 CFR Part 63, Subpart PPPPP); ICR Numbers: EPA ICR Number 2066.06, OMB Control Number 2060–0483; ICR Status: This ICR is scheduled to expire on January 31, 2015.

Abstract: The NESHAP applies to any new or reconstructed engine test cells/stands located at major source facilities that are being used for testing internal combustion engines with a rated power of 25 horsepower (hp) or more. These sources must be in compliance with the requirements of the engine test cells/stands NESHAP upon startup.

Form Numbers: None.

Respondents/affected entities: Owners and operators of friction materials manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart PPPPP).

Estimated number of respondents: 18 (total).

Frequency of response: Initially, semiannually, and annually

Total estimated burden: 3,043 hours (per year). Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: $293,761 (per year), includes $5,400 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(15) Docket ID Number: EPA–HQ–OECA–2014–0026; Title: NSPS for Metal Coil Surface Coating (40 CFR Part 60, Subpart TT); ICR Numbers: EPA ICR Number 0660.12, OMB Control Number 2060–0107; ICR Status: This ICR is scheduled to expire on February 28, 2015.

Abstract: These regulations apply to the following surface coating lines in the metal coil surface coating industry: each prime coat operation, each finish coat operation, and each prime and finish coat operation cured simultaneously where the finish coat is applies wet on wet over the price coat. These regulations apply to metal coil coating facilities commencing construction, modification, or reconstruction after January 5, 1981.

Form Numbers: None.

Respondents/affected entities: Owners and operators of metal coil surface coating facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart TT).

Estimated number of respondents: 158 (total).

Frequency of response: Initially, occasionally, semiannually, and annually.

Total estimated burden: 15,643 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,829,259 (per year), includes $331,800 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(16) Docket ID Number: EPA–HQ–OECA–2014–0028; Title: NSPS for Calciners and Dryers in the Mineral Industries (40 CFR Part 60, Subpart UUU); ICR Numbers: EPA ICR Number 0746.09, OMB Control Number 2060–0251; ICR Status: This ICR is scheduled to expire on February 28, 2015.

Abstract: These standards apply to new, modified and reconstructed calciners and dryers at mineral processing plants that process or produce any of the following minerals or a combination of these minerals: alumina, ball clay, bentonite, diatomite, feldspar, fire clay, fuller's earth, gypsum, industrial sand, kaolin, lightweight aggregate, magnesium compounds, perlite, roofing granules, talc, titanium dioxide, and vermiculite.

Form Numbers: None.

Respondents/affected entities: Owners and operators of calciners and dryers at mineral processing plants.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart UUU).

Estimated number of respondents: 167 (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 6,434 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $724,410 (per year), includes $108,550 annualized

capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(17) Docket ID Number: EPA–HQ–OECA–2014–0033; Title: NSPS for Petroleum Refineries (40 CFR Part 60, Subpart J); ICR Numbers: EPA ICR Number 1054.12, OMB Control Number 2060–0022; ICR Status: This ICR is scheduled to expire on February 28, 2015.

Abstract: This rule applies to affected facilities at petroleum refineries; fluid catalytic cracking unit catalyst regenerators, fuel gas combustion devices, and Claus sulfur recovery plants of more than 20 long tons per day commencing construction, modification, or reconstruction after the date of proposal.

Form Numbers: None.

Respondents/affected entities: Petroleum refineries.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart J).

Estimated number of respondents: 150 (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 15,784 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $2,229,986 (per year), includes $719,100 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(18) Docket ID Number: EPA–HQ–OECA–2014–0037; Title: NSPS for Primary and Secondary Emissions from Basic Oxygen Furnaces (40 CFR Part 60, Subpart N and Na); ICR Numbers: EPA ICR Number 1069.11, OMB Control Number 2060–0029; ICR Status: This ICR is scheduled to expire on February 28, 2015.

Abstract: This rule applies to Basic Oxygen Process Furnaces (BOPFs) in iron and steel plants commencing construction, modification or reconstruction after June 11, 1973 and top-blown BOPFs, hot metal transfer stations or skimming stations for which construction, reconstruction, or modification commenced after January 20, 1983. Respondents are required to submit initial notifications, conduct performance tests and report test results for the primary emission control devices, and submit periodic reports. Sources also must develop and implement a startup, shutdown, and malfunction plan (SSMP) and submit semiannual reports of any event where the procedures in the plan were not followed. These notifications, reports, and records are essential in determining compliance, and are required of all sources subject to NSPS.

Form Numbers: None.

Respondents/affected entities: Owners and operators of basic oxygen process furnaces at iron and steel plants.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart N and Na).

Estimated number of respondents: 18 (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 6,263 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $629,183 (per year), includes $29,700 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(19) Docket ID Number: EPA–HQ–OECA–2014–0041; Title: NSPS for Glass Manufacturing Plants (40 CFR Part 60, Subpart CC); ICR Numbers: EPA ICR Number 1131.11, OMB Control Number 2060–0054; ICR Status: This ICR is scheduled to expire on February 28, 2015.

Abstract: The provisions of this subpart apply to each glass manufacturing plant that commenced construction or modification after June 15, 1979. Owners or operators of subpart CC facilities are required to comply with reporting and recordkeeping requirements, and maintain records of specific information needed by EPA to determine if compliance has been achieved. Sources are required to submit semiannual reports of excess emissions.

Form Numbers: None.

Respondents/affected entities: Glass manufacturing plants.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart CC).

Estimated number of respondents: 41 (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 803 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $314,638 (per year), includes $237,800 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(20) Docket ID Number: EPA–HQ–OECA–2014–0047; Title: NSPS for Municipal Solid Waste Landfills (40 CFR Part 60, Subpart WWW); ICR Numbers: EPA ICR Number 1557.09, OMB Control Number 2060–0220; ICR Status: This ICR is scheduled to expire on February 28, 2015.

Abstract: The provisions of this subpart apply to each municipal solid waste landfill that commenced construction, reconstruction or modification on or after May 30, 1991. Owners or operators of Subpart WWW landfills are required to comply with reporting and record keeping requirements, and maintain records of specific information needed by EPA to determine if compliance has been achieved.

Form Numbers: None.

Respondents/affected entities: Owners and operators of municipal solid waste landfills.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart WWW).

Estimated number of respondents: 183 (total).

Frequency of response: Initially, occasionally, and annually.

Total estimated burden: 3,971 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $434,255 (per year), includes $53,994 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected increase in the total estimated respondent and Agency burden compared with the ICR currently approved by OMB. This increase is due to an adjustment to the estimates to account for industry growth since the last ICR renewal period.

(21) Docket ID Number: EPA–HQ–OECA–2014–0056; Title: NESHAP for Shipbuilding and Ship Repair Facilities—Surface Coating (40 CFR Part 63, Subpart II); ICR Numbers: EPA ICR Number 1712.09, OMB Control Number 2060–0330; ICR Status: This ICR is scheduled to expire on February 28, 2015.

Abstract: The respondents are owners or operators of shipbuilding and ship repair facilities. Operations covered include: primer and top coat application in manufacturing processes and in ship repair processes. Owners or operators of shipbuilding and ship repair facilities are required to report startup, initial performance test, and retest information. Facilities will also periodically report emission exceedances, changes to equipment, and comply with other requirements of the NESHAP.

Form Numbers: None.

Respondents/affected entities: Owners or operators of shipbuilding and ship repair facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart II).

Estimated number of respondents: 56 (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 28,594 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,740,381 (per year), includes zero annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(22) Docket ID Number: EPA–HQ–OECA–2014–0068; Title: NESHAP for Primary Lead Smelters (40 CFR Part 63, Subpart TTT); ICR Numbers: EPA ICR Number 1856.10, OMB Control Number 2060–0414; ICR Status: This ICR is scheduled to expire on February 28, 2015.

Abstract: The NESHAP is applicable to primary lead processing facilities that are engaged in the production of lead metal from lead sulfide ore concentrate. The final amendment establishes new emission limits, revises testing, reporting, and recordkeeping requirements. Sources subject to the NESHAP are required to comply with the stack testing, monitoring, reporting, and recordkeeping requirements of the standard.

Form Numbers: None.

Respondents/affected entities: Owners and operators of primary lead smelting facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart TTT).

Estimated number of respondents: 1 (total).

Frequency of response: Initially, quarterly, semiannually, and biennially.

Total estimated burden: 12,397 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $162,757 (per year), includes $162,000 annualized capital or operation & maintenance costs.

Changes in Estimates: There is likely a decrease in the respondent and Agency burden in this ICR compared with the ICR currently approved by OMB. This decrease is due to the fact that the amended standard will have been in effect for more than three years; therefore, the burden associated with ongoing compliance of the standard differs from those associated with initial compliance.

(23) Docket ID Number: EPA–HQ–OECA–2014–0095; Title: NESHAP for Source Categories: Gasoline Distribution Bulk Terminals, Bulk Plants, Pipeline Facilities and Gasoline Dispensing Facilities (40 CFR Part 63, Subpart BBBBBB and CCCCCC); ICR Numbers: EPA ICR Number 2237.04, OMB Control Number 2060–0620; ICR Status: This ICR is scheduled to expire on February 28, 2015.

Abstract: The NESHAP for Gasoline Distribution Bulk Terminals, Bulk Plants, Pipeline Facilities and Gasoline Dispensing Facilities applies to owners or operators of any existing or new gasoline distribution facilities that are an area source of hazardous air pollutants (HAP) emissions. In addition to the initial notification and notification of compliance status required by the General Provisions to 40 CFR Part 63, Subpart A, respondents are required to submit one-time reports of start of construction, anticipated and actual startup dates, and physical or operational changes to existing facilities. Reports of initial performance tests on control devices at gasoline distribution storage tanks, loading racks, and vapor balance systems are also required and are necessary to show that the installed control devices are meeting the emission limitations required by the NESHAP. Annual reports of storage tank inspections at all affected facilities are required. In addition, respondents must submit semiannual compliance and continuous monitoring system performance reports, and semiannual reports of equipment leaks not repaired within 15 days or loadings of cargo tanks for which vapor tightness documentation is not available.

Form Numbers: None.

Respondents/affected entities: Gasoline distribution bulk terminals, bulk plants, pipeline facilities, and gasoline dispensing facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart BBBBBB and CCCCCC).

Estimated number of respondents: 19,120 (total).

Frequency of response: Initially and semiannually.

Total estimated burden: 60,517 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $6,178,409 (per year), includes $110,000 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(24) Docket ID Number: EPA–HQ–OECA–2014–0096; Title: NESHAP for Iron and Steel Foundry Area Sources (40 CFR Part 63, Subpart ZZZZZ); ICR Numbers: EPA ICR Number 2267.04, OMB Control Number 2060–0605; ICR Status: This ICR is scheduled to expire on February 28, 2015.

Abstract: The NESHAP for Iron and Steel Foundry Area Sources applies to owners or operators of any existing or new iron or steel foundry that is an area source of hazardous air pollutants (HAP) emissions. Research and development facilities are not covered by the rule. Foundries covered by the rule would not be required to obtain a Title V operating permit. Small iron and steel foundries are required to comply with pollution prevention management practices for scrap materials, the removal of mercury switches, and binder formulations. Large iron and steel foundries are required to comply with the same pollution prevention management practices as small foundries in addition to emissions limitations for melting furnaces and foundry operations. Owners or operators must submit notification that the facility is subject to the rule, notification of performance test, notification of compliance status (including results of performance tests and other initial compliance demonstrations), and the semiannual compliance report.

Form Numbers: None.

Respondents/affected entities: Iron and steel foundries.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart ZZZZZ).

Estimated number of respondents: 427 (total).

Frequency of response: Initially and semiannually.

Total estimated burden: 6,024 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $429,208 (per year), includes $8,490 annualized capital or operation & maintenance costs.

Changes in Estimates: There is likely a decrease in the respondent and Agency burden in this ICR compared with the ICR currently approved by OMB. This decrease is due to the fact that the final rule will have been in effect for more than three years; therefore, the burden associated with ongoing compliance of the standard differs from those associated with initial compliance.

(25) Docket ID Number: EPA–HQ–OECA–2014–0055; Title: NESHAP for the Secondary Lead Smelter Industry (40 CFR Part 63, Subpart X); ICR Numbers: EPA ICR Number 1686.11, OMB Control Number 2060–0296; ICR Status: This ICR is scheduled to expire on March 31, 2015.

Abstract: This standard applies to owners and operators of secondary lead smelter industry. The provisions of this subpart apply to secondary lead smelters that use blast, reverberatory, rotary, or electric smelting furnaces to recover lead metal from scrap lead, primarily from used lead-acid automotive-type batteries. Consistent with the NESHAP General Provisions (40 CFR Part 63, Subpart A), owners and operators must comply with recordkeeping, monitoring and reporting requirements including control device parameter monitoring, conduct performance tests and submittal of initial and periodic reports such as semiannual compliance reports and an operation, maintenance and monitoring plan.

Form Numbers: None.

Respondents/affected entities: Secondary lead smelters.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart X).

Estimated number of respondents: 16 (total).

Frequency of response: Initially, occasionally, quarterly and semiannually.

Total estimated burden: 20,537 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $938,873 (per year), includes $590,280 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected decrease in the respondent and Agency burden in this ICR compared with the ICR currently approved by OMB. The previous ICR covers the burden associated with initial compliance during the first three-year period of the final rule; this ICR covers the burden associated with ongoing compliance of the standard.

(26) Docket ID Number: EPA–HQ–OECA–2014–0034; Title: NSPS for Kraft Pulp Mills (40 CFR Part 60, Subpart BB); ICR Numbers: EPA ICR Number 1055.11, OMB Control Number 2060–0021; ICR Status: This ICR is scheduled to expire on April 30, 2015.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR Part 60, Subpart A, and any changes, or additions to the General Provisions specified at 40 CFR Part 60, Subpart BB. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required, at a minimum, semiannually.

Form Numbers: None.

Respondents/affected entities: Owners and operators of kraft pulp mills.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart BB).

Estimated number of respondents: 106 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 16,086 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $5,723,477 (per year), includes $4,182,100 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected increase in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to an adjustment to the estimates to account for industry growth.

(27) Docket ID Number: EPA–HQ–OECA–2014–0059; Title: NESHAP for Natural Gas Transmission and Storage (40 CFR Part 63, Subpart HHH); ICR Numbers: EPA ICR Number 1789.09, OMB Control Number 2060–0418; ICR Status: This ICR is scheduled to expire on April 30, 2015.

Abstract: The NESHAP applies to existing facilities and new facilities that are major sources of hazardous air pollutants (HAP) and that transport or store natural gas prior to entering the pipeline to a local distribution company or to a final end user (if there is no local distribution company). In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP.

Form Numbers: None.

Respondents/affected entities: Natural gas transmission and storage facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart HHH).

Estimated number of respondents: 860 (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 2,391 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $50,375 (per year), includes no annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected increase in the respondent and Agency burden in this ICR compared to the previous ICR. The previous ICR approved by OMB only covers burden associated with the amended standard. This ICR will combine the burden for both the existing rule and the amended rule.

(28) Docket ID Number: EPA–HQ–OECA–2014–0066; Title: NESHAP for Ferroalloys Production: Ferromanganese and Siliconmaganese (40 CFR Part 63, Subpart XXX); ICR Numbers: EPA ICR Number 1831.06, OMB Control Number 2060–0391; ICR Status: This ICR is scheduled to expire on April 30, 2015.

Abstract: The NESHAP applies to ferroalloy production facilities that manufacture ferromanganese and silicomanganese that are major sources of hazardous air pollutants (HAPs) or are co-located at major sources of HAPs. In general, all NESHAP standards require initial notifications, performance tests, and periodic reports. Respondents that are not required to conduct an initial performance test are required to notify the EPA Administrator of the initial compliance status of the source. Sources are also required to monitor and maintain records of its operations including: (1) Process or control device parameters; (2) bag leak detention systems; (3) maintenance plan for air pollution control devices (e.g., capture system and venturi scrubbers); (4) certification that monitoring devices are accurate; and (5)

the implementation and corrective actions taken related to the startup, shutdown and malfunction plan and the fugitive dust control plan. The types of periodic reports required by this regulation include: Opacity-related reports; performance test results reports; immediate and periodic startup/shutdown/malfunction reports, quarterly emissions reports; capture hood inspection reports; fugitive dust operations reports; and annual compliance status reports. These notifications, reports, and records are essential in determining compliance, and are required of all sources subject to NESHAP standards.

Form Numbers: None.

Respondents/affected entities: Ferroalloy production facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart XXX).

Estimated number of respondents: 1 (total).

Frequency of response: Initially, quarterly, semiannually and annually.

Total estimated burden: 584 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $55,956 (per year), includes no annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(29) Docket ID Number: EPA–HQ–OECA–2014–0078; Title: NESHAP for Metal Coil Surface Coating Plants (40 CFR Part 63, Subpart SSSS); ICR Numbers: EPA ICR Number 1957.07, OMB Control Number 2060–0487; ICR Status: This ICR is scheduled to expire on April 30, 2015.

Abstract: Owners or operators must submit notification reports upon construction or reconstruction of any metal coil surface coating plant. Semiannual reports for periods of operation during which the emission limitation has exceeded, or reports certifying that no exceedances have occurred, also are required. Owners and operators must submit notification reports upon the construction, reconstruction, or modification of any metal coil surface coating plant. Also required is a one-time-only initial notification for new and reconstructed sources. Owners or operators of metal coil surface coating plants subject to the rule must maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintenance reports, and records.

Form Numbers: None.

Respondents/affected entities: Owners and operators of metal coil surface coating facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart SSSS).

Estimated number of respondents: 89 (total).

Frequency of response: Initially, occasionally, weekly, semiannually and annually.

Total estimated burden: 19,901 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,618,874 (per year), includes $3,648 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(30) Docket ID Number: EPA–HQ–OECA–2014–0082; Title: NESHAP for Source Categories: Generic Maximum Achievable Control Technology Standards for Carbon Black, Ethylene, Cyanide and Spandex (40 CFR Part 63, Subpart YY); ICR Numbers: EPA ICR Number 1983.07, OMB Control Number 2060–0489; ICR Status: This ICR is scheduled to expire on April 30, 2015.

Abstract: Respondents are owners and operators of facilities in the carbon black production, cyanide chemicals production, ethylene production and spandex production source categories. Respondents would submit notification and information indicating the performance of air pollution controls. This information is needs to ensure compliance with the rule.

Form Numbers: None.

Respondents/affected entities: Owners and operators of carbon black production, cyanide chemicals production, ethylene production and spandex production facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart YY).

Estimated number of respondents: 72 (total).

Frequency of response: Occasionally, semiannually and annually.

Total estimated burden: 13,524 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,654,836 (per year), includes $359,031 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(31) Docket ID Number: EPA–HQ–OECA–2014–0093; Title: NESHAP for Coal- and Oil-Fired Electric Utility Steam Generating Units (40 CFR Part 63, Subpart UUUUU); ICR Numbers: EPA ICR Number 2137.07, OMB Control Number 2060–0567; ICR Status: This ICR is scheduled to expire on April 30, 2015.

Abstract: Potential respondents are owners and operators of coal- and oil-fired electric utility steam generating units. The final rule regulates HCl, filterable PM, Hg, and organic HAP from coal-fired EGUs. For oil-fired EGUs, the final rule regulates HCl, HF, filterable PM, and organic HAP. Following initial performance tests, owners/operators of EGUs will be required to demonstrate compliance with emission limits through continuously monitoring PM, Hg, HCl, and HF (oil-fired EGUs) emissions. The final rule includes a work practice standard for organic HAP; the work practice standard requires the implementation of periodic burner tune-up procedures. Respondents will be required to notify EPA of performance tests and CEMS demonstrations, and to maintain records demonstrating compliance with each emission limit and work practice standard.

Form Numbers: None.

Respondents/affected entities: Owners and operators of coal- and oil-fired electric utility steam generating units.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart UUUUU).

Estimated number of respondents: 1,246 (total).

Frequency of response: Occasionally and semiannually.

Total estimated burden: 700,296 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $207,563,773 (per year), includes $158,445,525 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected increase in burden in this ICR as compared to the ICR currently approved by OMB. The increase is due to an adjustment to account for industry growth in the past three years.

(32) Docket ID Number: EPA–HQ–OECA–2014–0097; Title: NESHAP for Plating and Polishing Area Sources (40 CFR Part 63, Subpart WWWWWW); ICR Numbers: EPA ICR Number 2294.04, OMB Control Number 2060–0623; ICR

Status: This ICR is scheduled to expire on April 30, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions to the General Provisions specified at 40 CFR Part 63, Subpart WWWWWW. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Owners and operators of plating and polishing facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart WWWWWW).

Estimated number of respondents: 2,900 (total).

Frequency of response: Initially and annually.

Total estimated burden: 33,108 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $3,180,693 (per year), includes $8,314 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(33) Docket ID Number: EPA–HQ–OECA–2014–0099; Title: NESHAP for Ferroalloys Production Area Sources (40 CFR Part 63, Subpart YYYYYY); ICR Numbers: EPA ICR Number 2303.04, OMB Control Number 2060–0625; ICR Status: This ICR is scheduled to expire on April 30, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions to the Provisions specified at 40 CFR Part 63, Subpart YYYYYY. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative.

Form Numbers: None.

Respondents/affected entities: Ferroalloys production facilities that are area sources of HAP.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart YYYYYY).

Estimated number of respondents: 10 (total).

Frequency of response: Initially and annually.

Total estimated burden: 345 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $33,035 (per year), includes no annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(34) Docket ID Number: EPA–HQ–OECA–2014–0038; Title: NESHAP for Inorganic Arsenic Emissions from Glass Manufacturing Plants (40 CFR Part 61, Subpart N); ICR Numbers: EPA ICR Number 1081.11, OMB Control Number 2060–0043; ICR Status: This ICR is scheduled to expire on May 31, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 61, Subpart A, and any changes, or additions to the General Provisions specified at 40 CFR Part 61, Subpart N. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Glass manufacturing plants.

Respondent's obligation to respond: Mandatory (40 CFR Part 61, Subpart N).

Estimated number of respondents: 16 (total).

Frequency of response: Initially, occasionally, semiannually and annually.

Total estimated burden: 3,080 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $351,094 (per year), includes $56,000 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(35) Docket ID Number: EPA–HQ–OECA–2014–0040; Title: NSPS for Hot Mix Asphalt Facilities (40 CFR Part 60, Subpart I); ICR Numbers: EPA ICR Number 1127.11, OMB Control Number 2060–0083; ICR Status: This ICR is scheduled to expire on May 31, 2015.

Abstract: These regulations apply to hot mix asphalt facilities comprised only of a combination of the following: Dryers; systems for screening, handling, storing, and weighing hot aggregate; systems for loading, transferring, and storing mineral filler; systems for mixing hot mix asphalt; and the loading, transfer, and storage systems associated with emission control systems.

Form Numbers: None.

Respondents/affected entities: Hot mix asphalt facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart I).

Estimated number of respondents: 4,325 (total).

Frequency of response: Initially and occasionally.

Total estimated burden: 18,284 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,751,943 (per year), includes no annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected increase in burden for the respondent and the Agency due to an adjustment to reflect industry growth. We expect an additional 105 new respondents per year will become subject to the standard. In addition, we expect 140 of the existing respondents will modify their facilities such that they will be required to comply with the initial rule requirements.

(36) Docket ID Number: EPA–HQ–OECA–2014–0042; Title: NSPS for Lime Manufacturing (40 CFR Part 60, Subpart HH); ICR Numbers: EPA ICR Number 1167.11, OMB Control Number 2060–0063; ICR Status: This ICR is scheduled to expire on May 31, 2015.

Abstract: This subpart applies to each rotary lime kiln used in the manufacture of lime. Owners or operators of affected facilities must conduct initial performance tests and continuously monitor opacity or the appropriate control device operating parameters. They must comply with an opacity standard and a moss particulate standard. Sources are also required to submit semiannual reports.

Form Numbers: None.

Respondents/affected entities: Lime manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart HH).

Estimated number of respondents: 41 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 3,772 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $422,931 (per year), includes $61,500 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(37) Docket ID Number: EPA–HQ–OECA–2014–0063; Title: NESHAP for Polyether Polyols Production (40 CFR Part 63, Subpart PPP); ICR Numbers: EPA ICR Number 1811.10, OMB Control Number 2060–0415; ICR Status: This ICR is scheduled to expire on May 31, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions to the General Provisions specified at 40 CFR Part 63, Subpart PPP. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Polyether polyols production facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart PPP).

Estimated number of respondents: 23 (total).

Frequency of response: Initially, semiannually and annually.

Total estimated burden: 3,701 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $433,440 (per year), includes $226,113 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(38) Docket ID Number: EPA–HQ–OECA–2014–0079; Title: NESHAP for Wet-Formed Fiberglass Mat Production (40 CFR Part 63, Subpart HHHH); ICR Numbers: EPA ICR Number 1964.06, OMB Control Number 2060–0496; ICR Status: This ICR is scheduled to expire on May 31, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions to the General Provisions specified at 40 CFR Part 63, Subpart HHHH. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Wet-formed fiberglass mat production facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart HHHH).

Estimated number of respondents: 14 (total).

Frequency of response: Initially, occasionally, semiannually and annually.

Total estimated burden: 3,421 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $327,771 (per year), includes no annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(39) Docket ID Number: EPA–HQ–OECA–2014–0044; Title: NESHAP for Coke Oven Batteries (40 CFR Part 63, Subpart L); ICR Numbers: EPA ICR Number 1362.10, OMB Control Number 2060–0253; ICR Status: This ICR is scheduled to expire on June 30, 2015.

Abstract: These standards apply to all coke oven batteries, whether existing, new, reconstructed, rebuilt or restarted. It also applies to all batteries using the conventional by-product recovery, the non-recovery process, or any new recovery process. The 2005 amendments establish more stringent requirements for the control of hazardous air pollutants from coke oven batteries that chose to comply with maximum achievable control technology (MACT) standards under the 1993 rule.

Form Numbers: None.

Respondents/affected entities: Coke oven batteries.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart L).

Estimated number of respondents: 19 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 80,120 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $7,676,989 (per year), includes no annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(40) Docket ID Number: EPA–HQ–OECA–2014–0064; Title: NESHAP for Steel Pickling, HCL Process Facilities and Hydrochloric Acid Regeneration Plants (40 CFR Part 63, Subpart CCC); ICR Numbers: EPA ICR Number 1821.08, OMB Control Number 2060–0419; ICR Status: This ICR is scheduled to expire on June 30, 2015.

Abstract: This rule applies to all facilities that pickle steel using hydrochloric acid or regenerate hydrochloric acid, and are major sources or are part of a facility that is a major source.

Form Numbers: None.

Respondents/affected entities: Steel pickling, hydrochloric acid process and regeneration facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart CCC).

Estimated number of respondents: 72 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 25,316 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $2,433,399 (per year), includes $7,632 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(41) Docket ID Number: EPA–HQ–OECA–2014–0094; Title: NSPS for Other Solid Waste Incineration Units (40 CFR Part 60, Subpart EEEE); ICR

Numbers: EPA ICR Number 2163.05, OMB Control Number 2060–0563; ICR Status: This ICR is scheduled to expire on June 30, 2015.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR Part 60, Subpart A, and any changes, or additions to the General Provisions specified at 40 CFR Part 60, Subpart EEEE. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Owners and operators of other solid waste incineration units.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart EEEE).

Estimated number of respondents: 1 (total).

Frequency of response: Initially, semiannually and annually.

Total estimated burden: 0 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $0 (per year), includes no annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR.

(42) Docket ID Number: EPA–HQ–OECA–2014–0098; Title: NESHAP for Nine Metal Fabrication and Finishing Sources (40 CFR Part 63, Subpart XXXXXX); ICR Numbers: EPA ICR Number 2298.05, OMB Control Number 2060–0622; ICR Status: This ICR is scheduled to expire on June 30, 2015.

Abstract: The regulation applies to nine metal fabrication and finishing area source categories: (1) Electrical and Electronic Equipment Finishing Operations; (2) Fabricated Metal Products; (3) Fabricated Plate Work (Boiler Shops); (4) Fabricated Structural Metal Manufacturing; (5) Heating Equipment, except Electric; (6) Industrial Machinery and Equipment Finishing Operations; (7) Iron and Steel Forging; (8) Primary Metal Products Manufacturing; and (9) Valves and Pipe Fittings. The final rule establishes emission standards in the form of management practices and equipment standards for new and existing operations of dry abrasive blasting, machining, dry grinding and dry polishing with machines, spray painting and other spray coating, and welding operations. These standards reflect EPA's determination regarding the generally achievable control technology and/or management practices for the nine area source categories.

Form Numbers: None.

Respondents/affected entities: Owners and operators of facilities in the nine metal fabrication and finishing source categories.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart XXXXXX).

Estimated number of respondents: 1,933 (total).

Frequency of response: Initially, occasionally and annually.

Total estimated burden: 20,562 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,972,260 (per year), includes no annualized capital or operation & maintenance costs.

Changes in Estimates: There is a likely increase in the respondent and Agency burden in this ICR compared to the ICR currently approved by OMB. The previous ICR covers the burden associated with a one-time notification requirement, while this ICR will cover ongoing burden required by the rule, resulting in an overall burden increase.

(43) Docket ID Number: EPA–HQ–OECA–2014–0104; Title: NESHAP for Polyvinyl Chloride and Copolymer Productions Area Sources (40 CFR Part 63, Subpart DDDDDD); ICR Numbers: EPA ICR Number 2454.02, OMB Control Number 2060–0684; ICR Status: This ICR is scheduled to expire on June 30, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions to the General Provisions specified at 40 CFR Part 63, Subpart DDDDDD. Owners or operators of the affected facilities must submit a one-time-only of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are also required semiannually.

Form Numbers: None.

Respondents/affected entities: Polyvinyl chloride and copolymer production area source facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart DDDDDD).

Estimated number of respondents: 2 (total).

Frequency of response: Initially, monthly and annually.

Total estimated burden: 427 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,250,452 (per year), includes $282,358 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected decrease in burden in this ICR compared to the ICR currently approved by OMB. The previous ICR covers the initial compliance requirements associated with the final rule, while this ICR covers ongoing compliance.

(44) Docket ID Number: EPA–HQ–OECA–2014–0025; Title: NESHAP for Asbestos (40 CFR Part 61, Subpart M); ICR Numbers: EPA ICR Number 0111.14, OMB Control Number 2060–0101; ICR Status: This ICR is scheduled to expire on July 31, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 61, Subpart A, and any changes, or additions to the General Provisions specified at 40 CFR Part 61, Subpart M. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Demolition and renovation facilities, disposal of asbestos. wastes, asbestos milling, manufacturing and fabricating, use of asbestos on roadways, asbestos waste conversion facilities, and the use of asbestos insulation and spray-on materials.

Respondent's obligation to respond: Mandatory (40 CFR Part 61, Subpart M).

Estimated number of respondents: 9,517 (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 226,407 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $21,694,083 (per year), includes no annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected increase in the respondent and Agency burden due to an adjustment to reflect a net industry growth since the three-year period covered by the previous ICR.

(45) Docket ID Number: EPA–HQ–OECA–2014–0039; Title: NSPS for

Nonmetallic Mineral Processing (40 CFR Part 60, Subpart OOO); ICR Numbers: EPA ICR Number 1084.13, OMB Control Number 2060–0050; ICR Status: This ICR is scheduled to expire on July 31, 2015.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR Part 60, Subpart A, and any changes, or additions to the Provisions specified at 40 CFR Part 60, Subpart OOO. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative.

Form Numbers: None.

Respondents/affected entities: Nonmetallic mineral processing facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart OOO).

Estimated number of respondents: 4,697 (total).

Frequency of response: Initially and occasionally.

Total estimated burden: 12,374 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,340,274 (per year), includes $154,577 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected increase in burden in this ICR compared to the ICR currently approved by OMB. The increase is due to an adjustment in the estimated number of respondents to reflect industry growth.

(46) Docket ID Number: EPA–HQ–OECA–2014–0069; Title: NESHAP for Source Categories: Generic Maximum Achievable Control Technology Standards for Acetal Resins; Acrylic and Modacrylic Fiber; Hydrogen Fluoride and Polycarbonate Production (40 CFR Part 63, Subpart YY); ICR Numbers: EPA ICR Number 1871.08, OMB Control Number 2060–0420; ICR Status: This ICR is scheduled to expire on July 31, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions to the General Provisions specified at 40 CFR Part 63, Subpart YY. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Acetal resins, acrylic and modacrylic fiber, hydrogen fluoride and polycarbonate production facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart YY).

Estimated number of respondents: 10 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 3,718 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $554,916 (per year), includes $130,345 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(47) Docket ID Number: EPA–HQ–OECA–2014–0090; Title: NESHAP for Miscellaneous Metal Parts and Products (40 CFR Part 63, Subpart MMMM); ICR Numbers: EPA ICR Number 2056.05, OMB Control Number 2060–0486; ICR Status: This ICR is scheduled to expire on July 31, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions to the General Provisions specified at 40 CFR Part 63, Subpart MMMM. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Miscellaneous metal parts and products manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart MMMM).

Estimated number of respondents: 4,992 (total).

Frequency of response: Occasionally and semiannually.

Total estimated burden: 2,254,948 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $3,304,948 (per year), includes $1,050,000 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(48) Docket ID Number: EPA–HQ–OECA–2014–0101; Title: NESHAP for Polyvinyl Chloride and Copolymer Production (40 CFR Part 63, Subpart HHHHHHH); ICR Numbers: EPA ICR Number 2432.03, OMB Control Number 2060–0666; ICR Status: This ICR is scheduled to expire on July 31, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions to the General Provisions specified at 40 CFR Part 63, Subpart HHHHHHH. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Polyvinyl chloride and copolymer production facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart HHHHHHH).

Estimated number of respondents: 15 (total).

Frequency of response: Initially, occasionally, monthly and annually.

Total estimated burden: 3,164 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,851,495 (per year), includes $1,552,251 annualized capital or operation & maintenance costs.

Changes in Estimates: There is likely a small increase in the respondent burden and a decrease in Agency burden in this ICR compared to the ICR currently approved by OMB. The previous ICR covers the initial three-year period of the final rule, while this ICR covers the burden associated with ongoing compliance, which differs from initial rule requirements.

(49) Docket ID Number: EPA–HQ–OECA–2014–0103; Title: NSPS for

Nitric Acid Plants for which Construction, Reconstruction or Modification Commenced after October 14, 2011 (40 CFR Part 60, Subpart Ga); ICR Numbers: EPA ICR Number 2445.03, OMB Control Number 2060–0674; ICR Status: This ICR is scheduled to expire on August 31, 2015.

Abstract: The NSPS for nitric acid plants (40 CFR Part 60, Subpart G) were proposed on August 17, 1971, and promulgated on June 14, 1974. This information collection is for a new Subpart Ga, which will apply to nitric acid production units which commence construction, modification, or reconstruction after October 14, 2011. Nitrogen oxide (NO_X) is the pollutant regulated under this subpart. The standards limit nitrogen oxides, expressed as nitrogen dioxide (NO2), to 0.50 lb per ton of 100 percent nitric acid produced. This information is being collected to assure compliance with 40 CFR Part 60, Subpart Ga.

Form Numbers: None.

Respondents/affected entities: Nitric acid plants constructed, reconstructed, or modified after October 14, 2011.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart Ga).

Estimated number of respondents: 4 (total).

Frequency of response: Annually.

Total estimated burden: 968 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $211,076 (per year), includes $119,268 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected increase in the respondent burden in this ICR to reflect industry growth resulting from newly constructed sources that are subject to the standard.

(50) Docket ID Number: EPA–HQ–OECA–2014–0031; Title: NSPS for Petroleum Dry Cleaners (40 CFR Part 60, Subpart JJJ); ICR Numbers: EPA ICR Number 0997.11, OMB Control Number 2060–0079; ICR Status: This ICR is scheduled to expire on September 30, 2015.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR Part 60, Subpart A and any changes, or additions to the Provisions specified at 40 CFR Part 60, Subpart JJJ. Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Petroleum dry cleaners.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart JJJ).

Estimated number of respondents: 20 (total).

Frequency of response: Initially.

Total estimated burden: 1,849 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $177,191 (per year), includes no annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected increase in burden in this ICR compared to the ICR currently approved by OMB. The increase is due to an adjustment in the estimated number of respondents to reflect industry growth.

(51) Docket ID Number: EPA–HQ–OECA–2014–0046; Title: NESHAP for Benzene Waste Operations (40 CFR Part 61, Subpart FF); ICR Numbers: EPA ICR Number 1541.11, OMB Control Number 2060–0183; ICR Status: This ICR is scheduled to expire on September 30, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 61, Subpart A, and any changes, or additions to the Provisions specified at 40 CFR Part 61, Subpart FF. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Owners and operators of chemical manufacturing plants, coke by-product recovery plants, and petroleum refineries.

Respondent's obligation to respond: Mandatory (40 CFR Part 61, Subpart FF).

Estimated number of respondents: 270 (total).

Frequency of response: Initially, occasionally, quarterly and semiannually.

Total estimated burden: 19,148 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,834,697 (per year), includes no annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(52) Docket ID Number: EPA–HQ–OECA–2014–0071; Title: NESHAP for Publicly Owned Treatment Works (40 CFR Part 63, Subpart VVV); ICR Numbers: EPA ICR Number 1891.07, OMB Control Number 2060–0428; ICR Status: This ICR is scheduled to expire on September 30, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions to the Provisions specified at 40 CFR Part 63, Subpart VVV. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Owners and operators of publicly-owned treatment works.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart VVV).

Estimated number of respondents: 6 (total).

Frequency of response: Initially, occasionally, semiannually and annually.

Total estimated burden: 14 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,322 (per year), includes no annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(53) Docket ID Number: EPA–HQ–OECA–2014–0075; Title: NESHAP for Municipal Solid Waste Landfills (40 CFR Part 63, Subpart AAAA); ICR Numbers: EPA ICR Number 1938.06, OMB Control Number 2060–0505; ICR Status: This ICR is scheduled to expire on September 30, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions to the Provisions specified at 40 CFR Part 63, Subpart AAAA. Owners or operators of

the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Owners and operators of municipal solid waste landfills.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart AAAA).

Estimated number of respondents: 1,124 (total).

Frequency of response: Occasionally, semiannually and annually.

Total estimated burden: 18,283 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,768,692 (per year), includes $16,860 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected increase in burden in this ICR compared to the ICR currently approved by OMB. The increase is due to an adjustment in estimate to account for industry growth since the three-year period covered by the previous ICR.

(54) Docket ID Number: EPA–HQ–OECA–2014–0077; Title: NESHAP for Paper and Other Web Coating (40 CFR Part 63, Subpart JJJJ); ICR Numbers: EPA ICR Number 1951.06, OMB Control Number 2060–0511; ICR Status: This ICR is scheduled to expire on September 30, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions to the General Provisions specified at 40 CFR Part 63, Subpart JJJJ. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Paper and other web coating facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart JJJJ).

Estimated number of respondents: 233 (total).

Frequency of response: Initially, occasionally, monthly and semiannually.

Total estimated burden: 11,861 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $2,069,373 (per year), includes $932,875 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected increase in burden in this ICR compared to the ICR currently approved by OMB. The increase is due to an adjustment in the estimated number of respondents to reflect industry growth.

(55) Docket ID Number: EPA–HQ–OECA–2014–0076; Title: NESHAP for the Surface Coating of Large Household and Commercial Appliances (40 CFR Part 63, Subpart NNNN); ICR Numbers: EPA ICR Number 1954.06, OMB Control Number 2060–0457; ICR Status: This ICR is scheduled to expire on September 30, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions to the General Provisions specified at 40 CFR Part 63, Subpart NNNN. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Facilities that conduct surface coating for large household and commercial appliances.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart NNNN).

Estimated number of respondents: 102 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 32,634 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $3,721,318 (per year), includes $594,400 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an increase in burden in this ICR compared to the ICR currently approved by OMB. The increase is due to an adjustment in the estimated number of respondents to reflect industry growth since the three-year period covered by the previous ICR.

(56) Docket ID Number: EPA–HQ–OECA–2014–0081; Title: NESHAP for Reinforced Plastics Composites Production (40 CFR Part 63, Subpart WWWW); ICR Numbers: EPA ICR Number 1976.06, OMB Control Number 2060–0509; ICR Status: This ICR is scheduled to expire on September 30, 2015.

Abstract: These regulations apply to existing facilities and new facilities with reinforced plastic composites (RPC) production operations and processes. New facilities include those that commenced construction or reconstruction after the date of proposal.

Form Numbers: None.

Respondents/affected entities: Reinforced plastic composites production facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart WWWW).

Estimated number of respondents: 552 (total).

Frequency of response: Initially and semiannually.

Total estimated burden: 19,312 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,874,090 (per year), includes $23,612 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected increase in burden in this ICR compared to the ICR currently approved by OMB. The increase is due to an adjustment in the estimated number of respondents to reflect industry growth since the three-year period covered by the previous ICR.

(57) Docket ID Number: EPA–HQ–OECA–2014–0084; Title: NESHAP for Coke Oven Pushing Quenching and Battery Stacks (40 CFR Part 63, Subpart CCCCC); ICR Numbers: EPA ICR Number 1995.06, OMB Control Number 2060–0521; ICR Status: This ICR is scheduled to expire on September 30, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions to the Provisions specified at 40 CFR Part 63, Subpart CCCCC. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Owners or operators of coke oven batteries at a coke plant that is a major source of HAP.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart CCCCC).

Estimated number of respondents: 19 (total).

Frequency of response: Initially, occasionally, weekly, quarterly, and semiannually.

Total estimated burden: 25,879 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $2,649,250 (per year), includes $169,500 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(58) Docket ID Number: EPA–HQ–OECA–2014–0086; Title: NESHAP for Flexible Polyurethane Foam Fabrication (40 CFR Part 63, Subpart MMMMM); ICR Numbers: EPA ICR Number 2027.06, OMB Control Number 2060–0516; ICR Status: This ICR is scheduled to expire on September 30, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions to the General Provisions specified at 40 CFR Part 63, Subpart MMMMM. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Flexible polyurethane foam fabrication facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart MMMMM).

Estimated number of respondents: 14 (total).

Frequency of response: Initially, occasionally, semiannually and annually.

Total estimated burden: 15,601 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,497,553 (per year), includes $2,671 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected increase in burden in this ICR compared to the ICR currently approved by OMB. The increase is due to an adjustment in the estimated number of respondents to reflect industry growth since the three-year period covered by the previous ICR.

(59) Docket ID Number: EPA–HQ–OECA–2014–0087; Title: NESHAP for Asphalt Processing and Asphalt Roofing Manufacturing (40 CFR Part 63, Subpart LLLLL); ICR Numbers: EPA ICR Number 2029.06, OMB Control Number 2060–0520; ICR Status: This ICR is scheduled to expire on September 30, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions to the Provisions specified at 40 CFR Part 63, Subpart LLLLL. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Asphalt processing and asphalt roofing manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart LLLLL).

Estimated number of respondents: 27 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 13,497 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $1,318,753 (per year), includes $25,452 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected increase in burden in this ICR compared to the ICR currently approved by OMB. The increase is due to an adjustment in the estimated number of respondents to reflect industry growth since the three-year period covered by the previous ICR.

(60) Docket ID Number: EPA–HQ–OECA–2014–0088; Title: NESHAP for Refractory Products Manufacturing (40 CFR Part 63, Subpart SSSSS); ICR Numbers: EPA ICR Number 2040.06, OMB Control Number 2060–0515; ICR Status: This ICR is scheduled to expire on September 30, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions to the provisions specified at 40 CFR Part 63, Subpart SSSSS. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Refractory products manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart SSSSS).

Estimated number of respondents: 8 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 338 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $35,436 (per year), includes $3,040 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(61) Docket ID Number: EPA–HQ–OECA–2014–0089; Title: NESHAP for Semiconductor Manufacturing (40 CFR Part 63, Subpart BBBBB); ICR Numbers: EPA ICR Number 2042.06, OMB Control Number 2060–0519; ICR Status: This ICR is scheduled to expire on September 30, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions to the Provisions specified at 40 CFR Part 63, Subpart BBBBB. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Semiconductor manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart BBBBB).

Estimated number of respondents: 1 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 37 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $3,576 (per year), includes $50 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden hours in this ICR compared to the previous ICR. However, there is an expected increase in the respondent and Agency costs due to an adjustment to reflect updated labor rates.

(62) Docket ID Number: EPA–HQ–OECA–2014–0092; Title: NESHAP for Printing, Coating and Dyeing of Fabrics and Other Textiles (40 CFR Part 63, Subpart OOOO); ICR Numbers: EPA ICR Number 2071.06, OMB Control Number 2060–0522; ICR Status: This ICR is scheduled to expire on September 30, 2015.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR Part 63, Subpart A, and any changes, or additions to the Provisions specified at 40 CFR Part 63, Subpart OOOO. Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Form Numbers: None.

Respondents/affected entities: Facilities in the printing, coating, slashing, dyeing or finishing of fabric and other textiles source categories.

Respondent's obligation to respond: Mandatory (40 CFR Part 63, Subpart OOOO).

Estimated number of respondents: 143 (total).

Frequency of response: Initially and semiannually.

Total estimated burden: 21,271 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $2,044,793 (per year), includes $6,671 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an expected increase in burden in this ICR compared to the ICR currently approved by OMB. The increase is due to an adjustment in the estimated number of respondents to reflect industry growth since the three-year period covered by the previous ICR.

(63) Docket ID Number: EPA–HQ–OECA–2014–0102; Title: NSPS for Oil and Natural Gas Production and Natural Gas Transmission and Distribution (40 CFR Part 60, Subpart OOOO); ICR Numbers: EPA ICR Number 2437.03, OMB Control Number 2060–0673; ICR Status: This ICR is scheduled to expire on September 30, 2015.

Abstract: The NSPS covers the requirements at Subpart OOOO. The existing provisions of Subparts KKK/LLL will be included in this subpart along with the new proposed provisions for the following affected facilities: gas wellheads, pneumatic controllers, centrifugal and reciprocating compressors, and storage vessels. The oil and natural gas sector includes operations involved in the extraction and production of oil and natural gas, as well as the processing, transmission, and distribution of natural gas. The potential respondents are owners or operators of oil and gas affected facilities found throughout these industry segments. We estimate 500 entities will be affected by this NSPS.

Form Numbers: None.

Respondents/affected entities: Oil and natural gas production and natural gas transmission and distribution facilities.

Respondent's obligation to respond: Mandatory (40 CFR Part 60, Subpart OOOO)

Estimated number of respondents: 500 (total).

Frequency of response: Semiannually and annually.

Total estimated burden: 68,906 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $3,137,909 (per year), includes $831,336 annualized capital or operation & maintenance costs.

Changes in Estimates: There is likely an increase in burden in this ICR due to an adjustment in the estimated number of respondents to account for industry growth. In addition, this ICR covers the ongoing compliance of the standard, which differs from the burden associated with initial requirements as presented in the previous ICR.

Dated: May 13, 2014.

Lisa C. Lund,

Director, Office of Compliance.

[FR Doc. 2014–12168 Filed 5–23–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–0482; FRL 9911–11–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; SmartWay Transport Partnership (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), SmartWay Transport Partnership (Renewal) (EPA ICR No. 2265.02, OMB Control No. 2060–0663), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through May 31, 2014. Public comments were previously requested via the **Federal Register** (79 FR 7181) on February 6, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before June 26, 2014.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2007–0482 to (1) EPA online using *www.regulations.gov* (our preferred method) or by mail to EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patty Klavon, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: 734–214–4476; Fax: 734–214–

4052; email address: *klavon.patty@epa.gov*.

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets*.

Abstract: The EPA's Office of Air and Radiation (OAR) developed the SmartWay Transport Partnership (''SmartWay'') under directives outlined in Subtitle D of the Energy Policy Act of 2005, which calls on EPA to assess the energy and air quality impacts of activities within the freight industry. These activities include long-duration truck idling, the development and promotion of strategies for reducing idling, fuel consumption, and negative air quality effects. SmartWay's objectives also are consistent with the Federal Technology Transfer Act and other laws that support collaborative partnerships between government and industry.

SmartWay is open to organizations that own, operate, or contract with fleet operations, including truck and multi-modal carriers, logistics companies, and shippers. Organizations that do not operate fleets, but that are working to strengthen the freight industry, such as industry trade associations, state and local transportation agencies and environmental groups, also may join as SmartWay Affiliates. All organizations that join SmartWay are asked to provide EPA with information as part of their SmartWay registration to annually benchmark their transportation-related operations and improve the environmental performance of their freight activities.

A company joins SmartWay when it completes and submits a SmartWay Excel-based Partnership Tool (''reporting tool'') to EPA. The data outputs from the submitted tool are used by Partners and SmartWay in several ways. The data provides confirmation that SmartWay Partners are meeting established objectives as in their Partnership Agreement. The reporting tool outputs enable EPA to assist SmartWay Partners in adjusting their commitments, as appropriate, and to update them with environmental performance and technology information that empower them to improve their efficiency. This information also improves EPA's knowledge and understanding of the environmental and energy impacts associated with goods movement, and the effectiveness of both proven and emerging strategies to lessen those impacts.

In addition to requesting annual transportation-related data, EPA may ask its SmartWay Partners for other kinds of information, which could include opinions and test data on the effectiveness of new and emerging technology applications, sales volumes associated with SmartWay-recommended vehicle equipment and technologies, the reach and value of partnering with EPA through the SmartWay Partnership, and awareness of the SmartWay brand. In some instances, EPA might query other freight industry representatives (not just SmartWay Partners), including trade and professional associations, nonprofit environmental groups, energy, and community organizations, and universities, and a small sampling of the general public.

Form Numbers: None.

Respondents/Affected entities: Private and public organizations that join the SmartWay Transport Partnership; freight industry representatives who engage in activities related to the SmartWay Partnership; and representative samplings of consumers in the general public.

Respondent's obligation to respond: Voluntary.

Estimated number of Program respondents: 3,961 (total).

Frequency of response: Annually, occasionally.

Total estimated burden: 11,504 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total Estimated Cost: $628,477 (per year), which includes $1,651 in annualized capital or operation & maintenance costs.

Changes in estimates: There is an increase of 3,203 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase reflects the following adjustments and program changes: (1) adjustments associated with increased interest in SmartWay, and thus, an increase in new annual respondents and applications for the SmartWay Excellence Award, as well as robust Program retention practices, leading to increased number of Respondent partners reporting annually; (2) increased burden associated with the SmartWay Tractor & Trailer program; and (3) reduced burden due to EPA's streamlined Partnership Annual Agreement process.

Dated: May 16, 2014.

Erin Collard,

Acting Director, Collection Strategies Division.

[FR Doc. 2014–12174 Filed 5–23–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2010–0258; FRL–9911–33–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Alternative Affirmative Defense Requirements for Ultra-low Sulfur Diesel (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''Production Outlook Reports for Un-Registered Renewable Fuels Producers'' (EPA ICR No.2409.02, OMB Control No. 2060–0660) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through May 31, 2014. Public comments were previously requested via the **Federal Register** (78 FR 2571) on February 6, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before June 26, 2014.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2010–0258, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public

docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Geanetta Heard, Fuel Compliance Center, 6406J, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–343–9017 fax number: 202–565–2085 email address: *heard.geanetta@epa.gov*.

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets*.

Abstract: With this information collection request (ICR), we are seeking permission to accept production outlook reports from domestic or foreign renewable fuel producers who are not currently regulated parties under the RFS2 program and are, therefore, not required to register or report under the RFS2 regulations. Submission of production outlook information to EPA under this ICR will be on a *voluntary* basis.

The information that respondents provide will allow EPA to more accurately project cellulosic biofuel volumes for the following calendar year, and these volume projections will form the basis of the percentage standards EPA sets under the RFS2 program. Without information from these respondents, EPA's volume projections are more likely to fall below actual projection volumes. Under such circumstances, actual supply for cellulosic biofuel will exceed the demand created by the standards EPA sets, and the value of cellulosic biofuel Renewable Identification Numbers (RINs) will fall. RINs are marketable credits that correspond to a given volume of renewable fuel. Since RIN market price directly affects the economic viability of cellulosic biofuel production, low RIN prices could present economic difficulties to producers. Thus, it is in the interests of these respondents to provide this information to EPA, as doing so could ensure that the market price of RINs appropriately reflects the value of their cellulosic biofuel. This information also serves a more general program purpose because it will assist EPA in setting the annual RFS2 standards more accurately for biomass-based diesel, advanced biofuel, and total renewable fuel. Compiling this information may also assist respondents with their planning and compliance activities. We believe that many parties would wish to submit this information in order to receive better assistance in understanding and complying with the RFS2 regulations.

Form Numbers: 5900–283 (RFS2 0900 Production Outlook Report).

Respondents/affected entities: Domestic or foreign renewable fuel producers who are not currently regulated parties under the RFS2 program.

Respondent's obligation to respond: Mandatory.

Estimated number of respondents: 2 (total).

Frequency of response: Yearly.

Total estimated burden: 24 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $2,760 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in Estimates: There is a decrease of 116 hours in the total estimated respondent burden as compared with the ICR currently approved by OMB. The decrease in hours is due to a decrease in the respondent universe based on the reported number of submissions in the DCFUEL database. The number of respondents decreased by 33 per year lowering the total number of reports collected. These decreases have lowered the total burden even though the cost to report per response has risen due to better numbers used to calculate the industry burden and to account for inflation.

Dated: May 16, 2014.

Erin Collard,

Acting Director, Collection Strategies Division.

[FR Doc. 2014–12171 Filed 5–23–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9911–43–Region–1; EPA–R01–OW–2014–0202]

Massachusetts Marine Sanitation Device Standard—Notice of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of determination.

SUMMARY: The Regional Administrator of the Environmental Protection Agency (EPA)—New England Region, has determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the remaining state coastal waters of the Commonwealth of Massachusetts.

ADDRESSES: *Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Ann Rodney, U. S. Environmental Protection Agency—New England Region, Office of Ecosystem Protection, Oceans and Coastal Protection Unit, Five Post Office Square, Suite 100, OEP06–1, Boston, MA 02109–3912. Telephone: (617) 918–1538. Fax number: (617) 918–0538. Email address: *rodney.ann@epa.gov*.

SUPPLEMENTARY INFORMATION: On March 28, 2014, EPA published a notice that the Commonwealth of Massachusetts had petitioned the Regional Administrator, Environmental Protection Agency, to determine that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the remaining coastal waters of Massachusetts. The petition was filed pursuant to Section 312 (f) (3) of Public Law 92–500, as amended by Public Laws 95–217 and 100–4, for the purpose of declaring these waters a No Discharge Area (NDA).

Section 312 (f) (3) states: After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such State require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply.

This determination covers three areas: A strip near the state-federal boundary

spanning from Manchester-By-The-Sea to Marshfield, a corridor in Vineyard Sound, and a corridor in Nantucket Sound. The state wide NDA will seamlessly integrate the 20 smaller NDAs that have been designated in Massachusetts since 1991. The boundaries for this statewide NDA encompass all Commonwealth of Massachusetts coastal waters: from mean low water along the coast of Massachusetts, seaward to the state-federal boundary, north to the border with New Hampshire, and south to the border with Rhode Island: *http://www.mass.gov/eea/agencies/czm/program-areas/coastal-water-quality/ndas/.*

Massachusetts has certified that there are a total of 132 pumpout facilities in coastal Massachusetts: *http://www.mass.gov/eea/agencies/czm/program-areas/coastal-water-quality/clean-boating/pumpout-list.html.*

Based on the examination of the petition and its supporting documentation, and information from site visits conducted by EPA New England staff, EPA has determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the area covered under this determination. This determination is made pursuant to Section 312 (f) (3) of Public Law 92–500, as amended by Public Laws 95–217 and 100–4.

Dated: May 14, 2014.

H. Curtis Spalding,

Regional Administrator, New England Region.

[FR Doc. 2014–12170 Filed 5–23–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2014–0411; FRL 9911–45–OA]

Human Studies Review Board; Notification of a Public Meeting

AGENCY: U. S. Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Office of the Science Advisor announces a public meeting of the Human Studies Review Board to advise the Agency on the ethical and scientific reviews of EPA research with human subjects.

DATES: This public meeting will be held on June 11, 2014, from approximately 10:30 a.m. to approximately 4:00 p.m. Eastern Time. Comments may be submitted on or before noon (Eastern Time) on Friday, June 4, 2014.

ADDRESSES: The meeting will be held at the Environmental Protection Agency, Conference Center, Lobby Level, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA 22202.

Comments: Submit your written comments, identified by Docket ID No. EPA–HQ–ORD–2014–0411, by one of the following methods:

Internet: http://www.regulations.gov: Follow the online instructions for submitting comments.

Email: ORD.Docket@epa.gov.

Mail: The EPA Docket Center EPA/DC, ORD Docket, Mail code: 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

Hand Delivery: The EPA/DC Public Reading Room is located in the EPA Headquarters Library, Room Number 3334 in the EPA WJC West, at 1301 Constitution Avenue NW., Washington, DC 20460. The hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Time, Monday through Friday, excluding federal holidays. Please call (202) 566–1744 or email the ORD Docket at *ord.docket@epa.gov* for instructions. Updates to Public Reading Room access are available on the Web site *http://www.epa.gov/epahome/dockets.htm.*

Instructions: The Agency's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any electronic storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes to receive further information should contact Jim Downing at telephone number (202) 564–2468; fax: (202) 564–2070; email address: downing.jim@epa.gov; mailing address Environmental Protection Agency, Office of the Science Advisor, Mail code 8105R, 1200 Pennsylvania Avenue NW., Washington, DC 20460. General information concerning the EPA HSRB can be found on the EPA Web site at *http://www.epa.gov/hsrb.*

SUPPLEMENTARY INFORMATION:

Meeting access: Seating at the meeting will be on a first-come basis. To request accommodation of a disability, please contact the persons listed under **FOR FURTHER INFORMATION CONTACT** at least ten business days prior to the meeting using the information under **FOR FURTHER INFORMATION CONTACT**, so that appropriate arrangements can be made.

Procedures for providing public input: Interested members of the public may submit relevant written or oral comments for the HSRB to consider during the advisory process. Additional information concerning submission of relevant written or oral comments is provided in Section I, ''Public Meeting'' under subsection D. ''How May I Participate in this Meeting?'' of this notice.

Web cast: This meeting may be webcast. Please refer to the HSRB Web site, *http://www.epa.gov/hsrb/*

for information on how to access the webcast. Please note that the webcast is a supplementary public process provided only for convenience. If difficulties arise resulting in webcasting outages, the meeting will continue as planned.

I. Public Meeting

A. Does this action apply to me?

This action is directed to the public in general. This Notice may, however, be of particular interest to persons who conduct or assess human studies, especially studies on substances regulated by the EPA, or to persons who are, or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act or the Federal Insecticide, Fungicide, and Rodenticide Act. This notice might also be of special interest to participants of studies involving human subjects, or representatives of study participants or experts on community engagement. The Agency has not attempted to describe all

the specific entities that may have interest in human subjects research. If you have any questions regarding this notice, consult Jim Downing listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I access electronic copies of this document and other related information?

In addition to using regulations.gov, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the ORD Docket, EPA/DC, in the Public Reading Room.

The EPA/DC Public Reading Room is located in the EPA Headquarters Library, Room Number 3334 in the EPA WJC West, at 1301 Constitution Avenue NW., Washington, DC 20460. The hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Time, Monday through Friday, excluding federal holidays. Please call (202) 566–1744 or email the ORD Docket at *ord.docket@epa.gov* for instructions. Updates to Public Reading Room access are available on the Web site (*http://www.epa.gov/epahome/dockets.htm*).

The Agency's position paper(s), charge/questions to the HSRB, and the meeting agenda will be available by the last week of May 2014. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and other related documents that are available electronically, from the regulations.gov Web site and the EPA HSRB Web site at *http://www.epa.gov/hsrb/.* For questions on document availability, or if you do not have access to the Internet, consult Jim Downing listed under **FOR FURTHER INFORMATION CONTACT**.

C. What should I consider as I prepare my comments for the EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data that you used to support your views.
4. Provide specific examples to illustrate your concerns and suggest alternatives.
5. To ensure proper receipt by the EPA, be sure to identify the Docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

D. How may I participate in this meeting?

You may participate in this meeting by following the instructions in this section. To ensure proper receipt by the EPA, it is imperative that you identify Docket ID number EPA–HQ–ORD–2014–0411 in the subject line on the first page of your request.

1. *Oral comments.* Requests to present oral comments will be accepted up to Friday, June 6, 2014. To the extent that time permits, interested persons who have not pre-registered may be permitted by the Chair of the HSRB to present oral comments at the meeting. Each individual or group wishing to make brief oral comments to the HSRB is strongly advised to submit their request (preferably via email) to Jim Downing, under **FOR FURTHER INFORMATION CONTACT** no later than noon, Eastern Time, Friday, June 6, 2014, in order to be included on the meeting agenda and to provide sufficient time for the HSRB Chair and HSRB Designated Federal Official to review the meeting agenda to provide an appropriate public comment period. The request should identify the name of the individual making the presentation and the organization (if any) the individual will represent. Oral comments before the HSRB are generally limited to five minutes per individual or organization. Please note that this includes all individuals appearing either as part of, or on behalf of, an organization. While it is our intent to hear a full range of oral comments on the science and ethics issues under discussion, it is not our intent to permit organizations to expand the time limitations by having numerous individuals sign up separately to speak on their behalf. If additional time is available, further public comments may be possible.

2. *Written comments.* Submit your written comments prior to the meeting. For the Board to have the best opportunity to review and consider your comments as it deliberates on its report, you should submit your comments by June 4, 2014. If you submit comments after this date, those comments will be provided to the Board members, but you should recognize that the HSRB members may not have adequate time to consider those comments prior to their discussion during the meeting. You should submit your comments using the instructions in Section I., under subsection C., ''What Should I Consider as I Prepare My Comments for the EPA?'' In addition, the agency also requests that persons submitting comments directly to the docket also provide a copy of their comments to Jim Downing listed under **FOR FURTHER INFORMATION CONTACT.** There is no limit on the length of written comments for consideration by the HSRB.

E. Background

The HSRB is a Federal advisory committee operating in accordance with the Federal Advisory Committee Act 5 U.S.C. App.2 § 9. The HSRB provides advice, information, and recommendations to the EPA on issues related to scientific and ethical aspects of human subjects research. The major objectives of the HSRB are to provide advice and recommendations on: (1) Research proposals and protocols; (2) reports of completed research with human subjects; and (3) how to strengthen EPA's programs for protection of human subjects of research. The HSRB reports to the EPA Administrator through the Agency's Science Advisor.

1. *Topics for discussion.* At its meeting on June 11, 2014, EPA's Human Studies Review Board will consider scientific and ethical issues surrounding these topics:

a. Published report by Gardner et al (1988) of an intentional exposure human study measuring the effects of low dose oral iodide supplementation on thyroid function

b. Published report by Paul et al (1988) of an intentional exposure human study measuring the effects of small increases of dietary iodine on thyroid function

c. Published report by Lemar et al (1995) of an intentional exposure human study measuring the effects of chronic tetraglycine hydroperiodide water purification tablet use on thyroid function

d. Discussion of a report from the HSRB Work Group of the Return of Individual Research Results.

2. *Meeting minutes and reports.* Minutes of the meeting, summarizing the matters discussed and

recommendations, if any, made by the advisory committee regarding such matters, will be released within 90 calendar days of the meeting. Such minutes will be available at *http://www.epa.gov/osa/hsrb/and http://www.regulations.gov.* In addition, information regarding the Board's final meeting report, will be found at *http://www.epa.gov/osa/hsrb/* or from the person listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: May 15, 2014.

Robert Kavlock,

Interim Agency Science Advisor.

[FR Doc. 2014–12172 Filed 5–23–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9911–39–OA]

Notification of a Public Teleconference of the Clean Air Scientific Advisory Committee Augmented Sulfur Oxides Primary NAAQS Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public teleconference of the Clean Air Scientific Advisory Committee (CASAC) Augmented Sulfur Oxides Primary National Ambient Air Quality Standards (NAAQS) Review Panel to discuss its draft review of EPA's *Integrated Review Plan for the Primary National Ambient Air Quality Standard for Sulfur Dioxide (External Review Draft).*

DATES: The CASAC will hold a teleconference on Wednesday, June 11, 2014, from 1:00 p.m. to 4:00 p.m. (Eastern Time).

ADDRESSES: The CASAC public teleconference will take place via telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning the CASAC's public teleconference may contact Dr. Diana Wong, Designated Federal Officer (DFO) via telephone at (202) 564–2049 or email at *wong.diana-M@epa.gov*. General information concerning the CASAC can be found on the EPA Web site at *http://www.epa.gov/casac.*

SUPPLEMENTARY INFORMATION: The CASAC was established pursuant to the Clean Air Act (CAA) Amendments of 1977, codified at 42 U.S.C. 7409D(d)(2), to review air quality criteria and NAAQS and recommend any new NAAQS and revisions of existing criteria and NAAQS as may be appropriate. The CASAC shall also provide advice, information, and recommendations to the Administrator on the scientific and technical aspects of issues related to the criteria for air quality standards, research related to air quality, sources of air pollution, and of adverse effects which may result from various strategies to attain and maintain air quality standards. The CASAC is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the NAAQS for the six ''criteria'' air pollutants, including oxides of sulfur. EPA is currently reviewing the primary (health-based) NAAQS for sulfur dioxide (SO_2), as an indicator for health effects caused by the presence of oxides of sulfur in the ambient air and has requested CASAC advice.

For purposes of the review of the sulfur oxides air quality criteria for health and the primary NAAQS for sulfur dioxide, the CASAC Augmented Sulfur Oxides Review Panel was formed following a request for public nominations of experts (78 FR 43880—43881, July 22, 2013), and held a public teleconference on April 22, 2014 (as noticed in 79 FR 16325–16326) to peer review EPA's *Integrated Review Plan for the Primary National Ambient Air Quality Standard for Sulfur Dioxide (External Review Draft- March 2014).* Information about this review activity may be found on the CASAC Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/SO_2%20Primary%20NAAQS%20Review?Open Document.*

Pursuant to FACA and EPA policy, notice is hereby given that the CASAC Augmented Sulfur Oxides Primary NAAQS Review Panel will hold a public teleconference to discuss CASAC's draft review of this EPA document. The CASAC Augmented Sulfur Oxides Review Panel will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Technical Contacts: Any technical questions concerning the *Integrated Review Plan for the Primary National Ambient Air Quality Standard for Sulfur Dioxide (External Review Draft—March 2014)* should be directed to Dr. Michael Stewart (*stewart.michael@epa.gov*).

Availability of Meeting Materials: Prior to the teleconference, the CASAC draft report, agenda and other materials will be accessible through the calendar link on the blue navigation bar at *http://www.epa.gov/casac/.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit relevant comments for a federal advisory committee to consider as it develops advice for EPA. Interested members of the public may submit relevant written or oral information on the topic of this advisory activity, and/or the group conducting the activity, for the CASAC to consider during the advisory process. Input from the public to the CASAC will have the most impact if it provides specific scientific or technical information or analysis for CASAC panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the DFO directly. *Oral Statements:* In general, individuals or groups requesting an oral presentation on a public teleconference will be limited to three minutes. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Interested parties should contact Dr. Diana Wong, DFO, in writing (preferably via email) at the contact information noted above by June 4, 2014 to be placed on the list of public speakers. *Written Statements:* Written statements should be supplied to Dr. Diana Wong, DFO, via email at the contact information noted above by June 4, 2014 so that the information may be made available to the Panel members for their consideration. Written statements should be supplied in one of the following electronic formats: Adobe Acrobat PDF, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format. It is the SAB Staff Office general policy to post written comments on the Web page for advisory meetings or teleconferences. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written

comments, may be posted to the CASAC Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Diana Wong at (202) 564–2049 or *wong.diana-M@epa.gov*. To request accommodation of a disability, please contact Dr. Diana Wong preferably at least ten days prior to the teleconference to give EPA as much time as possible to process your request.

Dated: May 13, 2014.

Thomas H. Brennan,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2014–12166 Filed 5–23–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communication Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before July 28, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov <mailto:PRA@fcc.gov>* and to *Cathy.Williams@fcc.gov <mailto:Cathy.Williams@fcc.gov>.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0501.

Title: Section 73.1942 Candidates Rates; Section 76.206 Candidate Rates; Section 76.1611 Political Cable Rates and Classes of Time.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 17,561 respondents; 403,610 responses.

Estimated Time per Response: 0.5 hours to 20 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement; Semi-annual requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i) and 315 of the Communications Act of 1934, as amended.

Total Annual Burden: 927,269 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: Section 315 of the Communications Act directs broadcast stations and cable operators to charge political candidates the ''lowest unit charge of the station'' for the same class and amount of time for the same period, during the 45 days preceding a primary or runoff election and the 60 days preceding a general or special election.

47 CFR 73.1942 requires broadcast licensees and 47 CFR 76.206 requires cable television systems to disclose any station practices offered to commercial advertisers that enhance the value of advertising spots and different classes of time (immediately preemptible, preemptible with notice, fixed, fire sale, and make good). These rule sections also require licensees and cable TV systems to calculate the lowest unit charge. Broadcast stations and cable systems are also required to review their advertising records throughout the election period to determine whether compliance with these rule sections require that candidates receive rebates or credits.

47 CFR 76.1611 requires cable systems to disclose to candidates information about rates, terms, conditions and all value-enhancing discount privileges offered to commercial advertisers.

OMB Approval Number: 3060–0896.

Title: Broadcast Auction Form Exhibits.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other-for profit entities, not-for-profit institutions, State, local or tribal government.

Number of Respondents and Responses: 3,000 respondents and 7,605 responses.

Estimated Hours per Response: 0.5 hours—2 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i) and 309 of the Communications Act of 1934, as amended.

Annual Hour Burden: 8,628 hours.

Annual Cost Burden: $16,735,750.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: The Commission's rules require that broadcast auction participants submit exhibits disclosing ownership, bidding agreements, bidding credit eligibility and engineering data. These data are used by Commission staff to ensure that applicants are qualified to participate in Commission auctions and to ensure that license winners are entitled to receive the new entrant bidding credit, if applicable. Exhibits regarding joint bidding agreements are designed to prevent collusion. Submission of engineering exhibits for non-table services enables the Commission to determine which applications are mutually exclusive.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–12109 Filed 5–23–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission, Comments Requested

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501—3520), the Federal Communications Commission (FCC) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and further ways to reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid Control Number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before July 28, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), via the Internet at *Leslie.Smith@fcc.gov.* To submit your PRA comments by email, send them to *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information, contact Leslie F. Smith at (202) 418–0217, or via the Internet at *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0741.

Title: Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96–98, Second Report and Order and Memorandum Opinion and Order, *et al.*

Form Number(s): N/A.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 5,907 respondents; 573,767 responses.

Estimated Time per Response: 0.5—8 hours.

Frequency of Response: On occasion reporting requirements; recordkeeping; third party disclosure.

Obligation To Respond: Required to obtain or retain benefits. 47 U.S.C. 222 and 251

Total Annual Burden: 575,448 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting that the respondents submit confidential information to the FCC. Respondents may, however, request confidential treatment for information they believe to be confidential under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: Section 251 of the Communications Act of 1934, as amended, *47 U.S.C. 251,* is designed to accelerate private sector development and deployment of telecommunications technologies and services by spurring competition. Section 222(e) is also designed to spur competition by prescribing requirements for the sharing of subscriber list information. These OMB collections are designed to help implement certain provisions of sections 222(e) and 251, and to eliminate operational barriers to competition in the telecommunications services market. Specifically, these OMB collections will be used to implement (1) local exchange carriers' (''LECs'') obligations to provide their competitors with dialing parity and non-discriminatory access to certain services and functionalities; (2) incumbent local exchange carriers' (''ILECs'') duty to make network information disclosures; and (3) numbering administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–12108 Filed 5–23–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 14–640]

Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission released a public notice announcing the meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and agenda.

DATES: Tuesday, June 17, 2014, 10:00 a.m.

ADDRESSES: Federal Communications Commission, Portals II, 445 12th Street SW., Room 5–C162, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Carmell Weathers at (202) 418–2325 or *Carmell.Weathers@fcc.gov.* The fax number is: (202) 418–1413. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document in CC Docket No. 92–237, DA 14–640 released May 13, 2014. The complete text in this document is available for public inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The document my also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.* It is available on the Commission's Web site at *http://www.fcc.gov.*

The North American Numbering Council (NANC) has scheduled a meeting to be held Tuesday, June 17, 2014, from 10:00 a.m. until 2:00 p.m. The meeting will be held at the Federal Communications Commission, Portals II, 445 12th Street SW., Room TW–C305, Washington, DC. This meeting is open to members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements

will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty). Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need, including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least five days advance notice; last minute requests will be accepted, but may be impossible to fill.

Proposed Agenda: Thursday, March 27, 2014, 10:00 a.m.*

1. Announcements and Recent News
2. Approval of Transcript—March 27, 2014
3. Report of the North American Numbering Plan Administrator (NANPA)
4. Report of the National Thousands Block Pooling Administrator (PA)
5. Report of the Numbering Oversight Working Group (NOWG)
6. Report of the North American Numbering Plan Billing and Collection (NANP B&C) Agent
7. Report of the Billing and Collection Working Group (B&C WG)
8. Report of the North American Portability Management LLC (NAPM LLC)
9. Report of the Local Number Portability Administration (LNPA) Selection Working Group (SWG)
10. Report of the LNPA Working Group
11. Status of the Industry Numbering Committee (INC) Activities
12. Report of the Future of Numbering Working Group (FoN WG)
13. Presentation by John Visclosky, Wireline Competition Bureau, Report on Direct Access to Numbers Trial
14. Summary of Action Items
15. Public Comments and Participation (5 minutes per speaker)
16. Other Business

Adjourn no later than 2:00 p.m.

*The Agenda may be modified at the discretion of the NANC Chairman with the approval of the DFO.

Federal Communications Commission.

Ann H. Stevens,

Deputy Chief, Competition Policy Division, Wireline Competition Bureau.

[FR Doc. 2014–12062 Filed 5–23–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals to Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The following applicants filed AM or FM proposals to change the community of license: Call Communications Group, Inc., Station WAZQ, Facility ID 175980, BPED–20140403ABW, from Islamorada, FL, to Duck Key, FL; Daij Media, LLC, Station KJOZ, Facility ID 20625, BP–20120731AAA, from Conroe, TX, to Baytown, TX; KRJG, INC., Station KNDN–FM, Facility ID 189502, BMPH–20140425ABU, from Teec Nos Pos, AZ, to Shiprock, NM; NRC Broadcasting Mountain Group, LLC, Station KIDN–FM, Facility ID 57339, BPH–20140311ACI, from Burns, CO, to Milner, CO; Ouachita Broadcasting, Inc., Station KENA–FM, Facility ID 50772, BPH–20140402AQH, from Mena, AR, to De Queen, AR; Powell Meredith Communications Company, Station NEW, Facility ID 161417, BMP–20140320AED, from Paradise, NV, to Enterprise, NV; Tracy McCutchen, Station NEW, Facility ID 189553, BMPH–20140403ABI, from Menard, TX, to Mertzon, TX; Vickers, Victor M, Station WVHY, Facility ID 191568, BMPH–20140306ACF, from Homerville, GA, to Axson, GA; Western Broadcasting LS, LLC, Station KURR, Facility ID 164147, BPH–20140317ABV, from Indian Springs, NV, to Hildale, UT.

DATES: Comments may be filed on or before July 28, 2014.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tung Bui, 202–418–2700.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, Radio Broadcasting Services; AM or FM Proposals to Change the Community of License. The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm.* A copy of this application may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC, 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com.*

Federal Communications Commission.

James D. Bradshaw,

Deputy Chief, Audio Division, Media Bureau.

[FR Doc. 2014–12063 Filed 5–23–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request Re: Retail Foreign Exchange Transactions

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. As part of its continuing effort to reduce paperwork and respondent burden, the FDIC invites the general public and other Federal agencies to take this opportunity to comment on renewal of an existing information collection as required by PRA. On March 18, 2014 (79 FR 15122), the FDIC requested comment for 60 days on renewal of its information collection entitled *Retail Foreign Exchange Transactions,* which is currently approved under OMB Control No. 3064–0182. No comments were received on the proposal to renew. The FDIC hereby gives notice of submission to OMB of its request to renew the collection.

DATES: Comments must be submitted on or before June 26, 2014.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/*
- *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.

• *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room NYA–5050, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

• *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta Gregorie, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal to renew without change the following currently approved collections of information

Title: Retail Foreign Exchange Transactions.

OMB Number: 3064–0182.

Frequency of Response: Event generated.

Affected Public: Insured state nonmember banks and state savings associations.

Estimated Number of Respondents: 3 state nonmember banks; 1 service provider.

Estimated Time per Response: Various, ranging from one to 16 hours.

Estimated Annual Burden: reporting—48 hours; disclosure—5,326 hours; recordkeeping—664 hours.

Total Estimated Annual Burden: 6,038 hours.

General Description of Collection: FDIC regulations governing retail foreign exchange transactions are set forth at 12 CFR part 349. The regulations prescribe appropriate requirements—including disclosure, recordkeeping, capital and margin, reporting, business conduct, and documentation requirements—for foreign currency futures, options on futures, and options that FDIC-supervised institutions engage in with retail customers. In addition, the regulations impose requirements on other foreign currency transactions that are functionally or economically similar, including so called ''rolling spot'' transactions that an individual enters into with a foreign currency dealer, usually through the Internet or other electronic platform, to transact in foreign currency.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 21st day of May, 2014.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–12102 Filed 5–23–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update listing of financial institutions in liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: May 19, 2014.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10498	AztecAmerica Bank	Berwyn	IL	5/16/2014

[FR Doc. 2014–12032 Filed 5–23–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuance

The Commission gives notice that the following Ocean Transportation Intermediary license has been reissued pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101).

License No.: 012308N.

Name: Versatile International Corporation dba King Yang Shipping.

Address: 11100 Valley Blvd., Suite 110, El Monte, CA 91731.

Date Reissued: April 6, 2014.

Sandra L. Kusumoto.

Director, Bureau of Certification and Licensing.

[FR Doc. 2014–12121 Filed 5–23–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations and Terminations

The Commission gives notice that the following Ocean Transportation Intermediary licenses have been revoked or terminated for the reason indicated pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101) effective on the date shown.

License No.: 8547N.
Name: Top Line Express, Inc.
Address: 150–30 132nd Avenue, Suite 208, Jamaica, NY 11434.
Date Revoked: April 16, 2014.
Reason: Voluntary surrender of license.

License No.: 015646NF.
Name: Universe Freight Brokers, Inc. dba Seacarriers.
Address: 1970 NW 70th Avenue, Miami, FL 33126.
Date Revoked: April 16, 2014.
Reason: Voluntary surrender of license.

License No.: 020911F.
Name: Cargois Inc. dba SV Logis Inc.
Address: 10700 Seymour Avenue, Franklin Park, IL 60131.
Date Revoked: October 29, 2013.
Reason: Failed to maintain a valid bond.

License No.: 021507N.
Name: Phil-Am Cargo Express, LLC.
Address: 2906 Keats Avenue, Clovis, CA 93611.
Date Revoked: April 25, 2014.
Reason: Voluntary surrender of license.

License No.: 022293N.
Name: MJ Group Limited—Morgan Jones, LLC.
Address: 1201 Corbin Street, Elizabeth, NJ 07201.
Date Revoked: April 17, 2014.
Reason: Failed to maintain a valid bond.

License No.: 023179N.
Name: Logic Global LLC.
Address: 1900 Hempstead Turnpike, Suite 405, East Meadow, NY 11554.
Date Revoked: April 10, 2014.
Reason: Voluntary surrender of license.

License No.: 023601NF.
Name: Trade Bridge Logistics, Inc.
Address: 103 N. 13th Street, Brooklyn, NY 11249.
Date Revoked: April 26, 2014.
Reason: Failed to maintain valid bonds.

License No.: 023837N.
Name: TBIF, LLC.
Address: 211 E. Main Street, Suite C, Bozeman, MT 59715.
Date Revoked: April 3, 2014.
Reason: Voluntary surrender of license.

License No.: 024256N.
Name: Dax Cargo Inc.
Address: 8514 NW 66th Street, Miami, FL 33166.
Date Revoked: April 23, 2014.
Reason: Failed to maintain a valid bond.

License No.: 024334NF.
Name: World Link Logistics Inc.
Address: 17022 De Groot Place, Cerritos, CA 90703.
Date Revoked: April 20, 2014.
Reason: Failed to maintain valid bonds.

Sandra L. Kusumoto.
Director, Bureau of Certification and Licensing.

[FR Doc. 2014–12142 Filed 5–23–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 10, 2014.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Linda J. Boerner, Coralville, Iowa, and Susan B. Libbey, Minnetonka, Minnesota, individually, and as members of the Bogue Family Group consisting of Linda J. Boerner, Coralville, Iowa; Susan B. Libbey, Minnetonka, Minnesota; Mark & Jaclyn Bogue, Ida Grove, Iowa; Brett Boerner, Urbandale, Iowa; Melissa Adrian, Richland, Iowa; and Ronald & Christine Boerner,* Wamego, Kansas; to retain voting shares of First State Bancshares, Inc., and thereby indirectly retain voting shares of First State Bank, both in Ida Grove, Iowa.

Board of Governors of the Federal Reserve System, May 21, 2014.

Michael J. Lewandowski,
Associate Secretary of the Board.

[FR Doc. 2014–12106 Filed 5–23–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 2014–11653) published on page 29190 of the issue for Wednesday, May 21, 2014.

Under the Federal Reserve Bank of St. Louis heading, the entry for Riney Family Control Group, is revised to read as follows:

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Riney Family Control Group, which consists of* Teresa White Riney; Teresa White Riney, IRA; William Anthony Riney, Jr.; William Anthony Riney, Jr. IRA; William Anthony Riney, Jr., Custodian for Thomas William Riney; William Anthony Riney, Jr., Custodian for John William Riney; Betty Doris White; William Anthony Riney, Sr.; Nancy White Hale, IRA; Rachel White Fenwick; Joseph Stephen Fenwick; David Wayne Riney, IRA; David Wayne Riney; Rhonda Thompson Riney; James Kevin Riney; and Lori Russell Riney, all of Springfield, Kentucky; Charles David White and Janice Carol White, both of Bardstown, Kentucky; Theresa Riney Noel and Bradley Dee Noel, both of Harrodsburg, Kentucky; and Deborah Jean Goist, Portage, Michigan, all acting in concert; to retain voting shares of Kentucky Home Bancshares, Inc., and thereby indirectly retain voting shares of Kentucky Home Bank, Inc., both in Bardstown, Kentucky.

Comments on this application must be received by June 4, 2014.

Board of Governors of the Federal Reserve System, May 21, 2014.

Michael J. Lewandowski,
Associate Secretary of the Board.

[FR Doc. 2014–12107 Filed 5–23–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 121 0004]

Marker Völkl (International) GmbH and Tecnica Group, SpA.; Analysis of Agreements Containing Consent Orders to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreements.

SUMMARY: The consent agreements in these matters settle alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis of Proposed Consent Orders to Aid Public Comment describes both the allegations in the draft complaints and the terms of the consent orders—embodied in the consent agreements—that would settle these allegations.

DATES: Comments must be received on or before June 18, 2014.

ADDRESSES: Interested parties may file comments at *https://ftcpublic.commentworks.com/ftc/skimanufacturerconsent* online or on paper, by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Ski Manufacturers—Consent Agreement; File No. 121–0004'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/skimanufacturerconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610, (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610, (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Mark Taylor, Bureau of Competition, (202–326–2287), 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 agreements containing consent orders to cease and desist, have been filed with and accepted, subject to final approval, by the Commission, having 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 agreements, and the allegations in the complaints. An electronic copy of the full text of the consent agreement packages can be obtained from the FTC Home Page (for May 19, 2014), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm*.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 18, 2014. Write ''Ski Manufacturers—Consent Agreement; File No. 121–0004'' 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 comment online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/skimanufacturerconsent* by following the instructions on the web-based forms. 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 ''Ski Manufacturers—Consent Agreement; File No. 121–0004'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610, (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW., 5th Floor, Suite 5610, (Annex D), Washington, DC 20024. 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 June 18, 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*.

Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing consent order (''Agreement'') from Marker Völkl (International) GmbH (''Marker Völkl'') and a separate Agreement from Tecnica Group SpA. (''Tecnica''). Marker Völkl and Tecnica are hereinafter sometimes referred to collectively as ''Respondents.''

Respondents are manufacturers of various types of ski equipment. The Agreements settle charges that Marker Völkl and Tecnica both violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by agreeing with each other not to compete for the services of athlete endorsers and not to compete for the services of employees.

The Agreements have been placed on the public record for 30 days for receipt of comments from interested members

[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).

of the public. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the Agreements and comments received, and will decide whether it should withdraw from the Agreements or make final the orders contained in the Agreements.

The purpose of this Analysis to Aid Public Comment is to invite and facilitate public comment concerning the proposed orders. It is not intended to constitute an official interpretation of the Agreements and proposed orders, or in any way to modify their terms.

The proposed orders are for settlement purposes only and do not constitute an admission by the Respondents that they violated the law or that the facts alleged in the Complaint, other than jurisdictional facts, are true.

I. The Complaints

This action addresses anticompetitive conduct in the ski equipment industry. The allegations of the Complaints are summarized below.

A. Background

Marker Völkl and Tecnica manufacture, market, and sell ski equipment. The most effective and most costly tool for marketing ski equipment consists of securing endorsements from prominent ski athletes.

Endorsement agreements between a ski equipment company and a ski athlete are typically of short duration, and are subject to renewal. Commonly, the ski athlete: (i) Authorizes the company to use the athlete's name and likeness in promotions and in advertisements, (ii) agrees to use and promote the company's equipment on an exclusive basis, (iii) agrees to display the company's equipment when the athlete can attract media exposure, such as by holding up the skis at the end of a race, or taking the skis to the podium when receiving a medal, and/or (iv) agrees to appear at promotional events on behalf of the company. The association of a ski equipment brand with a prominent ski athlete generates sales, goodwill, and other benefits for the company.

As consideration for the ski athlete's endorsement services, the ski equipment company commonly provides the ski athlete with monetary compensation (keyed to the athlete's success in competitions), support services at competitions, free or discounted equipment, and/or travel expenses.

Ordinarily, ski equipment companies compete with one another to secure the endorsement services of prominent ski athletes. At the expiration of an endorsement agreement, a ski athlete can be induced to switch from one company to another in return for greater compensation, in much the same way that an employee can be induced to change employers in return for a higher salary or better benefits.

Endorsement agreements are the primary source of income for professional ski athletes.

B. The Marker Völkl/Tecnica Collaboration

In 1992, Marker Völkl began collaborating with Tecnica in the marketing and distribution of certain complementary ski equipment: Völkl brand skis, and Tecnica brand ski boots. Initially, these companies were not competitors: Tecnica did not have a ski; Marker Völkl did not have a ski boot.

In 2003, Tecnica acquired the Nordica ski equipment unit from Benetton Group SpA. Nordica manufactured and sold both skis and ski boots. Tecnica acquired a second ski manufacturer, Blizzard GmbH (''Blizzard''), in 2006.

The ski brands acquired by Tecnica (Nordica and Blizzard brands) were not included in the Marker Völkl/Tecnica collaboration. That is, Tecnica independently manufactures, markets, and distributes Nordica skis and Blizzard skis, in competition with Völkl skis.

C. The Challenged Conduct

Marker Völkl and Tecnica agreed not to compete with one another to secure the services of ski athletes and employees.

Beginning in or about 2004, Marker Völkl and Tecnica agreed not to compete with one another to secure the endorsement services of ski athletes. Specifically, Marker Völkl agreed not to solicit, recruit, or contract with a ski athlete who previously endorsed Tecnica's skis, or who was otherwise claimed by Tecnica. Tecnica agreed not to solicit, recruit, or contract with a ski athlete who previously endorsed Marker Völkl's skis, or who was otherwise claimed by Marker Völkl.

In 2007, Marker Völkl and Tecnica agreed to expand the scope of their non-compete agreements. Marker Völkl and Tecnica agreed not to compete for the services of any employee. Specifically, Marker Völkl agreed not to solicit, recruit, or contract with any employee of Tecnica. Tecnica agreed not to solicit, recruit, or contract with any employee of Marker Völkl.

Marker Völkl and Tecnica intended that these non-compete agreements would enable them to avoid bidding up (i) the cost of securing athlete endorsements, and (ii) the salaries paid to employees.

Respondents' conduct had the purpose, capacity, tendency, and likely effect of (i) restraining competition unreasonably, (ii) harming the economic interests of ski athletes, and (iii) harming the economic interests of the affected employees of Marker Völkl and Tecnica.

II. Legal Analysis

The Complaint alleges that both the athlete non-compete agreement and the employee non-compete agreement violate Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

These agreements are appropriately analyzed under the framework articulated by the Commission in the *Polygram* case.[2] Agreements between competitors not to compete for professional services, for employees, or for other inputs, are presumptively anticompetitive or inherently suspect, if not *per se* unlawful.[3]

When an agreement is deemed inherently suspect, a party may avoid summary condemnation under the antitrust laws by advancing a legitimate

[2] *In the Matter of Polygram Holding, Inc., et al.,* 136 F.T.C. 310 (F.T.C. 2003), *aff'd,* 416 F.3d 29 (D.C. Cir. 2005). *See also* North Texas Specialty Physicians v. FTC, 528 F.3d 346 (5th Cir. 2008); *In the Matter of Realcomp II Ltd., A Corp..,* 2009–2 Trade Cas. (CCH) ¶ 76784 (F.T.C. Oct. 30, 2009).

[3] *See, e.g., United States* v. *Brown,* 936 F.2d 1042 (9th Cir. 1991); *Mandeville Island Farms, Inc.* v. *Am. Crystal Sugar Co.,* 334 U.S. 219, 235 (1948). *See also Todd* v. *Exxon Corp.,* 275 F.3d 191, 198 (2d Cir. 2001) (stating that *per se* rule would ''likely apply'' to allegations of actual agreement among competitors to fix employee salaries); *Knevelbaard* v. *Kraft Foods, Inc.,* 232 F.3d 979, 988–89 (9th Cir. 2000) (''Most courts understand that a buying cartel's low prices are illegal. . . . Clearly mistaken is the occasional court that considers low buying prices pro-competitive or that thinks sellers receiving illegally low prices do not suffer antitrust injury.''); *NBA v. Williams,* 45 F.3d 684, 687 (2d Cir. 1995) (''Absent justification under the Rule of Reason or some defense, employers who compete for labor may not agree among themselves to purchase that labor only on certain specified terms and conditions . . . Such conduct would be *per se* unlawful.''); *Vogel* v. *Am. Soc'y of Appraisers,* 744 F.2d 598, 601 (7th Cir. 1984) (Posner, J.) (''[B]uyer cartels, the object of which is to force the prices that suppliers charge the members of the cartel below the competitive level, are illegal *per se.''*); *U.S.* v. *eBay,* 968 F. Supp. 2d 1030 (N.D. Cal. 2013) (denying defendant's motion to dismiss government's claim that an agreement between employers not to solicit or hire each other's employees was a naked restraint of trade subject to *per se* or quick look analysis).

These cases must be distinguished from (1) non-compete agreements between employers and their employees and (2) a no-hire agreement between the seller of a business and its buyer. Non-compete or no-hire agreements in those contexts do not generally receive *per se* condemnation to the extent that the courts deem the restraints ancillary to a legitimate and procompetitive transaction.

(cognizable and plausible) efficiency justification for the restraint.[4]

Here, the Commission finds reason to believe that the athlete non-compete agreement and the employee non-compete agreement serve no pro-competitive purpose. More specifically, these restraints are not reasonably necessary for the formation or efficient operation of the marketing collaboration between Marker Völkl and Tecnica. That the restraints are, at a minimum, overbroad is demonstrated by the fact that the agreements adversely affect competition for—and the compensation available to—athletes and employees who have no relationship with the collaboration.[5] Further, Respondents cannot plausibly claim that the restraints serve to align the incentives of the companies in a manner that promotes the cognizable efficiency goals of their collaboration. Rather, the ski businesses of Tecnica (the Nordica and Blizzard brands) were at all times outside of and apart from the collaboration.[6] In sum, the Respondents did not provide evidence demonstrating why Marker Völkl and Tecnica cannot cooperate in the marketing of certain ski products, yet at the same time compete for the services of endorsers and employees.

The athlete non-compete agreement and the employee non-compete agreement serve to protect Marker Völkl and Tecnica from the rigors of competition, with no advantage to consumer welfare. The justifications for the non-compete agreements proffered by the Respondents were neither supported by the evidence nor cognizable under the antitrust laws. Because there is no plausible and cognizable efficiency rationale for the non-compete agreements, these inherently suspect agreements constitute unreasonable restraints on trade, and are properly judged to be illegal.

III. The Proposed Orders

The proposed Orders are designed to remedy the unlawful conduct charged against Respondents in the Complaints and to prevent the recurrence of such conduct.

The proposed Orders enjoin Marker Völkl and Tecnica from, directly or indirectly, entering into, or attempting to enter into, an agreement with a ski equipment competitor to forbear from competing for U.S. athletes to sign endorsement contracts for the company's ski equipment. The proposed Orders also enjoin Marker Völkl and Tecnica from entering into an agreement with a ski equipment competitor to forbear from competing for the services of any U.S. employee. A proviso to the cease and desist requirements allows reasonable restraints ancillary to a legitimate joint venture.

The proposed Orders will expire in 20 years.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–12046 Filed 5–23–14; 8:45 am]

BILLING CODE 6750–01–P

[4] *PolyGram Holding, Inc.* v. *FTC,* 416 F.3d 29, 35–36 (D.C. Cir. 2005).

[5] *Cf.,* Federal Trade Comm'n and U.S. Dep't of Justice, *Antitrust Guidelines for Collaborations Among Competitors* (2000) § 3.36(b).

[6] *See In the Matter of Polygram Holding, Inc., et al.,* 136 F.T.C. 310, 322, 357–63 (F.T.C. 2003).

FINANCIAL STABILITY OVERSIGHT COUNCIL

Proposed Collections; Comment Requests

ACTION: Notice and request for comments.

SUMMARY: The Financial Stability Oversight Council (the ''Council'') invites members of the public and affected agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). The Council is soliciting comments concerning its collection of information related to its authority to designate financial market utilities as systemically important. Section 804 of the Dodd-Frank Wall Street Reform and Consumer Protection (the ''Dodd-Frank Act'') provides the Council the authority to designate a financial market utility (''FMU'') that the Council determines is or is likely to become systemically important because the failure of or a disruption to the functioning of the FMU could create, or increase, the risk of significant liquidity or credit problems spreading among financial institutions or markets and thereby threaten the stability of the United States financial system. On July 27, 2011, the Council published in the **Federal Register** a final rule (12 CFR part 1320) that describes the criteria that will inform and the processes and procedures established under the Dodd-Frank Act for the Council's designation of FMUs as systemically important under the Dodd-Frank Act. On July 18, 2012, the Council designated eight FMUs as systemically important under Title VIII of the Dodd-Frank Act. The collection of information under 12 CFR 1320.11 affords FMUs that are under consideration for designation, or rescission of designation, an opportunity to submit written materials to the Council in support of, or in opposition to, designation or rescission of designation. The collection of information under 12 CFR 1320.12 affords FMUs an opportunity to contest a proposed determination of the Council by requesting a hearing and submitting written materials (or, at the sole discretion of the Council, oral testimony and oral argument). The collection of information in 12 CFR 1320.14 affords FMUs an opportunity to contest the Council's waiver or modification of the notice, hearing, or other requirements contained in 12 CFR 1320.11 and 1320.12 by requesting a hearing and submitting written materials (or, at the sole discretion of the Council, oral testimony and oral argument). The information collected from FMUs under 12 CFR 1320.20 will be used by the Council to determine whether to designate an additional FMU or to rescind the designation of a designated FMU.

DATES: Written comments must be received on or before July 28, 2014 to be assured of consideration.

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

Mail: Attn: Request for Comments (Financial Stability Oversight Council Proposed Information Collection), Office of the Financial Stability Oversight Council, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Electronic Submission: FSOC.Comments@treasury.gov

Instructions: All submissions received must include the agency name and the **Federal Register** document number that appears at the end of this document. Comments received will be made available to the public via regulations.gov or upon request, without change, and including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Requests for additional information about the filings or procedures should be directed to Executive Director, Financial Stability Oversight Council, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Title: Designation of Financial Market Utilities

OMB Control Number: 1505–0239

Abstract: The collection of information under 12 CFR 1320.11 affords FMUs that are under consideration for designation, or

rescission of designation, an opportunity to submit written materials to the Council in support of, or in opposition to, designation or rescission of designation. The collection of information under 12 CFR 1320.12 affords FMUs an opportunity to contest a proposed determination of the Council by requesting a hearing and submitting written materials (or, at the sole discretion of the Council, oral testimony and oral argument). The collection of information in 12 CFR 1320.14 affords FMUs an opportunity to contest the Council's waiver or modification of the notice, hearing, or other requirements contained in 12 CFR 1320.11 and 1320.12 by requesting a hearing and submitting written materials (or, at the sole discretion of the Council, oral testimony and oral argument). The information collected from FMUs under 12 CFR 1320.20 will be used by the Council to determine whether to designate an additional FMU or to rescind the designation of a designated FMU.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for-profit organization

Estimated Total Annual Burden Hours for All Collections: 500 hours

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 has 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.

David G. Clunie,

Executive Secretary.

[FR Doc. 2014–12181 Filed 5–23–14; 8:45 am]

BILLING CODE 4810–25–P

GENERAL SERVICES ADMINISTRATION

[Notice-CECANF–2014–02; Docket No. 2014–0005; Sequence No. 2];

Commission to Eliminate Child Abuse and Neglect Fatalities; Announcement of Meeting; Corrections

AGENCY: Commission to Eliminate Child Abuse and Neglect Fatalities, GSA.

ACTION: Meeting Notice; Corrections.

SUMMARY: The Commission to Eliminate Child Abuse and Neglect Fatalities (CECANF), a Federal Advisory Committee established by the Protect Our Kids Act of 2012, Public Law 112–275, is issuing corrections to amend the meeting time and registration information that was published in the **Federal Register** on May 14, 2014.

DATES: *Effective:* May 27, 2014.

FOR FURTHER INFORMATION CONTACT: Contact Ms. Patricia Brincefield, Communications Director, at 202–818–9596, 1800 F St. NW., Room 7003D, Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

Corrections

In the notice FR Doc. 2014–11142 published in the **Federal Register** at 79 FR 27613, May 14, 2014, make the following corrections:

1. On page 27613, in the second column, under **DATES**, remove ''June 2, 2014, from 8:30 a.m. to 5:30 p.m.'' and add ''June 2, 2014, from 1:00 p.m. to 5:30 p.m.'' in its place.

2. On page 27613, in the second column, under **ADDRESSES**, remove ''To register for the audio link, please go to'' and add ''To attend in person or participate by teleconference, please register at'' in its place.

Dated: May 19, 2014.

Karen White,

Executive Assistant.

[FR Doc. 2014–12156 Filed 5–23–14; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[60Day-14–14AEH]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Agency for Toxic Substances and Disease Registry (ATSDR), as part of its continuing effort to reduce public burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to LeRoy Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected;(d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

Proposed Project

Assessment of Chemical Exposures (ACE) Investigations—New—Agency for Toxic Substances and Disease Registry (ATSDR)

Background and Brief Description

The Agency for Toxic Substances and Disease Registry (ATSDR) is requesting a three-year generic clearance for the Assessment of Chemical Exposures (ACE) Investigations to assist state and local health departments after toxic

substance spills or chemical incidents. ACE investigations are a component of the National Toxic Substance Incidents Program (NTSIP). NTSIP was introduced in 2010 as a comprehensive agency approach to toxic substance incident surveillance, prevention, and response. This three-part program includes a proposal for state-based surveillance for toxic substance releases, a national database of toxic substance incidents combining data from many sources, and the ACE investigations.

The ACE Investigations focus on performing rapid epidemiological assessments to assist state, regional, local, or tribal health departments (the requesting agencies) to respond to or prepare for acute chemical releases. The main objectives for performing these rapid assessments are to:

1. Characterize exposure and acute health effects of respondents exposed to toxic substances from discrete, chemical releases and determine their health statuses;

2. identify needs (i.e. medical and basic) of those exposed during the releases to aid in planning interventions in the community;

3. assess the impact of the incidents on health services use and share lessons learned for use in hospital, local, and state planning for chemical incidents; and

4. identify cohorts that may be followed and assessed for persistent health effects resulting from acute releases.

Because each chemical incident is different, it is not possible to predict in advance exactly what type of and how many respondents will need to be consented and interviewed to effectively evaluate the incident. Respondents typically include, but are not limited to emergency responders such as police, fire, hazardous material technicians, emergency medical services, and personnel at hospitals where patients from the incident were treated. Incidents may occur at businesses or in the community setting; therefore, respondents may also include business owners, managers, workers, customers, community residents, pet owners, and those passing through the affected area.

Data will be collected by the multi-disciplinary ACE team consisting of staff from ATSDR, the Centers for Disease Control and Prevention (CDC), and the requesting agencies. ATSDR has developed a series of draft survey forms that can be quickly tailored in the field to collect data that will meet the goals of the investigation. They will be administered based on time permitted and urgency. For example, it is preferable to administer the general survey to as many respondents as possible. However, if there are time constraints, the shorter household survey or the Rapid Response Registry form may be administered instead. The individual surveys collect information about exposure, acute health effects, health services use, medical history, needs resulting from the incident, communication during the release, health impact on children and pets, and demographic data. Hospital personnel are asked about the surge, response and communication, decontamination, and lessons learned.

Depending on the situation, data may be collected by face-to-face interviews, telephone interviews, written surveys, mailed surveys, or on-line surveys. Medical and veterinary charts may also be reviewed. In rare situations, an investigation might involve collection of clinical specimens.

In the past, ACE investigations have been performed in response to requests for assistance from state, regional, local, or tribal health departments under OMB No. 0920–0008, which expires July 31, 2014. ATSDR anticipates up to four ACE investigations per year. The number of participants has ranged from 30–715, averaging about 300 per year. Therefore, the total annualized estimated burden will be 591 hours per year.

Participation in ACE investigations is voluntary and there are no anticipated costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
ACE Investigation Respondents	General Survey	800	1	30/60	400
	Household Survey	120	1	15/60	30
	Rapid Response Registry Form	50	1	7/60	6
	Hospital Survey	40	1	30/60	20
	Medical Chart Abstraction Form	250	1	30/60	125
	Veterinary Chart Abstraction Form	30	1	20/60	10
Total					591

LeRoy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–12201 Filed 5–23–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–14–14ADD]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to LeRoy Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. Comments are invited on: (a)

Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected;(d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

Proposed Project

National Occupational Research Agenda (NORA) 2016 Decade Review—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Institute for Occupational Safety and Health (NIOSH) is responsible for conducting research and making recommendations to prevent worker injury and illness, as authorized in Section 20(a)(1) of the Occupational Safety and Health Act (29 U.S.C. 669). In 1995–6, NIOSH saw an opportunity to enhance its ability to accomplish its mission through partnerships that involved a broad national stakeholder base in occupational safety and health. With stakeholder input, NIOSH developed and launched a decade-long partnership program titled the National Occupational Research Agenda (NORA) in 1996. Participation in NORA includes stakeholders from universities, large and small businesses, professional societies, government agencies, and worker organizations. After an internal management review of the first decade of NORA, conducted in 2005, NIOSH launched the second decade of NORA (2006–2016) structured for even greater national impact. This information collection is a necessary part of a larger internal NIOSH management review of the second decade of NORA. The results of this review will inform NIOSH decisions about how to structure a third decade of NORA (2016–2026) for maximum effectiveness and impact.

The second decade of NORA was based on a new sector structure to better move research to practice within workplaces. The work of the sectors is managed through a partnership structure of sector councils. Each council develops and maintains an agenda for the decade for its sector. The sector agendas become part of the national agenda for improvements in occupational safety and health through research and partnerships. Representing all stakeholders, the councils use an open process to set goals, develop strategies, encourage partnerships, and promote improved workplace practices.

NIOSH is requesting a 12-month OMB approval to administer a survey to NORA council members and leaders. The collection of information is necessary for NIOSH management to assess the efficiency and effectiveness of the NORA sector councils. The target population is all current and former members and leaders of each of the ten NORA Sector Councils. The web-based questionnaire requests information on satisfaction with the efficiency of the council and its processes, on impacts made in the sector during the second decade, and suggestions for improving the effectiveness and impact of NORA in the future. Without this data collection, NIOSH's internal management review of NORA would lack critical stakeholder input from its many non-Federal partners.

A 16-item questionnaire has been developed and will be sent to all 352 non-Federal NORA Sector council members or leaders. A pilot test of the questionnaire was conducted by asking eight NIOSH employees who are a leader of a NORA sector council to complete the questionnaire and provide feedback. Respondents to the pilot test estimated the questionnaire requires approximately 15 minutes to complete. The total estimated burden is 88 hours. There is no cost to respondents other than their time.

Estimated Annualized Burden Hours

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)	Total burden (in hrs.)
Council member or leader	Council Questionnaire	352	1	15/60	88
Total					88

Leroy Richardson,

Chief, Information Collection Review, Office Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–12114 Filed 5–23–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension of Certification of Maintenance of Effort on Help America Vote Act

AGENCY: Administration on Intellectual & Developmental Disabilities, Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for

public comment in response to the notice.

DATES: Submit written or electronic comments on the collection of information by July 28, 2014.

ADDRESSES: Submit electronic comments on the collection of information to: *clare.barnett@acl.hhs.gov*.

Submit written comments on the collection of information to Administration for Community Living, One Massachusetts Avenue NW., Washington, DC 20201, attention Clare Barnett.

FOR FURTHER INFORMATION CONTACT: Clare Barnett, Program Specialist, Administration for Community Living, One Massachusetts Avenue NW., Washington, DC 20201.

SUPPLEMENTARY INFORMATION: This notice solicits comments on the information collection requirements relating to the Help America Vote Act (HAVA)), Public Law 107–252, Title II, Subtitle D, Part 2, Sections 261 to 265 (HAVA Narrative Annual Report). Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency request or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, ACL is publishing notice of the proposed collection of information set forth in this document. With respect to the following collection of information, ACL invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility; (2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

The Help America Vote Act (HAVA) Narrative Report from States and Units of Local Government is required by federal statute and regulation, the Help America Vote Act HAVA), Public Law 107–252, Title II, Subtitle D, Part 2, Sections 261 to 265, Payments to States and Units of Local Government to Assure Access for Individuals with Disabilities (42 U.S.C. 15421–25). The report is provided in writing to the Administration for Community Living, Administration on Intellectual and Developmental Disabilities. Each State or Unit of Local Government must prepare and submit an annual report at the end of every fiscal year. The report addresses the activities conducted with the funds provided during the year. The information collected from the annual report will be aggregated into an annual profile of how States have utilized the funds and establish best practices for election officials. It will also provide an overview of the State election goals and accomplishments and permit the Administration on Intellectual & Developmental Disabilities to track voting progress to monitor grant activities. ACL estimates the burden of this collection of information as follows: 55 Chief Election officials respond annually which should be an average burden of 20 hours per State per year or a total of 1,100 hours for all states annually.

Dated: May 15, 2014.

Kathy Greenlee,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2014–11989 Filed 5–23–14; 8:45 am]

BILLING CODE4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Allergy, Immunology, and Transplantation Research.

Date: June 17, 2014.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Room 3147, 6700B Rockledge Drive Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: James T. Snyder, Ph.D., Scientific Review Officer Scientific Review Program, Division of Extramural Activities/NIAID National Institutes of Health, 6700B Rockledge Drive, MSC 7616 Bethesda, MD 20892–7616, 301–435–1614, *james.snyder@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 20, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12081 Filed 5–23–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Initial Review Group; Clinical Trials Review Committee.

Date: June 23–24, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Keary A Cope, Ph.D. Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room

7190, Bethesda, MD 20892–7924, 301–435–2222 *copeka@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Pulmonary Hypertension Coordinating Center.

Date: June 25, 2014.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Giuseppe Pintucci, Ph.D. Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892, 301–435–0287, *Pintuccig@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI T32 Institutional Training Grants.

Date: June 25, 2014.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7189, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Stephanie L Constant, Ph.D. Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7189, Bethesda, MD 20892, 301–443–8784, *constantsl@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; K23, K24, K25 Research Career Development Award.

Date: June 26–27, 2014.

Time: 8:30 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Stephanie J Webb, Ph.D. Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892, 301–435–0291, *stephanie.webb@nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI—Career Development Awards: K01, K08, K24.

Date: June 26, 2014.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Crystal City at Reagan National Airport, 2399 Jefferson Davis Hwy, Arlington, VA 22202.

Contact Person: Keith A. Mintzer, Ph.D. Scientific Review Officer, Office of Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7186, Bethesda, MD 20892–7924, 301–594–7947, *mintzerk@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 20, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12080 Filed 5–23–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 USC, as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Multi-site Clinical Trials SEP III.

Date: June 9, 2014.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Hiromi Ono, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4238, MSC 9550, Bethesda, MD 20892, 301–402–6020, *hiromi.ono@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: May 20, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12084 Filed 5–23–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Advisory Committee to the Director, National Institutes of Health, June 05, 2014, 09:00 a.m. to June 06, 2014 at 12:00 p.m., National Institutes of Health, which was published in the **Federal Register** on May 16, 2014, 79FR28529.

The location of the meeting has been changed from Building 1, Room 126 to Building 31, 6th Floor, Conference Room 6. Any interested person may file written comments with the committee by forwarding the statement to Gretchen Wood, Staff Assistant, Office of the Director, One Center Drive, Building 1, Room 126, Bethesda, Maryland 20892–0148, *woodgs@od.nih.gov* by June 5th at 8:00 a.m. The statement should include the name, address, telephone number and, when applicable, the business or professional affiliation of the interested person. The meeting is partially closed to the public.

Dated: May 19, 2014.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12079 Filed 5–23–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel Phenotypic Manifestations of Copy Number Variations (CNV).

Date: June 5, 2014.
Time: 3:30 p.m. to 4:30 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: A. Roger Little, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6132, Bethesda, MD 20892–9609, 301–402–5844, *alittle@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: May 20, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12089 Filed 5–23–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Multidisciplinary Studies in HIV and Aging.
Date: May 28, 2014.
Time: 11:00 a.m. to 1:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Shiv A Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 20, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12078 Filed 5–23–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 USC, as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel NIH P. Cons. CoE's in Pain Education Coordination Center (4423).
Date: June 11, 2014.
Time: 12:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).
Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4238, MSC 9550, Bethesda, MD 20892–9550, 301–402–6626, *gm145a@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Clinical Trials Research Coordination Center (2241).
Date: June 17, 2014.
Time: 10:00 a.m. to 12:00 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).
Contact Person: Lyle Furr, Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1439, *lf33c.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: May 20, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12083 Filed 5–23–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Special Emphasis Panel; Centers of Excellence in Self-Management Research.
Date: June 26–27, 2014.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Washington DC/Rockville Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Mario Rinaudo, MD., Scientific Review Officer, Office of Review, National Institute of Nursing Research, National Institutes of Health, 6701 Democracy Blvd., Suite 710, Bethesda, MD 20892, 301–594–5973, *mrinaudo@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: May 20, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12091 Filed 5–23–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Student Training and Research.

Date: June 17, 2014.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of Environmental Health Sciences, 530 Davis Drive, Keystone Building, Room 3074, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Linda K Bass, Ph.D. Scientific Review Officer Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute Environmental Health Sciences, P. O. Box 12233, MD EC–30, Research Triangle Park, NC 27709 (919) 541–1307, *bass@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: May 20, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12088 Filed 5–23–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases B Subcommittee.

Date: June 19, 2014.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room #3145, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Ellen S. Buczko, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616,301–451–2676, *ebuczko1@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 20, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12082 Filed 5–23–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Renal Scarring.

Date: June 17, 2014.

Time: 10:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Elena Sanovich, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 750, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–8886, *sanoviche@mail.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Pancreatic Islet Imaging.

Date: June 18, 2014.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Elena Sanovich, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 750, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–8886, *sanoviche@mail.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Time Sensitive Obesity Research.

Date: June 26, 2014.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; T2 Diabetes Ancillary Study.

Date: June 30, 2014.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy

Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Thomas A. Tatham, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 760, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–3993, *tathamt@mail.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; R01 Telephone Review Panel.

Date: July 23, 2014.

Time: 10:00 a.m. to 12:20 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Xiaodu Guo, MD, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 761, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 20, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12085 Filed 5–23–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, July 14, 2014, 08:00 a.m. to July 15, 2014, 05:00 p.m., Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD, 20814 which was published in the **Federal Register** on May 16, 2014, 79 FR 28527.

This meeting is being amended to reflect a new meeting location. The new meeting location is the Bethesda North Marriott Hotel and Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852. The meeting is closed to the public.

Dated: May 20, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12087 Filed 5–23–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Human Islet Biomimetics.

Date: June 11, 2014.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Elena Sanovich, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 750, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–8886, *sanoviche@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 20, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12086 Filed 5–23–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel, NIMHD Conference Grant Review (R13).

Date: June 26, 2014.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6707 Democracy Boulevard, Suite 800, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Hui Chen, MD, Scientific Review Officer, National Institute on Minority Health, and Health Disparities, National Institutes of Health, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892, (301) 594–7784, *Chenhui@mail.nih.gov.*

Dated: May 20, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12090 Filed 5–23–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial

property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cognition and Perception.
Date: June 10–11, 2014.
Time: 8:00 a.m. to 1:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health; 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Jane A Doussard-Roosevelt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 435–4445, *doussarj@csr.nih.gov.*

Name of Committee: Vascular and Hematology Integrated Review Group; Hemostasis and Thrombosis Study Section..
Date: June 19, 2014.
Time: 7:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Wyndham Grand Chicago Riverfront, 17 E Wacker Dr., Chicago, IL 60601.
Contact Person: Bukhtiar H Shah, Ph.D., DVM, Scientific Review Officer, Vascular and Hematology IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7802, Bethesda, MD 20892, (301) 806–7314, *shahb@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroimmunology and Brain Tumors Study Section.
Date: June 19–20, 2014.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.
Contact Person: Jay Joshi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892, (301) 408–9135, *joshij@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR—392: New Computational Methods for Understanding the Functional Role of DNA Variants that are Associated with Mental Disorders.
Date: June 24–25, 2014.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Alexander Gubin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6046B, MSC 7892, Bethesda, MD 20892, 301–408–9655, *gubina@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Animal/Biological Resource Facilities.
Date: June 24–25, 2014.
Time: 11:00 a.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Andrea B Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, (301) 455–1761, *kellya2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA: Digestive and Kidney Feasibility Clinical Study.
Date: June 24, 2014.
Time: 11:30 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Mushtaq A Khan, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2176, MSC 7818, Bethesda, MD 20892, 301–435–1778, *khanm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Microbiology and Pathogenesis.
Date: June 24, 2014.
Time: 1:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Kenneth M Izumi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge, Rm 3204, MSC 7808, Bethesda, MD 20892, 301–496–6980, *izumikm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Mechanisms of Emotion, Stress and Health.
Date: June 24, 2014.
Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
*Place:*National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Mark Lindner, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, 301–435–0913, *mark.lindner@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–13–231: Phenotyping Embryonic Letha Knockout Mice.
Date: June 24, 2014.
Time: 2:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Maqsood A Wani, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2114, MSC 7814, Bethesda, MD 20892, 301–435–2270, *wanimaqs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 13–213: Outcome Measures for Use in Treatment Trials for Individuals with Intellectual and Developmental Disabilities (R01).
*Date:*June 24, 2014.
Time: 2:00 p.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Torrance Marriott South Bay, 3635 Fashion Way, Torrance, CA 90503.
Contact Person: Jane A Doussard-Roosevelt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 435–4445, *doussarj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special: Systemic Injury by Environmental Exposure.
Date: June 25–26, 2014.
Time: 8:00 a.m. to 12:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Sheraton Imperial Hotel, 4700 Emperor Blvd., Durham, NC 27703.
Contact Person: Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Therapeutic Approaches to Genetic Diseases Study Section.
Date: June 25, 2014.
Time: 9:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Elaine Sierra-Rivera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7804, Bethesda, MD 20892, 301–435–1779, *riverase@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Medical Imaging Investigations.
Date: June 25, 2014.
Time: 11:45 a.m. to 5:00 p.m.
*Agenda:*To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Mehrdad Mohseni, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5211, MSC 7854, Bethesda, MD 20892, 301–435–0484, *mohsenim@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special: Gut

Microbiota-Derived Factors in the Physiology and Pathophysiology of Diseases.

Date: June 25, 2014.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Atul Sahai, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, MSC 7818, Bethesda, MD 20892, 301–435–1198, *sahaia@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Bioengineering Sciences Late Member Conflict SEP.

Date: June 25, 2014.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Joseph Thomas Peterson, Ph.D.,Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9694, *petersonjt@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Center for Computational Mass-Spectrometry.

Date: June 25–27, 2014.

*Time:*7:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriot, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Raymond Jacobson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5858, MSC 7849, Bethesda, MD 20892, 301–996–7702, *jacobsonrh@csr.nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 20, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12077 Filed 5–23–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Announcement of Public Hearing and Request for Comment: National Center for Complementary and Alternative Medicine Proposed Name Change

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH), National Center for Complementary and Alternative Medicine (NCCAM) is seeking feedback from stakeholders and other interested parties on a proposal to change the Center's name to National Center for Research on Complementary and Integrative Health. The public is invited to attend a public hearing and provide comments on the NCCAM Web site.

DATES: NCCAM will hold a public hearing to discuss the proposed name change as part of the meeting of the National Advisory Council on Complementary and Alternative Medicine. This meeting will be held on June 6, 2014 from 10:15–3:50 p.m. in Bethesda, Maryland.

The public is invited to provide comments through the NCCAM Web site at *http://nccam.nih.gov* from May 16 through June 6, 2014. Comments regarding the proposed name change for NCCAM are best assured of having their full effect if received by June 6, 2014.

ADDRESSES: The meeting will be held on the NIH Campus, Building 31/6C, Conference Room 10, 31 Center Drive, Bethesda, Maryland 20892. For information about access to the NIH campus, please visit *http://www.nih.gov/about/visitor/.*

FOR FURTHER INFORMATION CONTACT: To request more information, visit the NCCAM Web site at *http://nccam.nih.gov,* call 1–888–644–6226, or email <*nccaminfo@mail.nih.gov*>.

SUPPLEMENTARY INFORMATION: The National Center for Complementary and Alternative Medicine (NCCAM) was established in 1998. The mission is to define, through rigorous scientific investigation, the usefulness and safety of complementary and alternative medicine interventions and their roles in improving health and health care. To date, NCCAM's efforts to achieve this mission have been guided by NCCAM's strategic plans, located on the NCCAM Web site at *http://nccam.nih.gov/about/plans.*

To better reflect the current research, clinical practice, and public use of complementary approaches, NCCAM is proposing its name be changed to National Center for Research on Complementary and Integrative Health. The primary goal in proposing this change is to enhance the Center's effectiveness in addressing its existing legislative mandate as reflected in subsections (a) and (c) of Public Law 105–277, Title VI.

NCCAM is seeking feedback from stakeholders and other interested parties on a proposal to change the Center's name and invites the public to attend the June 6, 2014 public hearing and to submit comments at *http://nccam.nih.gov/.* Preregistration for the public hearing is not necessary.

Dated: May 15, 2014.

Wendy Liffers,

Executive Officer, National Center for Complementary and Alternative Medicine, National Institutes of Health.

[FR Doc. 2014–11971 Filed 5–23–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2014–0018]

National Infrastructure Advisory Council

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: Committee Management; Notice of an Open Federal Advisory Committee Meeting.

SUMMARY: The National Infrastructure Advisory Council (NIAC) will meet Thursday, June 12, 2014, at the United States Access Board, 1331 F Street NW., Suite 800, Washington, DC 20004. The meeting will be open to the public.

DATES: The NIAC will meet on Thursday, June 12, 2014, from 3:30 p.m. to 5:30 p.m. The meeting may close early if the committee has completed its business. For additional information, please consult the NIAC Web site, *www.dhs.gov/NIAC,* or contact the NIAC Secretariat by phone at (703) 235–2888 or by email at *NIAC@hq.dhs.gov.*

ADDRESSES: United States Access Board, 1331 F Street NW., Suite 800, Washington, DC 20004.

For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, contact the person listed under **FOR FURTHER INFORMATION CONTACT** below as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Council as listed in the ''Summary'' section below. Comments must be submitted in writing no later than 12:00 p.m. on June 9, 2014, must be identified by ''DHS–2014–0018,'' and may be submitted by any one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting written comments.
- *Email: NIAC@hq.dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* (703) 603–5098.

• *Mail:* Nancy Wong, National Protection and Programs Directorate, Department of Homeland Security, 245 Murray Lane SW., Mail Stop 0607, Arlington, VA 20598–0607.

Instructions: All written submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Written comments received will be posted without alteration at *www.regulations.gov,* including any personal information provided.

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

Members of the public will have an opportunity to provide oral comments on the Transportation Resilience Working Group study and on the developing Working Group recommendation for a CEO-level summary of the National Infrastructure Protection Plan 2013: *Partnering for Critical Infrastructure Security and Resilience* (NIPP 2013). We request that comments be limited to the issues listed in the meeting agenda and previous NIAC studies. All previous NIAC studies can be located at *www.dhs.gov/NIAC.* Public comments may be submitted in writing or presented in person for the Council to consider. Comments received by Nancy Wong after 12:00 p.m. on June 9, 2014, will still be accepted and reviewed by the members, but not necessarily by the time of the meeting. In-person presentations will be limited to three minutes per speaker, with no more than 15 minutes for all speakers. Parties interested in making in-person comments should register on the Public Comment Registration list available at the meeting location no later than 15 minutes prior to the beginning of the meeting.

FOR FURTHER INFORMATION CONTACT: Nancy Wong, National Infrastructure Advisory Council Designated Federal Officer, Department of Homeland Security, (703) 235–2888.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). The NIAC shall provide the President, through the Secretary of Homeland Security, with advice on the security and resilience of the Nation's critical infrastructure sectors.

The NIAC will meet to discuss issues relevant to critical infrastructure security and resilience as directed by the President. At this meeting, the committee will receive and discuss a presentation from the Transportation Resilience Working Group documenting their work to date on a study reviewing the Transportation Sector's resilience against potential, disruptive, events. The committee will also receive a working group update on a recommendation for an Executive Summary of NIPP 2013, targeted for use by CEO and C-Suite critical infrastructure owners and operators. Both presentations will be posted no later than one week prior to the meeting on the Council's public Web page—*www.dhs.gov/NIAC.* The Council will review and discuss the presentations, and determine a path forward on each initiative.

Meeting Agenda

I. Opening of Meeting
II. Roll Call of Members
III. Opening Remarks and Introductions
IV. Approval of Meeting Minutes
V. *Working Group Introduction on Transportation Resilience Study, Scope and Path Forward to Execute Study*
VI. *Introduction and Working Group Path Forward of Government Requested Recommendation on a CEO Level Summary of the NIPP 2013*
VII. Public Comment: Topics Limited to Transportation Resilience Study, the Recommendation on CEO-level Executive Summary of NIPP 2013, and Previously Issued NIAC Studies and Recommendations
VIII. *Discussion and Deliberations by Council and the Government on Presentations and Paths Forward of Working Groups*
IX. Closing Remarks

Dated: May 16, 2014.

Nancy Wong,

Designated Federal Officer for the NIAC.

[FR Doc. 2014–11960 Filed 5–23–14; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–47]

Proposed Information Collection; 30-Day Notice: Requirement for Contractors To Provide Certificates of Insurance for Capital Program Projects

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date: June 26, 2014.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on March 24, 2014.

A. Overview of Information Collection

Title of Information Collection: Requirement for Contractors to Provide Certificates of Insurance for Capital Program Projects.

OMB Approval Number: 2577–0046.

Type of Request: Extension of a currently approved collection.

Form Number: Not applicable.

Description of the need for the information and proposed use: Public Housing Agencies must obtain certificates of insurance from contractors and subcontractors before beginning work under either the development of a new low-income public housing projects or the modernization of an existing project. The certificates of insurance provide evidence that worker's compensation and general liability, automobile liability insurance are in force before and construction work is started.

Respondents (i.e. affected public): Business or other For-Profit, State, Local or Tribal Government.

TOTAL ESTIMATED BURDENS

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
2577–0046	3,000	4	12,000	0.5	6,000	$25	$150,000
Total							

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35

Dated: May 21, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–12215 Filed 5–23–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

United States Geological Survey

[GX14EN05ESB0500]

Advisory Committee on Climate Change and Natural Resource Science

AGENCY: U.S. Geological Survey, Interior.

ACTION: Meeting Notice

SUMMARY: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App. 2, we announce that the Advisory Committee on Climate Change and Natural Resource Science will hold a meeting.

DATES: *Meeting:* The meeting will be held as follows: Wednesday, June 11, 2014, from 8:30 a.m. to 5:00 p.m.; and Thursday, June 12, 2014 from 9:00 a.m. to 3:00 p.m. (All times Eastern).

ADDRESSES: Sheraton Premiere at Tysons Corner, 8661 Leesburg Pike, Tysons Corner, Virginia, 22182, McLean Room.

FOR FURTHER INFORMATION CONTACT: Mr. Robin O'Malley, Designated Federal Officer, Policy and Partnership Coordinator, National Climate Change and Wildlife Science Center, U.S. Geological Survey, 12201 Sunrise Valley Drive, Mail Stop 400, Reston, VA 20192, *romalley@usgs.gov,* (703) 648–4086.

SUPPLEMENTARY INFORMATION: Chartered in May 2013, the Advisory Committee on Climate Change and Natural Resource Science (ACCCNRS) advises the Secretary of the Interior on the establishment and operations of the U.S. Geological Survey (USGS) National Climate Change and Wildlife Science Center (NCCWSC) and the Department of the Interior (DOI) Climate Science Centers (CSCs). ACCCNRS members represent federal agencies; state and local governments; American Indian tribes and other Native American entities; nongovernmental organizations; academic institutions; and the private sector. Duties of the committee include: (A) Advising on the contents of a national strategy identifying key science priorities to advance the management of natural resources in the face of climate change; (B) advising on the nature, extent, and quality of relations with and engagement of key partners at the regional/CSC level; (C) advising on the nature and effectiveness of mechanisms to ensure the identification of key priorities from management partners and to effectively deliver scientific results in useful forms; (D) advising on mechanisms that may be employed by the NCCWSC to ensure high standards of scientific quality and integrity in its products, and to review and evaluate the performance of individual CSCs, in advance of opportunities to re-establish expiring agreements; and (E) coordinating as appropriate with any Federal Advisory Committee established for the DOI Landscape Conservation Cooperatives. More information about the ACCCNRS is available at *https://nccwsc.usgs.gov/acccnrs.*

Meeting Agenda: The objectives of this meeting are to: (1) Review and provide feedback on USGS's draft strategy for NCCWSC and the CSCs; (2) review and provide input on draft ACCCNRS report to the Secretary of the Interior; (3) agree on steps for finalizing ACCCNRS recommendations and report to the Secretary of the Interior; (4) review and update ACCCNRS work plan for 2014–15. The final agenda will be posted on *https://nccwsc.usgs.gov/acccnrs* prior to the meeting.

Public Input: All Committee meetings are open to the public. Interested members of the public may present, either orally or through written comments, information for the Committee to consider during the public meeting. The public will be able to make comment on Wednesday, June 11, 2014, from approximately 11:45 a.m. to 12:00 p.m. and 4:45 p.m. to 5:00 p.m., and on Thursday, June 12, 2014, from approximately 11:45 a.m. to 12:00 p.m.

Individuals or groups requesting to make comment at the public Committee meeting will be limited to 2 minutes per speaker. The Committee will endeavor to provide adequate opportunity for all speakers, within available time limits. Speakers who wish to expand upon their oral statements, or those who had wished to speak, but could not be accommodated during the public comment period, are encouraged to submit their comments in written form to the Committee after the meeting.

Written comments should be submitted, prior to, during, or after the meeting, to Mr. Robin O'Malley, Designated Federal Officer, by U.S. Mail to: Mr. Robin O'Malley, Designated Federal Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive, Mail Stop 400, Reston, VA 20192, or via email, at *romalley@usgs.gov.*

The meeting location is open to the public. Space is limited, so all interested in attending should pre-register. Please submit your name, time of arrival, email address and phone number to Mr. Robin O'Malley via email at *romalley@usgs.gov,* or by phone at (703) 648–4086, by close of business on June 4, 2014. Persons with disabilities requiring special services, such as an interpreter for the hearing impaired, should contact Mr. O'Malley at (703)

648–4086 at least seven calendar days prior to the meeting. We will do our best to accommodate those who are unable to meet this deadline.

Robin O'Malley,

Designated Federal Officer.

[FR Doc. 2014–12117 Filed 5–23–14; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–14888–A; LLAK940000–L14100000–HY0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Decision Approving Lands for Conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision will be issued by the Bureau of Land Management (BLM) to The Kuskokwim Corporation, Successor in Interest to Lower Kalskag, Incorporated. The decision approves the surface estate in the lands described below for conveyance pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*). The subsurface estate in these lands will be conveyed to Calista Corporation when the surface estate is conveyed to The Kuskokwim Corporation, Successor in Interest to Lower Kalskag, Incorporated. The lands are in the vicinity of Lower Kalskag, Alaska, and are located in:

Seward Meridian, Alaska

T. 16 N., R. 64 W.,
Sec. 24.
Containing 560 acres.

Notice of the decision will also be published once a week for four consecutive weeks in the *Delta Discovery.*

DATES: Any party claiming a property interest in the lands affected by the decision may appeal the decision in accordance with the requirements of 43 CFR part 4 within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail which is not certified, return receipt requested, shall have until June 26, 2014 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4 shall be deemed to have waived their rights. Notices of appeal transmitted by electronic means, such as facsimile or email, will not be accepted as timely filed.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, AK 99513–7504.

FOR FURTHER INFORMATION CONTACT: The BLM by phone at 907–271–5960 or by email at *blm_ak_akso_public_room@blm.gov.* Persons who use a Telecommunications Device for the Deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the BLM during normal business hours. In addition, the FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the BLM. The BLM will reply during normal business hours.

Ralph L. Eluska, Sr.,Land Transfer Resolution Specialist,

Division of Lands and Cadastral.

[FR Doc. 2014–12103 Filed 5–23–14; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[L57000000.BX0000.LLES955000]

Privacy Act of 1974, as Amended; Notice of a New System of Records

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of creation of a new system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of the Interior is issuing a public notice of its intent to create the Bureau of Land Management (BLM) ''General Land Office Records Automation System—Interior, BLM–42'' system of records. The system of records contains information collected from publicly available historical Federal land conveyance documents (land patents, survey plats, field notes and land status records) maintained by the BLM General Land Office, and billing information of individuals requesting certified copies of land conveyance documents. The purpose of this system is to maintain, protect and preserve more than five million documents of historical relevance and to make these valuable resources for natural resource agencies, historians, surveyors, title companies, and genealogists available via the General Land Office Records Web site.

DATES: Comments must be received by July 7, 2014. This new system will be effective July 7, 2014.

ADDRESSES: Any person interested in commenting on this notice may do so by: submitting comments in writing to Suzanne Wachter, BLM Privacy Act Officer, 20 M Street SE., Mail Stop 590, Washington, DC 20003; hand-delivering comments to Suzanne Wachter, BLM Privacy Act Officer, 20 M Street SE., Mail Stop 590, Washington, DC 20003; or by emailing comments to *swachter@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Branch Chief, General Land Office Records Automation, BLM, Eastern States, Branch of General Land Office Records, 20 M Street SE., Washington, DC 20003; or by telephone at 703–440–1786.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of the Interior (DOI), BLM is creating the ''General Land Office Records Automation System (GLORAS)—Interior, BLM–42'' system of records. The purpose of this system is to maintain more than five million documents of historical relevance, to include: Survey plats, field notes, homesteads certificates, cash patents, military warrants, and railroad grants. These records are valuable resources for natural resource agencies, historians, surveyors, title companies, and genealogists. Increased demand for the information in these records and the preservation of the historic documents provided the impetus for the BLM to create an automated records archive and make the records available to the public.

The system will be effective as proposed at the end of the comment period on July 7, 2014, unless comments are received which would require a contrary determination. The DOI will publish a revised notice if changes are made based upon a review of the comments received.

II. Privacy Act

The Privacy Act of 1974, as amended, embodies fair information practice principles in a statutory framework governing the means by which Federal agencies collect, maintain, use, and disseminate individuals' personal information. The Privacy Act applies to records about individuals that are maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some

identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined as a U.S. citizen or lawful permanent resident. As a matter of policy, DOI extends administrative Privacy Act protections to all individuals. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of the DOI by complying with DOI Privacy Act regulations, 43 CFR part 2.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains and the routine uses that apply to each system in order to make agency record keeping practices transparent; to notify individuals regarding the uses of their records; and, to assist individuals to more easily find such records within the agency. Below is the description of the BLM ''General Land Office Records Automation System (GLORAS)—Interior, BLM–42'' system of records.

In accordance with 5 U.S.C. 552a(r), DOI has provided a report of this system of records to the Office of Management and Budget and to Congress.

III. Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 20, 2014.

Suzanne Wachter,

Privacy Act Officer, Bureau of Land Management.

SYSTEM NAME:

General Land Office Records Automation System (GLORAS)—Interior, BLM–42

SYSTEM LOCATION:

The system servers are located at the Department of the Interior, National Operation Center, Denver Federal Center, Building 50, Denver, CO 80225–0047. The records in the system are maintained at the Bureau of Land Management, General Land Office, 7450 Boston Blvd., Springfield, VA 22153.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include patentees, warrantees, assignees, surveyors, and any other individual who has been associated with or named in any of these historical Federal land conveyance records. The system also contains information on individuals who request a certified copy of a Federal land conveyance record.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Records in the system include but are not limited to information related to historical land documents, homesteads certificates, cash patents, military warrants, and railroad grants, including survey plats and field notes, land status records and controlled document indexes. Information within these records may include but are not limited to: Names of individuals, county, township, range, meridian, section number, Land Office, document number, Indian Allotment number, survey number, authority for the grant, issue date, militia grant, tribe, geographical name of the property, mining claim, survey type, surveyor name, contract/group number, survey approved date, and document type.

(2) The system also maintains records on individuals who submit requests to purchase certified copies of Federal land conveyance records that are not available to the public. Categories of records maintained on individuals requesting certified copies of Federal land conveyance records include: The individual's name, address, phone number, email address, and credit card number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

1 Stat. 464, The Public Land Act of 1796; 2 Stat. 716, The General Land Office Act, April 25, 1812; and 9 Stat. 395, Establishing Act of March 3, 1849.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary purpose of the system is to provide researchers and interested members of the public with online access to millions of historical land documents that may be used for research purposes, or in lieu of the original document to confirm title, or for historical or genealogical evidence. The system also manages online orders and billing records for individual members of the public who purchase certified copies of the historical documents. This information is used solely to process the requests.

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, disclosures outside DOI may be made as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) (a) To any of the following entities or individuals, when the circumstances set forth in paragraph (b) are met:

(i) The U.S. Department of Justice (DOJ);

(ii) A court or an adjudicative or other administrative body;

(iii) A party in litigation before a court or an adjudicative or other administrative body; or

(iv) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(b) When:

(i) One of the following is a party to the proceeding or has an interest in the proceeding:

(A) DOI or any component of DOI;

(B) Any other Federal agency appearing before the Office of Hearings and Appeals;

(C) Any DOI employee acting in his or her official capacity;

(D) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(E) The United States, when DOJ determines that DOI is likely to be affected by the proceeding; and

(ii) DOI deems the disclosure to be:

(A) Relevant and necessary to the proceeding; and

(B) Compatible with the purpose for which the records were compiled.

(2) To a congressional office in response to a written inquiry that an individual covered by the system, or the heir of such individual if the covered individual is deceased, has made to the office.

(3) To any criminal, civil, or regulatory law enforcement authority (whether Federal, state, territorial, local, tribal or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

(4) To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(5) To Federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or

necessary to the hiring, firing or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

(6) To representatives of the National Archives and Records Administration to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

(7) To State, territorial and local governments and tribal organizations to provide information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

(8) To an expert, consultant, or contractor (including employees of the contractor) of the DOI that performs services requiring access to these records on the DOI's behalf to carry out the purposes of the system. (9) To appropriate agencies, entities, and persons when:

(a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; and

(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 interest, 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 is made to such agencies, entities and persons who are 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 Office of Management and Budget during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A–19.

(11) To the Department of the Treasury to recover debts owed to the United States.

(12) To the news media and the public, with the approval of the Public Affairs Officer in consultation with Counsel and the Senior Agency Official for Privacy, where there exists a legitimate public interest in the disclosure of the information, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(13) To other Federal, State, tribal organization and local government officials to retrieve or analyze specific legal land descriptions for projects under their authority which provides information needed to resolve discrepancies in land titles.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), 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 1996 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic records are contained in computers, magnetic disks, computer tapes, removable drives, email and electronic databases. Both production and backup tapes are stored in a secure location in a government controlled environment. The original historical land records maintained in paper format are stored in acid-free boxes in climate access controlled vaults. Order forms maintained in paper format are contained in locked filing cabinets in government controlled facilities.

RETRIEVABILITY:

Records in the system are retrieved by an individual's name, county, township, range, meridian, section number, Land Office, document number, Indian Allotment number, survey number, authority for the grant, issue date, Militia grant, tribe, geographical name of the property, mining claim, survey type, surveyor name, contract/group number, survey approved date, document type, date of request, and order number.

SAFEGUARDS:

Public access to the system is limited to the web interface that allows users to only retrieve public Federal land conveyance records and submit online orders. Safeguards for electronic records conform to Office of Management and Budget and Departmental guidelines reflecting the implementation of the Federal Information Security Management Act of 2002, National Institute of Standards and Technology Special Publication standards for Computer Security and the Department of the Interior regulations on safeguarding of Privacy Act information (43 CFR part 2). The computer servers in which electronic records are stored are located in secured DOI facilities.

Paper copies of order forms are housed within secure, locked metal cabinets in the secured BLM Eastern States Accounting Department, access to which is limited to authorized personnel. The original historical land records maintained in paper format are stored in acid-free boxes in climate access controlled vaults within secure BLM facilities.

Access to all components of the system is limited to authorized BLM employees and is protected by user identification and unique passwords. Administrative privileges for monitoring are only granted to administrator-level users. The system incorporates a firewall and independent security monitor subsystems to further strengthen the Web site against unauthorized access or monitoring.

All online orders and billing records are available only to authorized personnel having a need-to-know and who have successfully completed DOI's Federal Information System Security Awareness, Privacy and Records Management training, and have signed the Rules of Behavior. A Privacy Impact Assessment was conducted to ensure that Privacy Act requirements and safeguard requirements are met. The assessment verified that appropriate controls and safeguards are in place.

RETENTION AND DISPOSAL:

Historical land records are maintained permanently in accordance with BLM Manual 1220—Records and Information Management, Schedule 4, Item 7 of the GRS/BLM Combined Records Schedules. The paper records are retired to the Archive II, National Archives and Records Administration (NARA) of the United States, College Park, Maryland, after they have been electronically incorporated into GLORAS. The land records indexed by GLORAS are retained indefinitely. The billing information is retained for 14 calendar days in the GLORAS system and then purged. The information collected in the Collection and Billings System is disposed of 6 years and 3 months after the order date. The disposal of these records is covered by the Accountable Officers Files, Schedule 6, Section 1A GRS/BLM Combined Records Schedule.

Paper records are disposed of by shredding or pulping, and records contained on electronic media are degaussed or erased in accordance with NARA guidelines and 384 Departmental Manual 1.

SYSTEM MANAGER AND ADDRESS:

Branch Chief, General Land Office Records Automation, Bureau of Land Management, Eastern States, Branch of

General Land Office Records, 20 M Street SE., Washington, DC 20003.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on himself or herself should send a signed, written inquiry to the System Manager identified above. The request envelope and letter should both be clearly marked ''PRIVACY ACT INQUIRY.'' A request for notification must meet the requirements of 43 CFR 2.235.

RECORDS ACCESS PROCEDURES:

An individual requesting records on him or herself should send a signed, written inquiry to the System Manager identified above. The request should describe the records sought as specifically as possible. The request envelope and letter should both be clearly marked ''PRIVACY ACT REQUEST FOR ACCESS.'' A request for access must meet the requirements of 43 CFR 2.238.

CONTESTING RECORDS PROCEDURES:

An individual requesting corrections or the removal of material from his or her records should send a signed, written request to the System Manager identified above. A request for corrections or removal must meet the requirements of 43 CFR 2.246.

RECORD SOURCE CATEGORIES:

The historical land records contain information provided by individuals to whom the land was granted, the surveyors, and other individuals (both governmental and private) who were integral to this historical process. Information needed to complete online orders of certified land records is obtained directly from members of the public and other individuals who are requesting to purchase certified copies of Federal land conveyance records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2014–12149 Filed 5–23–14; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAN01000 L10200000.XZ0000 14X LXSIOVHD0000]

Second Call for Nominations for the Northern California Resource Advisory Council

AGENCY: Bureau of Land Management, Interior. ACTION: Notice.

SUMMARY: The purpose of this notice is to reopen the request for public nominations for the Northern California Resource Advisory Council (RAC), which has 15 open positions this year. This RAC provides advice and recommendations to the Bureau of Land Management (BLM) on land use planning and management of the National System of Public Lands within northern California and far northwest Nevada. The BLM will accept public nominations for 30 days after the publication of this notice.

DATES: All nominations must be received no later than June 26, 2014.

ADDRESSES: Nominations should be sent to: Bureau of Land Management, 2950 Riverside Drive, Susanville, CA 96130, Attention, Jeff Fontana. Application forms are available online at: *http://www.blm.gov/ca/st/en/info/rac.html.*

FOR FURTHER INFORMATION CONTACT: Nancy K. Haug, Bureau of Land Management, Northern California District Manager, 355 Hemsted Drive, Redding, CA 96130; 530–224–2160.

SUPPLEMENTARY INFORMATION: The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by the BLM. Section 309 of FLPMA (43 U.S.C. 1739) directs the Secretary to establish 10- to 15-member citizen-based advisory councils that are consistent with the Federal Advisory Committee Act (FACA). As required by FACA, RAC membership must be balanced and representative of the various interests concerned with the management of the public lands. The rules governing RACs are found at 43 CFR subpart 1784 and include the following three membership categories:

Category One—Holders of Federal grazing permits and representatives of organizations associated with energy and mineral development, timber industry, transportation or rights-of-way, developed outdoor recreation, off-highway vehicle use, and commercial recreation;

Category Two—Representatives of nationally or regionally recognized environmental organizations, archaeological and historic organizations, dispersed recreation activities, and wild horse and burro organizations; and

Category Three—Representatives of State, county, or local elected office, employees of a State agency responsible for management of natural resources, representatives of Indian tribes within or adjacent to the area for which the council is organized, representatives of academia who are employed in the natural sciences, and the public-at-large.

Individuals may nominate themselves or others. Nominees must be residents of the State in which the RAC has jurisdiction. The BLM will evaluate nominees based on their education, training, experience, and knowledge of the geographical area of the RAC. Nominees should demonstrate a commitment to collaborative resource decision-making. The Obama Administration prohibits individuals who are currently federally registered lobbyists from being appointed or re-appointed to FACA and non-FACA boards, committees, or councils.

The following must accompany all nominations:

—Letters of reference from represented interests or organizations;

—A completed RAC application; and

—Any other information that addresses the nominee's qualifications.

Simultaneous with this notice, the BLM California State Office will issue a press release providing additional information for submitting nominations, with specifics about the number and categories of member positions available. If you have already submitted your nomination materials for the Northern California RAC in response to the first call for nominations published in the **Federal Register** on February 6, 2014 (79 FR 7223), you do not need to resubmit the materials.

Authority: 43 CFR 1784.4–1.

Martha Maciel,

Deputy State Director, External Affairs.

[FR Doc. 2014–12105 Filed 5–23–14; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNML00000 L12200000.DF0000 14XL1109AF]

Call for Nominations Las Cruces District Resource Advisory Council, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) is soliciting nominations for the vacant elected-official position on the BLM's Las Cruces District Resource Advisory Council (RAC). The council provides advice and recommendations to the BLM on the management of public lands in the Las Cruces District.

DATES: All nominations must be received no later than June 26, 2014.

FOR FURTHER INFORMATION CONTACT: Lauren Luckey, U.S. Department of the Interior, Bureau of Land Management, Correspondence, International, and Advisory Committee Office, 1849 C Street, NW., MS–MIB 5070, Washington, DC 20240; 202–208–3806.

SUPPLEMENTARY INFORMATION: The Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1739) directs the Secretary of the Interior to involve the public in planning and issues related to the management of lands administered by the BLM. Section 309 of FLPMA directs the Secretary to establish 10- to 15-member citizen-based advisory councils that conform to the requirements of the Federal Advisory Committee Act (FACA) (5 U.S.C Appendix 1). As required by FACA, RAC membership must be balanced and representative of the various interests concerned with the management of the public lands. The rules governing RACs are found at 43 CFR subpart 1784. Section 309(a) of FLPMA states that at least one member of the advisory council must be an elected official of general purpose government serving the people within the jurisdiction of the council. The vacant seat on the Las Cruces District RAC falls in category three as described in the regulations at 43 CFR 1784.6–1(c)(3). Individuals may nominate themselves or others to serve on the RAC. Nominees must be residents of New Mexico. The BLM will evaluate nominees based on their education, training, experience, and their knowledge of the geographical area of the RAC. Nominees should demonstrate a commitment to collaborative resource decision-making.

The Obama Administration prohibits individuals who are currently federally registered lobbyists from being appointed or re-appointed to FACA and non-FACA boards, committees, or councils.

The following must accompany all nominations:

☐ Letter of reference from represented interests or organizations;

☐ A completed background information nomination form; and

☐ Any other information that addresses the nominee's qualifications.

Nomination forms are available from Rena Gutierrez, Las Cruces District Office, BLM, 1800 Marquess St., Las Cruces, NM 88005, 575–525–4338 and online at *www.blm.gov/nm/racs.* Completed applications should be sent to the same address.

Authority: 43 CFR 1784.4–1.

Noel L. Wagner,

Acting State Director.

[FR Doc. 2014–12104 Filed 5–23–14; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF INTERIOR

National Park Service

[NPS–WASO–NRSS–SSD–15858; PPWONRADE3, PPMRSNR1Y.NM0000]

Proposed Information Collection; Programmatic Clearance for NPS-Sponsored Public Surveys.

AGENCY: National Park Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (National Park Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this collection of information (OMB #1024–0224). This IC is scheduled to expire on August 31, 2014. We may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that your comments on this IC are considered, we must receive them on or before July 28, 2014.

ADDRESSES: Direct all written comments on this IC to Phadrea Ponds, Information Collection Coordinator, National Park Service, 1201 Oakridge Drive, Fort Collins, CO 80525 (mail); or Phadrea_Ponds@nps.gov (email). Please reference Information Collection 1024–0224 in the subject line.

FOR FURTHER INFORMATION CONTACT: Bret Meldrum, Chief, Social Science Program, National Park Service, 1201 Oakridge Drive, Fort Collins, CO 80525–5596 (mail); Bret_Meldrum@nps.gov (email); or 970–267–7295 (phone).

I. Abstract

The NPS needs information concerning park visitors and visitor services, potential park visitors, and residents of communities near parks to provide National Park Service (NPS) managers with usable information for improving the quality and utility of agency programs, services, and planning efforts. Since many of the NPS surveys are similar in terms of the populations being surveyed, the types of questions being asked, and research methodologies, the NPS proposes to renew its clearance from OMB for a Generic Information Collection (1024–0224) of NPS-sponsored surveys. Since 1999, the benefits of this generic approval program have been significant to the NPS, Department of the Interior, OMB, NPS cooperators, and the public. Significant time and cost savings have been incurred and more than 550 surveys have been conducted in units throughout the National Park System. Approval is typically granted within 60 days or less from the date the Principal Investigator (PI) first submits the survey package to the NPS Information Review Coordinator for review. This is a significant reduction over the approximately 6–9 months involved in the regular OMB review process. We are requesting an extension of this collection for the purposes of revising the current Pool of Known questions that are the primary function of this process. We are planning to host a series of workshops of social science researches to update the original list of questions and topics that are more than 20 years old because many questions in the current listing are underutilized. This extension will allow for the effective outreach prescribed in item 8 of Supporting Statement Part A.

II. Data

OMB Number: 1024–0224.

Title: Programmatic Clearance for NPS-Sponsored Public Surveys.

Type of Request: Extension of a currently approved collection.

Affected Public: General public, visitors and potential visitors to parks, and residents of communities near parks.

Respondent Obligation: Voluntary.

Estimated Annual Number of Respondents: 140,000 respondents.

Estimated Total Annual Burden Hours: 46,666 hours. We estimate the public reporting burden averages 20 minutes per response.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have not identified any ''non-hour cost'' burdens associated with this collection of information.

III. Request for Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;

• Ways to enhance the quality, utility, and clarity of the information to be collected; and

• Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 20, 2014.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2014–12101 Filed 5–23–14; 8:45 am]

BILLING CODE 4310–EH–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1124 and 1125 (Review)]

Electrolytic Manganese Dioxide From Australia and China; Notice of Commission Determination To Conduct Full Five-Year Reviews and Scheduling of Full Five-Year Reviews Concerning the Antidumping Duty Orders on Electrolytic Manganese Dioxide From Australia and China

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of its determination to conduct, and scheduling of, full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty orders on electrolytic manganese dioxide (''EMD'') from Australia and/or China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B). 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:* May 19, 2014.

FOR FURTHER INFORMATION CONTACT: Cynthia Trainor (202–205–3354), 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 December 20, 2013, the Commission determined that the domestic interested party group response was adequate and that the respondent interested party group response was inadequate with respect to both orders under review. The Commission found that circumstances warranted conducting full reviews notwithstanding the inadequate respondent interested party group response and determined that it should proceed to a full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in these 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 these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. 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.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on September 30, 2014, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on October 21, 2014, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 10, 2014. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on October 15, 2014, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is October 8, 2014. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's

rules. The deadline for filing posthearing briefs is October 28, 2014. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before October 28, 2014. On November 20, 2014, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 24, 2014, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

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 review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.
Issued: May 21, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–12140 Filed 5–23–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0002]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension Without Change of a Currently Approved Collection (1–704)

AGENCY: Federal Bureau of Investigation, Criminal Justice Information Services Division, Department of Justice.

SUPPLEMENTARY HOMICIDE REPORT

ACTION: 30-day notice.

SUMMARY: The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** Volume 79, Number 56, page 16055, on March 24, 2014, allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until June 26, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Mrs. Amy Blasher, Unit Chief, Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; telephone 304–625–4830, facsimile, 304 625–3566. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Officer of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send to *OIRA_submission@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection

1. *Type of Information Collection:* Extension without change of a currently approved collection.

2. *The Title of the Form/Collection:* Supplementary Homicide Report.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is 1–704. The applicable component within the Department of Justice, the Federal Bureau of Investigation, Criminal Justice Information Services Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

The affected public who are asked to voluntarily respond is city, county, state, tribal, and federal U.S. law enforcement. Under Title 28, U.S. Code, Section 534, this information collection requests homicide data from respondents in order for the FBI UCR Program to serve as the national clearinghouse for the collection and dissemination of homicide data and to publish these statistics in Crime in the United States. The SHR provides for the national UCR Program a record of each homicide incident including details regarding the victim, offender, their relationship, the weapon used, and the circumstances in which each criminal homicide, justifiable homicide, and manslaughter by negligence is committed.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There is a potential of 18,233 law enforcement agency respondents; 11,586 for the Summary Reporting System (SRS) and 6,647 for the National Incident-Based Reporting System (NIBRS). NIBRS burden hours are collected on the NIBRS Information Collection Request. Calculated estimates

for an SRS respondent to respond indicate 9 minutes per month. The total annual burden hour per respondent is 1 hour and 48 minutes.

Total Annual Hour Burden:

9 minutes × 12 months = 108/60 = 1 hour and 48 minutes.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 20,855 hours, annual burden, associated with this information collection.

11,586 respondents × 12 responses/year = 139,032 total annual responses

139,032 × 9 minutes/60 minutes = 20,855 total annual hour burden

(This burden estimate does not include the 6,696 NIBRS agencies; the NIBRS burden hours are captured in the NIBRS Information Collection Request.)

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3W–1407B, Washington, DC 20530.

Dated: May 20, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–12068 Filed 5–23–14; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—U.S. Photovoltaic Manufacturing Consortium, Inc.

Notice is hereby given that, on April 21, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), U.S. Photovoltaic Manufacturing Consortium, Inc. (''USPVMC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Brewer Science, Rolla, MO; Niabraze, Tonawanda, NY; Sonoscan, Elk Grove Village, IL; Suniva, Norcross, GA; and Tau Science, Beaverton, OR, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and USPVMC intends to file additional written notifications disclosing all changes in membership.

On November 14, 2011, USPVMC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 21, 2011 (76 FR 79218).

The last notification was filed with the Department on August 20, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 24, 2013 (78 FR 58559).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–12037 Filed 5–23–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Employment and Training Data Validation Requirement

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Employment and Training Data Validation Requirement,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before June 26, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201312–1205–005* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov*.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Employment and Training Data Validation Requirement information collection that requires a state or not-for-profit private sector grantee to ascertain the validity of report and participant record data submitted to the ETA and to submit a quarterly data accuracy report to the ETA. The following programs are subject to the validation requirement covered by this ICR: Workforce Investment Act Title IB, Wagner-Peyser Act, Trade Adjustment Assistance, National Farmworker Jobs Program, and the Senior Community Service Employment Program.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0448.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on May 31, 2014. The DOL seeks to extend

PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 24, 2013 (78 FR 77718).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0448. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Employment and Training Data Validation Requirement.

OMB Control Number: 1205–0448.

Affected Public: State, Local, and Tribal Governments and private sector—not-for-profit institutions.

Total Estimated Number of Respondents: 121.

Total Estimated Number of Responses: 716.

Total Estimated Annual Time Burden: 62,174 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: May 20, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–12047 Filed 5–23–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of thesepetitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 6, 2014.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 6, 2014.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 15th day of May, 2014

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[18 TAA petitions instituted between 5/5/14 and 5/9/14]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
85283	MTD Southwest Inc (Company)	Tempe, AZ	05/05/14	05/02/14
85284	Kathrein Inc—Scala Division (State/One-Stop)	Medford, OR	05/05/14	05/02/14
85285	Wave Accounting, Inc. (State/One-Stop)	Webster, NY	05/05/14	05/05/14
85286	United States Steel Corporation (Union)	Lorain, OH	05/05/14	05/02/14
85287	Quad Graphics (State/One-Stop)	Marengo, IA	05/06/14	05/05/14
85288	Automated Solutions Inc (State/One-Stop)	Knoxville, AR	05/07/14	05/06/14
85289	BorgWarner (formerly Wahler Automotive) (Workers)	Livonia, MI	05/07/14	05/06/14
85290	Rigaku Innovative Technologies (State/One-Stop)	Auburn Hills, MI	05/07/14	05/06/14
85291	ProLogix East & West (State/One-Stop)	Spring Arbor, MI	05/07/14	04/22/14
85292	DIX Digital Prepress (State/One-Stop)	Cicero, NY	05/07/14	05/06/14
85293	Microsemi (Workers)	Allentown, PA	05/07/14	04/30/14
85294	Pitney Bowes Inc. (Workers)	Spokane, WA	05/07/14	04/23/14
85295	Bimbo Bakeries USA, Inc. (State/One-Stop)	Sioux City, IA	05/08/14	05/07/14
85296	ArcSoft, Inc. (State/One-Stop)	Fremont, CA	05/08/14	05/08/14
85297	Springs Window Fashions, LLC (Company)	Montgomery, PA	05/08/14	05/07/14
85298	3M Purification, Inc. (State/One-Stop)	Enfield, CT	05/09/14	05/08/14
85299	Graymark International (Lab-Volt Systems) (State/One-Stop)	Tustin, CA	05/09/14	05/08/14
85300	Tyco/Sensormatic Electronics Corp. LLC (Workers)	Boca Raton, FL	05/09/14	04/29/14

[FR Doc. 2014–12056 Filed 5–23–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–83,129]

International Paper Company, Courtland Alabama Paper Mill, Printing & Communications Papers Division, a Subsidiary of International Paper Company, Including On-Site Leased Worker from Manpower, Western Express, and Liberty Healthcare Corporation, Courtland, Alabama; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued an Amended Certification of Eligibility to Apply for Worker Adjustment Assistance on March 13, 2014, applicable to workers of International Paper Company, Courtland Alabama Paper Mill, Printing & Communications Papers Division, a subsidiary of International Paper Company, including on-site leased workers from Manpower and Western Express, Courtland, Alabama. The workers are engaged in activities related to the production of coated and uncoated freesheet paper.

At the request from a Liberty Healthcare Corporation official, the Department reviewed the certification for workers of the subject firm.

Additional information from International Paper Company confirms that workers leased from Liberty Healthcare Corporation were employed on-site at the Courtland, Alabama location of International Paper Company, Courtland Alabama Paper Mill, Printing & Communications Papers Division, a subsidiary of International Paper Company. The Department has determined that these workers were sufficiently under the control of International Paper Company to be considered leased workers.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of coated and uncoated freesheet paper.

Based on these findings, the Department is amending this certification to include workers leased from Liberty Healthcare Corporation working on-site at the Courtland, Alabama location of the subject firm.

The amended notice applicable to TA–W–83,129 is hereby issued as follows:

All workers from International Paper Company, Alabama Paper Mill, Printing & Communication Papers Division, a subsidiary of International Paper Company, including on-site leased workers from Manpower, Western Express, and Liberty Healthcare Corporation, Courtland, Alabama, who became totally or partially separated from employment on or after October 10, 2012 through February 6, 2016, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC this 8th day of May, 2014.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–12053 Filed 5–23–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,191]

Soy Basics, LLC, a Wholly-Owned Subsidiary of S.C Johnson & Son, Inc., Including Onsite Leased Workers from Manpower and Labor Ready, New Hampton, Iowa; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor (Department) issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on April 29, 2014, applicable to workers and former workers of Soy Basics, LLC, a wholly owned subsidiary of S.C. Johnson & Son, Inc., including on-site leased workers from Manpower, New Hampton, Iowa. The workers are/were engaged in activities related to the production of soy candles.

At the request of a state workforce official, the Department reviewed the certification for workers of the subject firm.

The company reports that workers leased from Labor Ready were employed on-site at the New Hampton, Iowa location of Soy Basics, LLC. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Labor Ready working on-site at Soy Basics, LLC, a wholly owned subsidiary of S.C. Johnson & Son, Inc., New Hampton, Iowa.

The amended notice applicable to TA–W–85,191 is hereby issued as follows:

All workers of Soy Basics, LLC, a wholly owned subsidiary of S.C. Johnson & Son, Inc., including on-site leased workers from Manpower and Labor Ready, New Hampton, Iowa, who became totally or partially separated from employment on or after March 31, 2013 through April 29, 2016, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974, as amended.

Signed in Washington, DC this 14th day of May, 2014.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–12055 Filed 5–23–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,500]

Startek Usa, Inc.; Including On-Site Leased Workers From Staffmark East, LLC and Staffmark; Jonesboro, Arkansas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 17, 2012, applicable to workers of Startek USA, Inc., including on-site leased workers from Staffmark East, LLC, Jonesboro, Arkansas. The workers are engaged in activities related to the supply of business support and call center services.

At the request from the State of Arkansas, the Department reviewed the certification for workers of the subject firm.

The request was to amend the immediate certification to include workers of Staffmark working on-site at Startek USA, Inc., Jonesboro, Arkansas.

The Department has determined that these workers were sufficiently under the control of Startek USA, Inc. to be considered leased workers.

The intent of the Department's certification is to include all workers of the subject firm who were adversely

affected by a shift in the supply of services to a foreign country.

Based on these findings, the Department is amending this certification to include workers leased from Staffmark working on-site at the Jonesboro, Arkansas location of the subject firm.

The amended notice applicable to TA–W–81,500 is hereby issued as follows:

All workers of StarTek USA, Inc., including on-site leased workers from Staffmark East, LLC and Staffmark, Jonesboro, Arkansas, who became totally or partially separated from employment on or after March 27, 2011, through May 17, 2014, and all workers in the group threatened with total or partial separation from employment on May 17, 2012 through May 17, 2104, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 9th day of May, 2014

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–12051 Filed 5–23–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,145]

AXA Equitable Life Insurance Company, a Subsidiary of AXA Financial, Inc., Including On-Site Leased Workers of Kelly Services, Charlotte, North Carolina; Notice of Negative Determination Regarding Application for Reconsideration

By application dated May 5, 2014, a worker requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance, applicable to workers and former workers of AXA Equitable Life Insurance Company, a subsidiary of AXA Financial, Inc., Charlotte, North Carolina (subject firm). The Department's Notice of determination was published in the **Federal Register** on May 5, 2014 (79 FR 25625).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The negative determination was based on the Department's findings that the subject firm does not produce an article, within the meaning of the Trade Act of 1974, as amended.

The request for reconsideration stated that services supplied by the subject workers shifted to a foreign country.

The petitioner did not supply facts not previously considered; nor provide additional documentation indicating that there was either (1) a mistake in the determination of facts not previously considered or (2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination. Based on these findings, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After careful review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 15th day of May, 2014.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–12054 Filed 5–23–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,503]

Ocwen Loan Servicing, LLC, a Subsidiary of Ocwen Financial Corporation, Including Former Workers of GMAC Mortgage, LLC, an Indirect Subsidiary of Residential Capital, LLC, Waterloo, Iowa; Notice of Revised Determination on Reconsideration

On its own action, the Department reviewed the determination for GMAC Mortgage, LLC, an indirect subsidiary of Residential Capital, LLC, now Ocwen Loan Servicing, LLC, a subsidiary of Ocwen Financial Corporation, Waterloo, Iowa to clarify the worker group. Based on additional and updated information, worker group is clarified as Ocwen Loan Servicing, LLC, a subsidiary of Ocwen Financial Corporation, including former workers of GMAC Mortgage, LLC, an indirect subsidiary of Residential Capital, LLC, Waterloo, Iowa (hereafter referred to as ''Ocwen Loan Servicing, LLC'' or ''the subject firm''). The workers are engaged in activities related to the supply of mortgage loan services.

The worker group excludes workers totally or partially separated (or threatened with such separation) from the subject firm prior to February 15, 2013 (date of bankruptcy finalization).

Based on a careful review and clarification of previously-submitted information and additional information obtained during the reconsideration investigation, the Department determines that Section 222(a)(1) has been met because a significant number or proportion of the workers in Ocwen Loan Servicing, LLC have become totally or partially separated, or are threatened to become totally or partially separated and that Section 222(a)(2)(B) has been met because the workers' firm has shifted to a foreign country a portion of the supply of services like or directly competitive with the mortgage loan services supplied by the subject worker group, which contributed importantly to worker group separations at Ocwen Loan Servicing, LLC.

Conclusion

After careful review of previously-submitted facts and the additional facts obtained during the reconsideration investigation, I determine that workers Ocwen Loan Servicing, LLC, a subsidiary of Ocwen Financial Corporation, including former workers of GMAC Mortgage, LLC, an indirect subsidiary of Residential Capital, LLC, Waterloo, Iowa, who were engaged in employment related to the supply of mortgage loan services, meet the worker group certification criteria under Section 222(a) of the Act, 19 U.S.C. 2272(a). In accordance with Section 223 of the Act, 19 U.S.C. 2273, I make the following certification:

All workers of Ocwen Loan Servicing, LLC, a subsidiary of Ocwen Financial Corporation, including former workers of GMAC Mortgage, LLC, an indirect subsidiary of Residential Capital, LLC, Waterloo, Iowa, who became totally or partially separated from employment on or after February 15, 2013, through two years from the date of this certification, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC this 13th day of May, 2014.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–12052 Filed 5–23–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards codified in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before June 26, 2014.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov*. Include the docket number of the petition in the subject line of the message.
2. *Facsimile:* 202–693–9441.
3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939, Attention: Sheila McConnell, Acting Director, Office of Standards, Regulations and Variances. Persons delivering documents are required to check in at the receptionist's desk on the 21st floor. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2014–015–C.

Petitioner: Luminant Mining Company, P.O. Box 1359, Tatum, Texas 75691.

Mine: Liberty Strip Mine, MSHA I.D. No. 41–04964, located in Rusk County, Texas.

Regulation Affected: 30 CFR 77.803 (Fail safe ground check circuits on high-voltage resistance grounded systems).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance when the boom/mast is raised or lowered during necessary repairs. The petitioner states that:

(1) Some stages of assembly/disassembly of draglines require special consideration when the boom/mast is raising/lowering into position.

(2) The boom is raised/lowered utilizing the on-board motor generator sets. This process is critical because during this time, power to the machine, as much as possible, must not be interrupted. Power loss may result in the boom becoming uncontrolled and falling, and could injure workers. To address this condition, the petitioner proposes to use the following guidelines to help prevent loss of power to the machine. This procedure only addresses raising/lowering the boom of draglines utilizing the machine's electrical onboard motor generator sets. It does not replace other mechanical precautions or the requirements of 30 CFR 77.405(b) that are necessary to safely secure booms/masts during construction or maintenance procedures.

(3) The operator/contractor will develop and implement written procedures that will:

(a) Limit the number of persons needed on board the machine during the boom/mast raising/lowering. Only those persons critical to performing necessary functions will be permitted on board the machine.

(b) Explain the methods to be used to prevent off-board persons from contacting the frame cable of the machine. The area around the machine will be roped off or guarded.

(c) Prohibit other work activities in close proximity to the machine during the boom/mast operation.

(d) Establish a responsible person(s) at the work site who is familiar with all the requirements and is able to communicate at all times with the qualified person(s) at the substation. The responsible person(s) must remain at the work site during the boom/mast raising/lowering.

(e) Ensure that all persons involved with the boom/mast raising/lowering are familiar with the safety precautions.

(4) An MSHA-qualified electrician will complete an examination of all electrical components that will be energized during the boom raising/lowering process. The examination will be done within 2 hours prior to the boom raising/lowering process. A record of the examination will be made available for review. The machine will be deenergized to perform this examination.

(5) After the examination has been completed, electrical components necessary to complete the boom raising/lowering process will be energized to assure they are operating properly as determined by the MSHA-qualified electrician.

(6) The ground fault and ground check circuits may be disabled provided:

(a) The internal ground conductor of the trailing cable has been tested and is continuous from the frame of the dragline to the grounding resistor located at the substation. Utilizing the ground check circuit and disconnecting the pilot circuit and the machine frame and verifying the circuit breaker cannot be closed will be an acceptable test. Resistance measurements can also be used to assure the ground conductor is continuous. The grounding resistor will be tested to assure it is properly connected and is not open or shorted;

(b) Normal short circuit protection will be provided at all times. The overcurrent relay setting may be

increased up to 100% above its normal setting.

(7) During the boom raising/lowering procedure an MSHA-qualified electrician(s) will be positioned at the substation and dedicated to monitoring the grounding circuit. The qualified person(s) will be able to detect a grounded phase condition, or an open ground conductor, without being exposed to shock hazards. The person(s) at the substation will at all times maintain communications with a responsible person at the dragline. If a grounded phase condition, or an open ground wire, should occur during the process, the person at the substation will notify the responsible person at the dragline. All persons on board the machine must be aware of the condition and must remain on board the machine. The boom will be controlled and the electrical circuit deenergized until the condition is corrected. The ground fault and ground check circuits will be reinstalled prior to reenergizing and testing. Once the circuits have been tested and no adverse conditions are present, the boom raising/lowering procedure may be resumed.

(8) During the boom raising/lowering procedure, persons are not permitted to get on/off the dragline while the ground check and ground fault circuits are disabled unless the circuit to the dragline is de-energized, locked and tagged out as verified by the qualified person at the substation.

(9) After the boom raising/lowering is completed the responsible person at the dragline will notify the qualified person(s) at the substation. The qualified person(s) will deenergize the circuit and restore the protective relays to their normal setting. Prior to reenergizing the circuit for normal operation, the circuit and its protective relays will be tested and examined as described in 30 CFR 77.800–1. The ground check will be tested by opening the ground check circuit at the machine to verify the circuit breaker cannot be closed. A record of the test and examination will be recorded as described in 30 CFR 77.800–1. Following completion of the test and examination, normal work can begin.

(10) Luminant will ensure that during the boom/mast raising/lowering all requirements listed in 30 CFR are complied with, except as explained above. It is paramount that the requirements for lock/tag out are followed, including grounding when required.

The petitioner asserts that the proposed alternative method will not result in a diminution of safety to the miners.

Docket Number: M–2014–016–C.

Petitioner: Cliffs Natural Resources, Inc., Cliffs Logan County Coal, LLC, P.O. Box 446, Man, West Virginia 25635.

Mine: Saunders Preparation Plant, MSHA I.D. No. 46–02140, located in Logan County, West Virginia.

Regulation Affected: 30 CFR 77.214(a) (Refuse piles; general).

Modification Request: The petitioner requests an amendment to its previously granted petition for modification, docket number M–2009–049–C, to seal a total of 18 abandoned mine portals within the limits of the North Fork Coal Refuse Facility, I.D. No. WV04–02140–01, in the Upper Winifrede and Buffalo Creek seams of coal. In the previous petition, the petitioner proposed to construct seals one through ten in portals associated with the Upper Winifrede Seam. Three of these seams, Numbers 8, 9, and 10, were proposed at the northernmost portal of the Buffalo Mining No. 8–C Mine.

The petitioner states that:

(1) When attempting to uncover entries Numbers 8, 9 and 10 to seal them, only two entries were found rather than the three proposed in the previous petition and approved in the Proposed Decision and Order (PDO).

(2) Excavation was done on either side of the two exposed entries to the extent that an additional opening should have been revealed if it had existed. The coal seam and overburden were still in place on what should have been the portal bench for the third entry. Instead of continuing in line with the exposed mine entries, the base of the highwall flared, or projected out toward the coal outcrop on both sides of the two entries. On this basis it can reasonably be concluded that there are only two mine entries at this site.

(3) The only discernible date on the 8–C mine map is 1972, presumably at the time of mine closure. While it is currently common practice, as mandated by law, to open at least three entries at a portal site, this was not a requirement at the time portal Mine No. 8–C was established.

(4) It is evident that it was erroneously concluded that there were three entries at this portal when the petition for modification was being prepared for submittal. A close examination of the 8–C mine map reveals that only two of the entries at the portal are shown to be open.

(5) The locations of the two openings, along with the existing highwall, were recently verified by field survey. In view of these findings the petitioner is requesting that entry No. 8 be deleted from the PDO.

(6) Drainage will be provided for entry No. 10 as originally proposed, but the drain will be directed to the outlet near the left groin ditch at elevation 2078± rather than in the center underdrain since that is now covered with 125 to 130 feet of refuse.

The petitioner asserts that the alternative method provides the same degree of safety as the existing standard.

Docket Number: M–2014–017–C.

Petitioner: AK Coal Resources, Inc., 1134 Stoystown Rd., Friedens, Pennsylvania 15541.

Mine: North Fork Mine, MSHA I.D. No. 36–10041, located in Somerset County, Pennsylvania.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance), (18.35(a)(5)(i) (Portable (trailing) cables and cords)).

Modification Request: The petitioner requests a modification of the existing standard to increase the cable length of the cables supplying power to four Fletcher Roof Ranger II Roof Bolters. Utilization voltage for these machines is 480 volts, three-phase alternating current. The petitioner states that:

(1) The maximum length of the 480-volt trailing cables will be 1,000 feet.

(2) The trailing cables for the Roof Bolters will not be smaller than No. 2 American Wire Gauge (AWG) cable.

(3) All circuit breakers used to protect the No. 2 AWG trailing cables exceeding 700 feet in length will have instantaneous trip units calibrated to trip at 727 amperes at 10 percent guaranteed tolerance. The trip settings of these circuit breakers will be sealed to insure the trip setting cannot be changed, and these breakers will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting the No. 2 AWG cables.

(4) Replacement breakers and/or instantaneous trip units, used to protect the No. 2 AWG trailing cables will be calibrated to trip at 727 amperes at 10 percent guaranteed tolerance, and this setting will be sealed.

(5) All components that provide short-circuit protection will have sufficient interruption rating in accordance with the maximum calculated fault currents available.

(6) During each production day, the No. 2 AWG trailing cables and the circuit breakers will be examined in accordance with all 30 CFR provisions.

(7) Permanent warning labels will be installed and maintained on the loads center identifying the location of each short-circuit protective device. These labels will warn miners not to change or alter the settings of these devices.

(8) If the affected trailing cables are damaged during the shift, the cable will be deenergized and repairs will be made.

(9) The proposed alternative method will not be implemented until all miners who have been designated to operate the Roof Ranger II, or other persons designated to examine the trailing cables or trip settings on the circuit breakers, have received proper training.

(10) Within 60 days after this proposed decision and order becomes final, the proposed revisions for the petitioner's approved 30 CFR part 48 training plan will be submitted to the District Manager. The training plan will include the following:

(i) The hazards of setting the short-circuit interrupting device(s) too high to adequately protect the trailing cables;

(ii) How to verify that the circuit interrupting device(s) protecting the trailing cable(s) are properly set and maintained;

(iii) The mining methods and operating procedures that will protect the trailing cables against damage; and

(iv) The proper procedures for examining the trailing cables to ensure that the cables are in safe operating condition by visual inspection of the entire cable, observing the insulation, the integrity of the splices, nicks and abrasions.

The petitioner further states that procedures specified in 30 CFR 48.3 for proposed revisions to approved training plans will apply.

The petitioner asserts that the alternative method will guarantee no less than the same measure of protection for all miners afforded by the existing standard.

Docket Number: M–2014–003–M.

Petitioner: Southwest Energy LLC, 950 17th Street, Suite 2600, Denver, Colorado 80202.

Mines: Bald Mountain Mine, MSHA I.D. No. 26–01842, located in White Pine County, Nevada; Freeport-McMoRan Morenci Inc. Mine, MSHA I.D. No. 02–00024, located in Greenlee County, Arizona; Freeport-McMoRan Bagdad Inc., MSHA I.D. No. 02–00137, located in Yavapai County, Arizona; Freeport-McMoRan Sierrita, Inc., MSHA I.D. No. 02–00144, located in Pima County, Arizona; Thompson Creek Mine, MSHA I.D. No. 10–00531, located in Custer County, Idaho; Carlin Mine, MSHA I.D. No. 26–00062, located in Eureka County, Nevada; Phoenix Mine, MSHA I.D. No. 26–00550, located in Lander County, Nevada; Barrick Cortez Inc., MSHA I.D. No. 26–00827, located in Lander County, Nevada; Goldstrike Mine, MSHA I.D No. 26–01089, located in Eureka County, Nevada; Robinson Operation, MSHA I.D. No. 26–01916, located in White Pine County, Nevada; Twin Creeks Mine, MSHA I.D. No. 26–01942, located in Humboldt County, Nevada; Florida Canyon Mine, MSHA I.D. No. 26–01947, located in Pershing County, Nevada; Ruby Hill Mine, MSHA I.D. No. 26–02307, located in Eureka County, Nevada; Tyrone Mine, MSHA I.D. No. 29–00159, located in Grant County, New Mexico; Chino Mines Co Mine, MSHA I.D. No. 29–00708, located in Grant County, New Mexico; Freeport McMoRan Miami Inc., MSHA I.D. No. 02–00112, located in Gila County, Arizona; Marigold Mine, MSHA I.D. No. 26–02081, located in Humboldt County, Nevada; and Carlota Copper Company, MSHA I.D. No. 02–02653, located in Gila County, Arizona.

Regulation Affected: 30 CFR 56.6801 (Vehicle repair).

Modification Request: The petitioner requests a modification of the existing standard to permit routine repair and maintenance work to be performed on its bulk trucks in its own specialized Southwest Energy shops at the Bald Mountain Mine and at the other mines for which Southwest Energy works, because application of the existing standard will result in a diminution of safety to the miners. The petitioner states that:

(1) The Bald Mountain mine has been in operation since 1984 during which time it has been inspected by MSHA at least twice per year. For the past 40 years Southwest Energy has routinely parked bulk equipment in company garage facilities at the Mine to address climate, security, and safety issues that may arise from working outdoors. Prior to July 2013, only one citation asserting that § 56.6801 applied to the parking of bulk equipment in the Southwest Energy shops for maintenance and repair has ever been upheld. Section 56.6801 specifically applies to vehicles containing both explosive material and oxidizers. The standard provides that vehicles containing explosive material and oxidizers should not be taken into a garage or shop, and is worded in such a manner that acknowledges the likelihood of a dangerous condition occurring only in the presence of both of these elements. According to the standard, where both explosive materials and oxidizers are present on a vehicle, that vehicle should not be taken into a repair garage or shop at any time.

(2) While Southwest Energy routinely takes steps to ensure that mixed blasting agents, un-sensitized emulsion, ammonium nitrate/fuel oil (ANFO), or any combination of these are not present in their bulk trucks when they are taken into shops, it is not always possible to ensure that trace amounts of blasting agents are not present in spite of those efforts. Additionally, it is possible, although not common, that a mechanical condition that is best addressed in the shop will arise in such a way as to preclude trying to empty all remnants of blasting agents from the augers before it can be repaired. It is situations like these that Southwest Energy seeks a modification of the standard.

(3) It is clear that the purpose of § 56.6801 is to keep potentially explosive material out of an environment where open flames or sparks are likely to occur. Southwest Energy's established practice is to both empty and thoroughly wash the bulk trucks of all ingredients before any hot work is performed on the equipment. Southwest Energy has issued a ''Hot Work Program'' which details exactly how to clean and inspect all trucks prior to any repairs or maintenance.

(4) Attempting to perform repairs on bulk trucks outdoors creates a host of hazards. Although it is required that a job hazard assessment be performed prior to each hot work job or task, there are many hazardous conditions that arise outside of Southwest Energy's control, primarily exposure to climate. Working in an open area exposes the miner to dust, wind, rain, excessive cold and heat and any number of conditions that increase the chance of an accident.

(5) Southwest Energy has shops in areas that experience both extremely cold and hot temperatures, and to perform work outdoors is of the utmost concern in terms of safety. The problem of climate conditions is further aggravated by the fact that it is not always possible to create a smooth level surface on which to work when not inside of a structurally safe environment. If the ground is not level it becomes extremely difficult to set jacks or even outriggers to provide a level working surface for the job under consideration. Jack slippage on uneven or rough terrain presents multiple hazards not the least of which is the chance that a load would fall off of its support and on the miners. The work being performed often involves lifting heavy tools or components, the risk of trips, slips, falls, sprains, strains and perhaps even broken bones rises.

(6) Southwest Energy has made every effort to never expose a bulk truck holding blasting agents to open flames or sparks. Still, the need to repair the equipment in question cannot be avoided. The danger of sparks and open flames to those performing maintenance presents different issues in terms of

minimizing these risks, but that does not justify subjecting maintenance personnel to a wide range of conditions that greatly increases their chances of being injured or killed.

(7) Working within the company shops will provide miners with the ability to perform necessary work absent the standards' literal mandate that present a far more dangerous scenario.

(8) Southwest Energy proposes to use the specific procedures listed below for compliance with the proposed alternative method for this petition:

(a) All highly explosive materials and oxidizers will be removed to the greatest extent possible from vehicles prior to entering the Southwest Energy shops.

(b) No hot work or open flames will be permitted within 50 feet of a vehicle containing blasting materials/agents.

(c) Any vehicles entering a bay to conduct hot work (grinding), welding, or cutting with an open flame will be emptied of all explosives, including blasting materials/agents, and washed prior to entry.

(d) A flashing light will be installed on top of the shop and on each bulk truck to warn anyone approaching that a truck used in the blasting process is in the bay.

(e) A rope or gate with a warning sign will be extended across shop entrances when trucks used in the blasting process are in bays for repair or maintenance.

(f) The number of persons working in the shops will be limited to the minimum required to conduct repair work or perform maintenance.

(g) All welders, grinders, torches and tools used for welding and cutting will be placed in a cage inside of the bay and will be locked during maintenance or repairs.

Individuals may review a complete description of the procedures the petitioner proposes to use for this petition at the MSHA address listed in this notice.

The petitioner asserts that the proposed alternative method will provide at least the same measure of safety as the existing standard.

Dated: May 16, 2014.

Sheila McConnell,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 2014–12112 Filed 5–23–14; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards codified in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before June 26, 2014.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.
2. *Facsimile:* 202–693–9441.
3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939, Attention: Sheila McConnell, Acting Director, Office of Standards, Regulations and Variances. Persons delivering documents are required to check in at the receptionist's desk on the 21st floor. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2014–009–C.

Petitioner: Bridger Coal Company, 1088 Nine Mile Road, Point of Rocks, Wyoming 82942.

Mine: Bridger Underground Coal Mine, MSHA I.D. No. 48–01646, located in Sweetwater County, Wyoming.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 18.35(a)(5)(i) (Portable trailing cables and cords).

Modification Request: The petitioner requests a modification of the existing standard to permit an increase of the maximum allowable length of trailing cables for supplying power to continuous mining machines, roof bolting machines, electric shuttle cars, feeder breakers, and auxiliary fans at the Bridger Underground Coal Mine. The petitioner states that:

(1) The maximum lengths of the trailing cables supplying power to three-phase 995-volt continuous mining machines will be 1,100 feet and those supplying power to three-phase 995-volt roof bolting machines, feeder breakers, and auxiliary fans will be 1,000 feet.

(2) The trailing cables for the 995-volt continuous mining machines and feeder breakers will not be smaller than #2/0 American Wire Gauge (AWG), SHD–GC. The trailing cables for the 995-volt roof bolting machines and auxiliary fans will not be smaller than #2 AWG, SHD–GC.

(3) All circuit breakers used to protect #2/0 AWG trailing cables exceeding 850 feet in length will have instantaneous trip units calibrated to trip at 1500 amperes. The trip setting of these circuit breakers will be sealed so that the setting cannot be changed and these circuit breakers will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting #2/0 AWG cables. The labels will be maintained legible.

(4) Replacement circuit breakers and/or instantaneous trip units used to protect #2/0 AWG trailing cables will be

calibrated to trip at 1500 amperes and this setting will be sealed. A certification tag showing the maximum amps and the date certified by Intermountain Electronics of other MSHA-acceptable vendor will be attached to the circuit breaker or trip unit.

(5) The maximum length of the trailing cables supplying power to the three-phase 480-volt shuttle car(s) will not exceed 1,000 feet and will not be smaller than #2 AWG. Extended length trailing cable(s) used on shuttle cars will be three conductor round cable, Type G–GC, G, or G+GC. When a Type G–GC or Type G+GC round cable is used with wireless ground-wire monitoring, the ground check conductor will be connected as a ground conductor.

(6) All circuit breakers used to protect #2 AWG trailing cables exceeding 700 feet in length will have instantaneous trip units calibrated to trip at 800 amperes. The trip setting of these circuit breakers will be sealed or locked, and these circuit breakers will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting #2 AWG cables. The labels will be maintained legible.

(7) Replacement and/or instantaneous trip units used to protect #2 AWG trailing cables will be calibrated to trip at 800 amperes and this setting will be sealed. A certification tag showing the maximum amps and the date certified by Intermountain Electronics or another MSHA-acceptable vendor will be attached to the circuit breaker or trip unit.

(8) All components that provide short-circuit protection will have a sufficient interruption rating in accordance with the maximum calculated fault currents available. Short-circuit current setting must not exceed 75 percent of the minimum available current.

(9) The trailing cable for the continuous mining machines, auxiliary fans, and feeder breakers will be hung on well-insulated hangers from the section power center to the slack pile of the trailing cable for each machine or to the last open crosscut, whichever is further outby.

(10) During each production shift, persons designated by the mine operator will visually examine the trailing cables to ensure that the cables are in safe operating condition and that the instantaneous settings of the specially-calibrated circuit breaker settings, as stipulated previously, do not have seals removed or tampered with. The examination must verify that the cables are hung on insulated hangers and that excessive cable is not stored on the roof bolter and shuttle car cable reel(s). Any discrepancies must be corrected prior to operation.

(11) Permanent warning labels will be installed and maintained on the cover of the power center identifying the location of each sealed short-circuit protective device. These labels will warn miners not to change or alter these sealed short-circuit settings.

(12) In the event the mining methods or operating procedures cause or contribute to the damage of any trailing cable, the cable will be removed from service immediately and repaired or replaced. Also, additional precautions will be taken to ensure that the cable is protected and maintained in safe operating condition.

(13) The alternative method will not be implemented until all miners who have been designated to examine the integrity of seals, verify the short-circuit settings, and examine trailing cables for defects have received the elements of training contained in this petition.

(14) Within 60 days after the proposed decision and order becomes final, the petitioner will submit proposed revisions for their approved 30 CFR part 48 training plans to the District Manager. These revisions will specify task training for miners designated to examine the trailing cables for safe operating condition and verify that the short-circuit settings of the circuit-interrupting devices that protect the affecting trailing cables do not exceed the settings specified previously in this petition. The training will include the following elements:

(a) The hazards of setting the short circuit interrupting device too high to adequately protect the trailing cables.

(b) How to verify that the circuit interrupting device(s) protecting the trailing cable(s) are properly set and maintained.

(c) Mining methods and operating procedures that will protect the trailing cables against damage.

(d) Proper procedures for examining the trailing cables to ensure that the cables are in safe operating condition by visually inspecting the entire cable, observing the insulation, the integrity of splices, and any nicks or abrasions.

The petitioner asserts that the proposed alternative method will at all times guarantee at least the same measure of protection to the miners as would be provided by the existing standard.

Docket Number: M–2014–010–C.

Petitioner: Bridger Coal Company, P.O. Box 68, Point of Rocks, Wyoming.

Mine: Bridger Underground Coal Mine, MSHA I.D. No. 48–01646, located in Sweetwater County, Wyoming.

Regulation Affected: (30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of battery-powered nonpermissible surveying equipment in or inby the last open crosscut, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Coal mining by its nature and size and absolute necessity for accuracy requires accurate surveying measurements be completed in a very timely manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when the equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the electronic surveying equipment for any obvious physical damage, including the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(c) The results of such examinations will be recorded and retained for six months and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in or inby the last open crosscut.

(e) Nonpermissible surveying equipment will not be used if methane

is detected in concentrations at or above one percent for the area being surveyed.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment will be changed out or charged in fresh air outby the last open crosscut.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the proposed decision and order becomes final, the petitioner will submit proposed revisions to the approved part 48 training plan to the District Manager. These proposed revisions will include the initial and refresher training regarding compliance with the terms and conditions stated in the proposed decision and order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2014–011–C.

Petitioner: CONSOL Pennsylvania Coal Company, LLC, CONSOL Energy Inc., CNX Center, 1000 CONSOL Energy Drive, Canonsburg, Pennsylvania 15317–6506.

Mine: Enlow Fork Mine, MSHA I.D. No. 36–07416, located in Greene County, Pennsylvania.

Regulation Affected: (30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance with respect to vertical to horizontal oil and gas wells. The petitioner proposes to plug vertical to horizontal oil and gas shale wells to mine through them.

I. The petitioner proposes to use the following procedures for preparing and plugging vertical to horizontal oil and gas shale wells:

(a) When preparing and plugging vertical to horizontal oil and gas shale wells that has not been previously plugged, the petitioner proposes to use the following procedure to ensure that no gas from the well reaches the lowest mineable coal seam and to prepare the well to be plugged for mining through the wellbore:

(1) The wellbore will be filled with water, and/or an approved equivalent to load the hole and control the well.

(2) The vertical well will be plugged to its attainable depth using approved mechanical bridge plug(s), cement, fly ash cement, gel, and/or other approved materials as required by Federal and State laws, regulations, and standards to effectively isolate and seal the oil/gas producing zones from the vertical well to protect the mineable coal seams and the environment to a location within the wellbore approximately 200 feet below the lowest mineable coal seam.

(3) An affidavit of the vertical well plugging will be provided to the coal mining regulatory agencies.

(b) The petitioner proposes to use the following procedure to prepare the plugged well for mining through when the well has been previously plugged in accordance with Federal and State laws, regulations, and standards to effectively isolate and seal the oil/gas producing zones from the vertical well to protect the mineable coal seams and the environment.

(1) An affidavit of the original well plugging will be thoroughly reviewed and provided to the coal mining regulatory agencies.

(2) The well will be effectively cleaned to a depth that would permit placement of at least 200 feet of expanding cement below the base of the lowest mineable coal seam.

(c) The petitioner proposes to use the following procedures to complete the well plugging and prepare the well for mine-through when a well has been effectively plugged in accordance with Federal and State laws, regulations, and standards to effectively isolate and seal the oil/gas producing zones to a location within the wellbore approximately 200 feet from the lowest mineable coal seam:

(1) A suite of logs will be made consisting of a caliper survey, directional deviation survey, and log(s) suitable for determining the top and bottom of the lowest mineable coal seam and potential hydrocarbon-producing strata.

(2) The wellbore will be effectively cleaned to a depth at least 200 feet below the lowest mineable coal seam and the wellbore will be filled and circulated with a gel to inhibit the flow of any gases, support the wellbore, and aid the introduction of the expanding cement.

(3) The well casing(s) will be effectively milled, cut, or perforated from the inner casing to the geologic strata at locations approximately 200 feet and approximately 100 feet below the lowest mineable coal seam.

(4) The well casing(s) will be effectively milled or cut sufficiently below, throughout, and above the coal seam to be mined to enable the coal seam to be safely and effectively mined through the plugged wellbore.

(5) A minimum of 200 feet of expanding cement will be effectively placed in the wellbore below the lowest mineable coal seam and to a point not less than 100 feet above the top of the highest mineable coal seam.

(6) Expanding cement, Portland cement, a cement fly ash mixture, or an approved equivalent, will be effectively placed from the top of the expanding cement to the surface.

(7) A monument with an API number will be installed at the plugged well location.

(8) An affidavit will be filed setting forth the persons who participated in the work, a description of the plugging work, and a certification by the petitioner that the well has been plugged as described.

II. The petitioner proposes to use the following procedures for mining through a plugged vertical to horizontal oil or gas well by the continuous mining method:

(1) Prior to mining within 300 feet of the well, the MSHA District Office will be notified verbally and with a letter and a drawing detailing the well location. If according to the down-hole deviation survey a plugged well is found to be located within 20 feet of projected mining, the procedures and safeguards listed below will be utilized. All distances will be measured along a line drawn perpendicular to the entry or crosscut being mined and the plugged well.

(2) All personnel working underground will be informed of the cut-through, the evacuation, and communication procedures to be used at the beginning of the shift in which a well will be cut-through. Management will ensure that all personnel can be promptly informed of any problem that might develop and of evacuation (if required) during the well cut-through.

(3) The mining through will be done at a time when only those miners actually engaged in the mining-through operation, and those necessary to operate ancillary equipment (haulage, conveyors, ventilation, etc.) are within 1,000 feet of the location of the well (on the intake side) being cut-through. No persons will be allowed in the section return downwind of the cut-through, but will be allowed in the return downwind of the location where the section return mixes with another return

split of air if this point is more than 1,000 feet from the location of the well. When the distance from the well is within 10 feet of touching the wellbore, all workers and responsible persons will be notified and no mining will be done until all persons except those mentioned above have been withdrawn outby the affected area. The well will be surveyed and located as to know when to stop mining.

(4) When mining approaches within 10 feet of cutting into the plugged well, a designated person in each operating section will be posted near the section phone (within hearing distance), or monitoring a radio on a designated channel until the cut-through is complete and an ''ALL CLEAR'' command is given. All miners in the outby areas of the mine will be working at known locations within radio or telephone communications. There will be no activities in remote areas without communications, ensuring quick evacuation of the mine in the event of any emergency at the cut-through area. The communication system will be checked at the beginning of the shift and within 10 feet of the cut-through.

(5) Firefighting equipment, including fire extinguishers, rock dust and enough fire hose to reach the working face will be available near the working area.

(6) Sufficient supplies of roof support and ventilation materials will be available near the working area.

(7) A minimum of 5,000 cubic feet of air per minute will be used to ventilate the working face during the mining-through operation. The ventilation plan and methane and dust control plan will be complied with.

(8) The equipment will be checked for permissibility and serviced on the shift prior to mining through the well.

(9) The methane monitor on the continuous mining machine will be calibrated on the shift prior to mining through the well. The calibration may be checked during the first half of the shift if the well is to be intersected during the section half of the shift.

(10) Drivage sights will be installed at the last open crosscut near the place to be mined to ensure intersection of the well. A laser or additional drivage sights will be used to ensure that the sight line is not more than 50 feet from the well.

(11) The working place will be free from accumulations of coal dust and coal spillages, and rock dust will be placed on the roof, rib, and floor to within 20 feet of the face when mining through the well.

(12) Tests for methane will be made with a hand-held methane detector and a probe at least every 10 minutes when mining within 30 feet of the well. These methane tests will continue until the gas well is intersected. A test for methane will also be made immediately prior to the anticipated mining through of the gas well.

(13) Immediately after the well is intersected, all equipment located in or inby the last open crosscut such as the continuous mining machine, the loader, the shuttle car, the face fan and roof bolter machine will be de-energized and the place thoroughly examined and determined safe by a certified foreman before mining is resumed. The face fan may be left energized to ventilate the working place provided someone is stationed at the discharge end of the fan and is continuously monitoring the methane. If the methane level in the discharge of the fan reaches one percent, the fan will be deenergized. Any well casing will be removed and no open flame will be permitted in the area until adequate ventilation has been established around the well. After the well cut-through is complete and the area is determined safe by a certified person, the miners outby the affected area may enter the section return and the affected area.

(14) The mining-through operation will be under the direct supervision of the mine foreman or a certified person designated by the mine foreman. Instructions concerning the mining-through operation will be issued only by the mine foreman or the certified person designated by the mine foreman to be in charge.

(15) The MSHA field office will be notified in sufficient time prior to mining-through, to have a representative present during the actual mining-through if necessary.

(16) The mining procedures and a drawing of the area will be reviewed with all personnel involved in the mining-through operation prior to the intersection of the plugged well.

III. The petitioner proposes to use following procedures and safeguards for mining past a plugged gas or oil well by the continuous mining method (greater than 20 feet away but less than 30 feet):

(a) If through mapping and plotting of a down-hole deviation survey of a plugged oil or gas well, mining will be greater than 20 feet away but less than 30 feet away from the well as measured from projected rib line, the following plan will be used:

(1) Prior to mining within 300 feet of the well, the MSHA District Office will be notified verbally and with a letter and a drawing detailing the well location.

(2) When mining is within 30 feet of a line drawn perpendicular to the entry or crosscut being mined and the plugged well, tests of methane will be made with a hand-held methane detector and a probe at least every 10 minutes. These methane tests will continue until mining has progressed to a point inby the perpendicular line.

(3) All other cut-through procedures do not apply to plugged oil or gas wells greater than 20 feet away but less than 30 feet away from projected mining.

IV. The petitioner proposes to use the following procedures and safeguards for mining past a plugged gas or oil well by the continuous mining method (greater than 30 feet):

(a) If through mapping and plotting of a down-hole deviation survey of a plugged oil or gas well, mining will be greater than 30 feet from the well as measured from projected rib line, the following plan will be used:

(1) Prior to mining within 300 feet of the well, the MSHA District Office will be notified verbally and with a letter and a drawing detailing the well location.

(2) Cut-through procedures do not apply to plugged oil or gas wells greater than 30 feet away from projected mining.

V. The petitioner proposes to use the following procedures and safeguards for mining through a plugged gas or oil well by the longwall mining method:

(1) Prior to mining within 300 feet of the well, the MSHA District Office will be notified verbally and with a letter and a drawing detailing the well location.

(2) All personnel working underground will be informed of the cut-through, the evacuation, and communication procedures to be used at the beginning of the shift in which a well will be cut-through. Management will ensure that all personnel can be promptly informed of any problem that might develop and of evacuation (if required) during the well cut-through.

(3) The mining through will be done at a time when only those miners actually engaged in the mining-through operation, and those necessary to operate ancillary equipment (haulage, conveyors, ventilation, etc.) are within 1,000 feet of the longwall face. When the distance from the well is within 10 feet of touching the wellbore, all workers or responsible persons will be notified and no mining will be done within 20 feet on either side of the well until all persons except those mentioned above have been withdrawn outby the affected area. The well will be surveyed and located to know when to stop mining.

(4) When mining approaches within 10 feet of cutting into the plugged well, a designated person in each operating

section will be posted near the section phone (within hearing distance), or monitoring a radio on a designated channel until the cut-through is complete and an ''ALL CLEAR'' command is given by a certified person. All miners in the outby areas of the mine will be working at known locations within radio or telephone communications. There will be no activities in remote areas without communications, ensuring quick evacuation of the mine in the event of any emergency at the cut-through area. The communication system will be checked at the beginning of the shift and when within 10 feet of the cut-through.

(5) Firefighting equipment, including fire extinguishers, rock dust and enough fire hose to reach the working face will be available in the immediate area of the longwall.

(6) Sufficient supplies of roof support and ventilation materials will be available in the immediate area of the longwall.

(7) The latest approved ventilation plan requirement for air reaching the longwall face and required face velocities will be maintained during the mining-through operation. The ventilation plan and methane and dust control plan will be complied with.

(8) Equipment will be checked for permissibility and serviced on the shift prior to mining through the well.

(9) The methane monitors on the longwall will be calibrated on the shift prior to mining through the well. The calibration may be checked during the first half of the shift if the well is to be intersected during the section half of the shift.

(10) Special location spads will be in the tailgate and headgate entries to define the exact location of the plugged well. An additional spad or marked area will be installed 20 feet from the location. In addition, the shields adjacent to a 10 foot radius of the well will be identified.

(11) A normal mining rate will be maintained across the longwall face except in the area defined by a 10 foot radius of the plugged well. Mining through this area will be done at a reduced mining rate until the wellbore is contacted.

(12) When mining is in progress and the longwall face is within 10 feet of the well, tests for methane will be made with a hand-held methane detector on every pass across the longwall face or at a maximum of every 10 minutes. These tests will be made until the well is intersected.

(13) Immediately after the well is intersected, all equipment on the longwall face such as the shearer, the stageloader and the face conveyor will be deenergized and the place thoroughly examined by a certified foreman and determined safe before mining is resumed. Any well casing will be removed and no open flame will be permitted in the area until adequate ventilation has been established around the well. After the well cut-through is complete and the area is determined safe, the miners may enter the affected area.

(14) The mining-through operation will be under the direct supervision of the mine foreman or a certified person designated by the mine foreman. Instructions concerning the mining-through operation will be issued only by the mine foreman or the certified person designated by the mine foreman to be in charge.

(15) The MSHA field office will be notified in sufficient time prior to mining-through, to have a representative present during the actual mining-through if necessary.

(16) The mining procedures and a drawing of the area will be reviewed with all personnel involved in the mining-through operation prior to the intersection of the plugged well.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure or protection afforded by the existing standard.

Docket Number: M–2014–012–C.

Petitioner: CONSOL Pennsylvania Coal Company, LLC, CONSOL Energy Inc., CNX Center, 1000 CONSOL Energy Drive, Canonsburg, Pennsylvania 15317–6506.

Mine: Bailey Mine, MSHA I.D. No. 36–07230, located in Greene County, Pennsylvania.

Regulation Affected: (30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance with respect to vertical to horizontal oil and gas wells. The petitioner proposes to plug vertical to horizontal oil and gas shale wells to mine through them.

I. The petitioner proposes to use the following procedures for preparing and plugging vertical to horizontal oil and gas shale wells:

(a) When preparing and plugging vertical to horizontal oil and gas shale wells that has not been previously plugged, the petitioner proposes to use the following procedure to ensure that no gas from the well reaches the lowest mineable coal seam and to prepare the well to be plugged for mining through the wellbore:

(1) The wellbore will be filled with water, and/or an approved equivalent to load the hole and control the well.

(2) The vertical well will be plugged to its attainable depth using approved mechanical bridge plug(s), cement, fly ash cement, gel, and/or other approved materials as required by Federal and State laws, regulations, and standards to effectively isolate and seal the oil/gas producing zones from the vertical well to protect the mineable coal seams and the environment to a location within the wellbore approximately 200 feet below the lowest mineable coal seam.

(3) An affidavit of the vertical well plugging will be provided to the coal mining regulatory agencies.

(b) The petitioner proposes to use the following procedure to prepare the plugged well for mining through when the well has been previously plugged in accordance with Federal and State laws, regulations, and standards to effectively isolate and seal the oil/gas producing zones from the vertical well to protect the mineable coal seams and the environment.

(1) An affidavit of the original well plugging will be thoroughly reviewed and provided to the coal mining regulatory agencies.

(2) The well will be effectively cleaned to a depth that would permit placement of at least 200 feet of expanding cement below the base of the lowest mineable coal seam.

(c) The petitioner proposes to use the following procedures to complete the well plugging and prepare the well for mine-through when a well has been effectively plugged in accordance with Federal and State laws, regulations, and standards to effectively isolate and seal the oil/gas producing zones to a location within the wellbore approximately 200 feet from the lowest mineable coal seam:

(1) A suite of logs will be made consisting of a caliper survey, directional deviation survey, and log(s) suitable for determining the top and bottom of the lowest mineable coal seam and potential hydrocarbon-producing strata.

(2) The wellbore will be effectively cleaned to a depth at least 200 feet below the lowest mineable coal seam and the wellbore will be filled and circulated with a gel to inhibit the flow of any gases, support the wellbore, and aid the introduction of the expanding cement.

(3) The well casing(s) will be effectively milled, cut, or perforated from the inner casing to the geologic strata at locations approximately 200 feet and approximately 100 feet below the lowest mineable coal seam.

(4) The well casing(s) will be effectively milled or cut sufficiently below, throughout, and above the coal seam to be mined to enable the coal seam to be safely and effectively mined through the plugged wellbore.

(5) A minimum of 200 feet of expanding cement will be effectively placed in the wellbore below the lowest mineable coal seam and to a point not less than 100 feet above the top of the highest mineable coal seam.

(6) Expanding cement, Portland cement, a cement fly ash mixture, or an approved equivalent, will be effectively placed from the top of the expanding cement to the surface.

(7) A monument with an API number will be installed at the plugged well location.

(8) An affidavit will be filed setting forth the persons who participated in the work, a description of the plugging work, and a certification by the petitioner that the well has been plugged as described.

II. The petitioner proposes to use the following procedures for mining through a plugged vertical to horizontal oil or gas well by the continuous mining method:

(1) Prior to mining within 300 feet of the well, the MSHA District Office will be notified verbally and with a letter and a drawing detailing the well location. If according to the down-hole deviation survey a plugged well is found to be located within 20 feet of projected mining, the procedures and safeguards listed below will be utilized. All distances will be measured along a line drawn perpendicular to the entry or crosscut being mined and the plugged well.

(2) All personnel working underground will be informed of the cut-through, the evacuation, and communication procedures to be used at the beginning of the shift in which a well will be cut-through. Management will ensure that all personnel can be promptly informed of any problem that might develop and of evacuation (if required) during the well cut-through.

(3) The mining through will be done at a time when only those miners actually engaged in the mining-through operation, and those necessary to operate ancillary equipment (haulage, conveyors, ventilation, etc.) are within 1,000 feet of the location of the well (on the intake side) being cut-through. No persons will be allowed in the section return downwind of the cut-through, but will be allowed in the return downwind of the location where the section return mixes with another return split of air if this point is more than 1,000 feet from the location of the well. When the distance from the well is within 10 feet of touching the wellbore, all workers and responsible persons will be notified and no mining will be done until all persons except those mentioned above have been withdrawn outby the affected area. The well will be surveyed and located as to know when to stop mining.

(4) When mining approaches within 10 feet of cutting into the plugged well, a designated person in each operating section will be posted near the section phone (within hearing distance), or monitoring a radio on a designated channel until the cut-through is complete and an ''ALL CLEAR'' command is given. All miners in the outby areas of the mine will be working at known locations within radio or telephone communications. There will be no activities in remote areas without communications, ensuring quick evacuation of the mine in the event of any emergency at the cut-through area. The communication system will be checked at the beginning of the shift and within 10 feet of the cut-through.

(5) Firefighting equipment, including fire extinguishers, rock dust and enough fire hose to reach the working face will be available near the working area.

(6) Sufficient supplies of roof support and ventilation materials will be available near the working area.

(7) A minimum of 5,000 cubic feet of air per minute will be used to ventilate the working face during the mining-through operation. The ventilation plan and methane and dust control plan will be complied with.

(8) The equipment will be checked for permissibility and serviced on the shift prior to mining through the well.

(9) The methane monitor on the continuous mining machine will be calibrated on the shift prior to mining through the well. The calibration may be checked during the first half of the shift if the well is to be intersected during the section half of the shift.

(10) Drivage sights will be installed at the last open crosscut near the place to be mined to ensure intersection of the well. A laser or additional drivage sights will be used to ensure that the sight line is not more than 50 feet from the well.

(11) The working place will be free from accumulations of coal dust and coal spillages, and rock dust will be placed on the roof, rib, and floor to within 20 feet of the face when mining through the well.

(12) Tests for methane will be made with a hand-held methane detector and a probe at least every 10 minutes when mining within 30 feet of the well. These methane tests will continue until the gas well is intersected. A test for methane will also be made immediately prior to the anticipated mining through of the gas well.

(13) Immediately after the well is intersected, all equipment located in or inby the last open crosscut such as the continuous mining machine, the loader, the shuttle car, the face fan and roof bolter machine will be de-energized and the place thoroughly examined and determined safe by a certified foreman before mining is resumed. The face fan may be left energized to ventilate the working place provided someone is stationed at the discharge end of the fan and is continuously monitoring the methane. If the methane level in the discharge of the fan reaches one percent, the fan will be deenergized. Any well casing will be removed and no open flame will be permitted in the area until adequate ventilation has been established around the well. After the well cut-through is complete and the area is determined safe by a certified person, the miners outby the affected area may enter the section return and the affected area.

(14) The mining-through operation will be under the direct supervision of the mine foreman or a certified person designated by the mine foreman. Instructions concerning the mining-through operation will be issued only by the mine foreman or the certified person designated by the mine foreman to be in charge.

(15) The MSHA field office will be notified in sufficient time prior to mining-through, to have a representative present during the actual mining-through if necessary.

(16) The mining procedures and a drawing of the area will be reviewed with all personnel involved in the mining-through operation prior to the intersection of the plugged well.

III. The petitioner proposes to use following procedures and safeguards for mining past a plugged gas or oil well by the continuous mining method (greater than 20 feet away but less than 30 feet):

(a) If through mapping and plotting of a down-hole deviation survey of a plugged oil or gas well, mining will be greater than 20 feet away but less than 30 feet away from the well as measured from projected rib line, the following plan will be used:

(1) Prior to mining within 300 feet of the well, the MSHA District Office will be notified verbally and with a letter and a drawing detailing the well location.

(2) When mining is within 30 feet of a line drawn perpendicular to the entry or crosscut being mined and the plugged well, tests of methane will be made with a hand-held methane detector and a

probe at least every 10 minutes. These methane tests will continue until mining has progressed to a point inby the perpendicular line.

(3) All other cut-through procedures do not apply to plugged oil or gas wells greater than 20 feet away but less than 30 feet away from projected mining.

IV. The petitioner proposes to use the following procedures and safeguards for mining past a plugged gas or oil well by the continuous mining method (greater than 30 feet):

(a) If through mapping and plotting of a down-hole deviation survey of a plugged oil or gas well, mining will be greater than 30 feet from the well as measured from projected rib line, the following plan will be used:

(1) Prior to mining within 300 feet of the well, the MSHA District Office will be notified verbally and with a letter and a drawing detailing the well location.

(2) Cut-through procedures do not apply to plugged oil or gas wells greater than 30 feet away from projected mining.

V. The petitioner proposes to use the following procedures and safeguards for mining through a plugged gas or oil well by the longwall mining method:

(1) Prior to mining within 300 feet of the well, the MSHA District Office will be notified verbally and with a letter and a drawing detailing the well location.

(2) All personnel working underground will be informed of the cut-through, the evacuation, and communication procedures to be used at the beginning of the shift in which a well will be cut-through. Management will ensure that all personnel can be promptly informed of any problem that might develop and of evacuation (if required) during the well cut-through.

(3) The mining through will be done at a time when only those miners actually engaged in the mining-through operation, and those necessary to operate ancillary equipment (haulage, conveyors, ventilation, etc.) are within 1,000 feet of the longwall face. When the distance from the well is within 10 feet of touching the wellbore, all workers or responsible persons will be notified and no mining will be done within 20 feet on either side of the well until all persons except those mentioned above have been withdrawn outby the affected area. The well will be surveyed and located to know when to stop mining.

(4) When mining approaches within 10 feet of cutting into the plugged well, a designated person in each operating section will be posted near the section phone (within hearing distance), or monitoring a radio on a designated channel until the cut-through is complete and an ''ALL CLEAR'' command is given by a certified person. All miners in the outby areas of the mine will be working at known locations within radio or telephone communications. There will be no activities in remote areas without communications, ensuring quick evacuation of the mine in the event of any emergency at the cut-through area. The communication system will be checked at the beginning of the shift and when within 10 feet of the cut-through.

(5) Firefighting equipment, including fire extinguishers, rock dust and enough fire hose to reach the working face will be available in the immediate area of the longwall.

(6) Sufficient supplies of roof support and ventilation materials will be available in the immediate area of the longwall.

(7) The latest approved ventilation plan requirement for air reaching the longwall face and required face velocities will be maintained during the mining-through operation. The ventilation plan and methane and dust control plan will be complied with.

(8) Equipment will be checked for permissibility and serviced on the shift prior to mining through the well.

(9) The methane monitors on the longwall will be calibrated on the shift prior to mining through the well. The calibration may be checked during the first half of the shift if the well is to be intersected during the section half of the shift.

(10) Special location spads will be in the tailgate and headgate entries to define the exact location of the plugged well. An additional spad or marked area will be installed 20 feet from the location. In addition, the shields adjacent to a 10 foot radius of the well will be identified.

(11) A normal mining rate will be maintained across the longwall face except in the area defined by a 10 foot radius of the plugged well. Mining through this area will be done at a reduced mining rate until the wellbore is contacted.

(12) When mining is in progress and the longwall face is within 10 feet of the well, tests for methane will be made with a hand-held methane detector on every pass across the longwall face or at a maximum of every 10 minutes. These tests will be made until the well is intersected.

(13) Immediately after the well is intersected, all equipment on the longwall face such as the shearer, the stageloader and the face conveyor will be deenergized and the place thoroughly examined by a certified foreman and determined safe before mining is resumed. Any well casing will be removed and no open flame will be permitted in the area until adequate ventilation has been established around the well. After the well cut-through is complete and the area is determined safe, the miners may enter the affected area.

(14) The mining-through operation will be under the direct supervision of the mine foreman or a certified person designated by the mine foreman. Instructions concerning the mining-through operation will be issued only by the mine foreman or the certified person designated by the mine foreman to be in charge.

(15) The MSHA field office will be notified in sufficient time prior to mining-through, to have a representative present during the actual mining-through if necessary.

(16) The mining procedures and a drawing of the area will be reviewed with all personnel involved in the mining-through operation prior to the intersection of the plugged well.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure or protection afforded by the existing standard.

Docket Number: M–2014–013–C.

Petitioner: CONSOL Pennsylvania Coal Company, LLC, CONSOL Energy Inc., CNX Center, 1000 CONSOL Energy Drive, Canonsburg, Pennsylvania 15317–6506.

Mine: BMX Mine, MSHA I.D. No. 36–10045, located in Greene County, Pennsylvania.

Regulation Affected: (30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance with respect to vertical to horizontal oil and gas wells. The petitioner proposes to plug vertical to horizontal oil and gas shale wells to mine through them.

I. The petitioner proposes to use the following procedures for preparing and plugging vertical to horizontal oil and gas shale wells:

(a) When preparing and plugging vertical to horizontal oil and gas shale wells that has not been previously plugged, the petitioner proposes to use the following procedure to ensure that no gas from the well reaches the lowest mineable coal seam and to prepare the well to be plugged for mining through the wellbore:

(1) The wellbore will be filled with water, and/or an approved equivalent to load the hole and control the well.

(2) The vertical well will be plugged to its attainable depth using approved mechanical bridge plug(s), cement, fly ash cement, gel, and/or other approved materials as required by Federal and State laws, regulations, and standards to effectively isolate and seal the oil/gas producing zones from the vertical well to protect the mineable coal seams and the environment to a location within the wellbore approximately 200 feet below the lowest mineable coal seam.

(3) An affidavit of the vertical well plugging will be provided to the coal mining regulatory agencies.

(b) The petitioner proposes to use the following procedure to prepare the plugged well for mining through when the well has been previously plugged in accordance with Federal and State laws, regulations, and standards to effectively isolate and seal the oil/gas producing zones from the vertical well to protect the mineable coal seams and the environment.

(1) An affidavit of the original well plugging will be thoroughly reviewed and provided to the coal mining regulatory agencies.

(2) The well will be effectively cleaned to a depth that would permit placement of at least 200 feet of expanding cement below the base of the lowest mineable coal seam.

(c) The petitioner proposes to use the following procedures to complete the well plugging and prepare the well for mine-through when a well has been effectively plugged in accordance with Federal and State laws, regulations, and standards to effectively isolate and seal the oil/gas producing zones to a location within the wellbore approximately 200 feet from the lowest mineable coal seam:

(1) A suite of logs will be made consisting of a caliper survey, directional deviation survey, and log(s) suitable for determining the top and bottom of the lowest mineable coal seam and potential hydrocarbon-producing strata.

(2) The wellbore will be effectively cleaned to a depth at least 200 feet below the lowest mineable coal seam and the wellbore will be filled and circulated with a gel to inhibit the flow of any gases, support the wellbore, and aid the introduction of the expanding cement.

(3) The well casing(s) will be effectively milled, cut, or perforated from the inner casing to the geologic strata at locations approximately 200 feet and approximately 100 feet below the lowest mineable coal seam.

(4) The well casing(s) will be effectively milled or cut sufficiently below, throughout, and above the coal seam to be mined to enable the coal seam to be safely and effectively mined through the plugged wellbore.

(5) A minimum of 200 feet of expanding cement will be effectively placed in the wellbore below the lowest mineable coal seam and to a point not less than 100 feet above the top of the highest mineable coal seam.

(6) Expanding cement, Portland cement, a cement fly ash mixture, or an approved equivalent, will be effectively placed from the top of the expanding cement to the surface.

(7) A monument with an API number will be installed at the plugged well location.

(8) An affidavit will be filed setting forth the persons who participated in the work, a description of the plugging work, and a certification by the petitioner that the well has been plugged as described.

II. The petitioner proposes to use the following procedures for mining through a plugged vertical to horizontal oil or gas well by the continuous mining method:

(1) Prior to mining within 300 feet of the well, the MSHA District Office will be notified verbally and with a letter and a drawing detailing the well location. If according to the down-hole deviation survey a plugged well is found to be located within 20 feet of projected mining, the procedures and safeguards listed below will be utilized. All distances will be measured along a line drawn perpendicular to the entry or crosscut being mined and the plugged well.

(2) All personnel working underground will be informed of the cut-through, the evacuation, and communication procedures to be used at the beginning of the shift in which a well will be cut-through. Management will ensure that all personnel can be promptly informed of any problem that might develop and of evacuation (if required) during the well cut-through.

(3) The mining through will be done at a time when only those miners actually engaged in the mining-through operation, and those necessary to operate ancillary equipment (haulage, conveyors, ventilation, etc.) are within 1,000 feet of the location of the well (on the intake side) being cut-through. No persons will be allowed in the section return downwind of the cut-through, but will be allowed in the return downwind of the location where the section return mixes with another return split of air if this point is more than 1,000 feet from the location of the well. When the distance from the well is within 10 feet of touching the wellbore, all workers and responsible persons will be notified and no mining will be done until all persons except those mentioned above have been withdrawn outby the affected area. The well will be surveyed and located as to know when to stop mining.

(4) When mining approaches within 10 feet of cutting into the plugged well, a designated person in each operating section will be posted near the section phone (within hearing distance), or monitoring a radio on a designated channel until the cut-through is complete and an ''ALL CLEAR'' command is given. All miners in the outby areas of the mine will be working at known locations within radio or telephone communications. There will be no activities in remote areas without communications, ensuring quick evacuation of the mine in the event of any emergency at the cut-through area. The communication system will be checked at the beginning of the shift and within 10 feet of the cut-through.

(5) Firefighting equipment, including fire extinguishers, rock dust and enough fire hose to reach the working face will be available near the working area.

(6) Sufficient supplies of roof support and ventilation materials will be available near the working area.

(7) A minimum of 5,000 cubic feet of air per minute will be used to ventilate the working face during the mining-through operation. The ventilation plan and methane and dust control plan will be complied with.

(8) The equipment will be checked for permissibility and serviced on the shift prior to mining through the well.

(9) The methane monitor on the continuous mining machine will be calibrated on the shift prior to mining through the well. The calibration may be checked during the first half of the shift if the well is to be intersected during the section half of the shift.

(10) Drivage sights will be installed at the last open crosscut near the place to be mined to ensure intersection of the well. A laser or additional drivage sights will be used to ensure that the sight line is not more than 50 feet from the well.

(11) The working place will be free from accumulations of coal dust and coal spillages, and rock dust will be placed on the roof, rib, and floor to within 20 feet of the face when mining through the well.

(12) Tests for methane will be made with a hand-held methane detector and a probe at least every 10 minutes when mining within 30 feet of the well. These methane tests will continue until the gas well is intersected. A test for methane will also be made immediately prior to the anticipated mining through of the gas well.

(13) Immediately after the well is intersected, all equipment located in or inby the last open crosscut such as the continuous mining machine, the loader, the shuttle car, the face fan and roof bolter machine will be de-energized and the place thoroughly examined and determined safe by a certified foreman before mining is resumed. The face fan may be left energized to ventilate the working place provided someone is stationed at the discharge end of the fan and is continuously monitoring the methane. If the methane level in the discharge of the fan reaches one percent, the fan will be deenergized. Any well casing will be removed and no open flame will be permitted in the area until adequate ventilation has been established around the well. After the well cut-through is complete and the area is determined safe by a certified person, the miners outby the affected area may enter the section return and the affected area.

(14) The mining-through operation will be under the direct supervision of the mine foreman or a certified person designated by the mine foreman. Instructions concerning the mining-through operation will be issued only by the mine foreman or the certified person designated by the mine foreman to be in charge.

(15) The MSHA field office will be notified in sufficient time prior to mining-through, to have a representative present during the actual mining-through if necessary.

(16) The mining procedures and a drawing of the area will be reviewed with all personnel involved in the mining-through operation prior to the intersection of the plugged well.

III. The petitioner proposes to use following procedures and safeguards for mining past a plugged gas or oil well by the continuous mining method (greater than 20 feet away but less than 30 feet):

(a) If through mapping and plotting of a down-hole deviation survey of a plugged oil or gas well, mining will be greater than 20 feet away but less than 30 feet away from the well as measured from projected rib line, the following plan will be used:

(1) Prior to mining within 300 feet of the well, the MSHA District Office will be notified verbally and with a letter and a drawing detailing the well location.

(2) When mining is within 30 feet of a line drawn perpendicular to the entry or crosscut being mined and the plugged well, tests of methane will be made with a hand-held methane detector and a probe at least every 10 minutes. These methane tests will continue until mining has progressed to a point inby the perpendicular line.

(3) All other cut-through procedures do not apply to plugged oil or gas wells greater than 20 feet away but less than 30 feet away from projected mining.

IV. The petitioner proposes to use the following procedures and safeguards for mining past a plugged gas or oil well by the continuous mining method (greater than 30 feet):

(a) If through mapping and plotting of a down-hole deviation survey of a plugged oil or gas well, mining will be greater than 30 feet from the well as measured from projected rib line, the following plan will be used:

(1) Prior to mining within 300 feet of the well, the MSHA District Office will be notified verbally and with a letter and a drawing detailing the well location.

(2) Cut-through procedures do not apply to plugged oil or gas wells greater than 30 feet away from projected mining.

V. The petitioner proposes to use the following procedures and safeguards for mining through a plugged gas or oil well by the longwall mining method:

(1) Prior to mining within 300 feet of the well, the MSHA District Office will be notified verbally and with a letter and a drawing detailing the well location.

(2) All personnel working underground will be informed of the cut-through, the evacuation, and communication procedures to be used at the beginning of the shift in which a well will be cut-through. Management will ensure that all personnel can be promptly informed of any problem that might develop and of evacuation (if required) during the well cut-through.

(3) The mining through will be done at a time when only those miners actually engaged in the mining-through operation, and those necessary to operate ancillary equipment (haulage, conveyors, ventilation, etc.) are within 1,000 feet of the longwall face. When the distance from the well is within 10 feet of touching the wellbore, all workers or responsible persons will be notified and no mining will be done within 20 feet on either side of the well until all persons except those mentioned above have been withdrawn outby the affected area. The well will be surveyed and located to know when to stop mining.

(4) When mining approaches within 10 feet of cutting into the plugged well, a designated person in each operating section will be posted near the section phone (within hearing distance), or monitoring a radio on a designated channel until the cut-through is complete and an ''ALL CLEAR'' command is given by a certified person. All miners in the outby areas of the mine will be working at known locations within radio or telephone communications. There will be no activities in remote areas without communications, ensuring quick evacuation of the mine in the event of any emergency at the cut-through area. The communication system will be checked at the beginning of the shift and when within 10 feet of the cut-through.

(5) Firefighting equipment, including fire extinguishers, rock dust and enough fire hose to reach the working face will be available in the immediate area of the longwall.

(6) Sufficient supplies of roof support and ventilation materials will be available in the immediate area of the longwall.

(7) The latest approved ventilation plan requirement for air reaching the longwall face and required face velocities will be maintained during the mining-through operation. The ventilation plan and methane and dust control plan will be complied with.

(8) Equipment will be checked for permissibility and serviced on the shift prior to mining through the well.

(9) The methane monitors on the longwall will be calibrated on the shift prior to mining through the well. The calibration may be checked during the first half of the shift if the well is to be intersected during the section half of the shift.

(10) Special location spads will be in the tailgate and headgate entries to define the exact location of the plugged well. An additional spad or marked area will be installed 20 feet from the location. In addition, the shields adjacent to a 10 foot radius of the well will be identified.

(11) A normal mining rate will be maintained across the longwall face except in the area defined by a 10 foot radius of the plugged well. Mining through this area will be done at a reduced mining rate until the wellbore is contacted.

(12) When mining is in progress and the longwall face is within 10 feet of the well, tests for methane will be made with a hand-held methane detector on every pass across the longwall face or at a maximum of every 10 minutes. These tests will be made until the well is intersected.

(13) Immediately after the well is intersected, all equipment on the longwall face such as the shearer, the stageloader and the face conveyor will be deenergized and the place thoroughly examined by a certified foreman and determined safe before mining is

resumed. Any well casing will be removed and no open flame will be permitted in the area until adequate ventilation has been established around the well. After the well cut-through is complete and the area is determined safe, the miners may enter the affected area.

(14) The mining-through operation will be under the direct supervision of the mine foreman or a certified person designated by the mine foreman. Instructions concerning the mining-through operation will be issued only by the mine foreman or the certified person designated by the mine foreman to be in charge.

(15) The MSHA field office will be notified in sufficient time prior to mining-through, to have a representative present during the actual mining-through if necessary.

(16) The mining procedures and a drawing of the area will be reviewed with all personnel involved in the mining-through operation prior to the intersection of the plugged well.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure or protection afforded by the existing standard.

Docket Number: M–2014–014–C.

Petitioner: Sebastian Management, LLC, 1100 South Pine Street, P.O. Box 339, Hartford, Arizona 72938.

Mine: Sebastian Mine, MSHA I.D. No. 03–01736, located in Sebastian County, Arizona.

Regulation Affected: 30 CFR 75.380(d)(3) (Escapeways; bituminous and lignite mines).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance for a secondary escapeway in lieu of the existing standard. The petitioner states that:

(1) The Sebastian Mine's secondary escapeway at crosscut 14 above the #3 intake entry of Main South over the overcast located there currently measures 33 inches high (at its lowest point on an incline with increasing height for clearance) with 20 feet of width.

(2) The coal seam's thickness, plus additional height taken for support, averages 60 inches.

(3) The stable roof and related support in the area have been in place since 2007.

(4) Both the roof and floor is solid sandstone in the area and require inadvisable drilling and shooting that could destabilize conditions if additional height was sought for the reference safety standards compliance by those methods.

(5) Shooting would require shutting down ventilation, short-circuiting almost the entire mine, killing power, not pumping, and placing the whole mine in potential distress and jeopardy.

(6) Relocating the mines secondary escapeway is not a reasonable option at this time.

(7) Based on the experience of a 5-man stretcher test conducted in this specific area, as well as over the subsequent three overcasts at the request and under the timed observation of an MSHA inspector, the petitioner proposes an alternative method of compliance.

(a) A successful test of the proposed alternative method occurred on February 27, 2014, when four Sebastian miners carried a fifth miner across all four overcasts in a timely manner approximately six and one-half minutes.

(b) To negotiate the 33 inch overcast space at crosscut 14 above the #3 intake entry of the Main South, the miner strapped on the stretcher was placed on two (2) four wheeled dollies and efficiently, and effectively transported by the other 4 miners across the area of concern in a very safe and timely manner. Most, if not all, mine rescue stretchers are wheeled.

(c) The stretchers are routinely slid through man-doors and otherwise used to transport, or train for transporting, injured miners without any requirement of 100 percent ''carrying'' as a misreading of the referenced standard might imply.

(d) Moving someone on a stretcher carefully on wheels can be much safer, quicker, more efficient and effective under difficult conditions or circumstances than manually carrying an injured person on a stretcher.

The petitioner further states that:

(1) The operator will at all times maintain two (2) low profile four-wheeled dollies in good working order and leave them at that location for potential use if required. The dollies will be checked monthly during mine rescue practices to confirm continual suitability for use as contingently intended.

(2) Additionally, a clear travelway will be maintained at all times for miners' regular use and for their potential use in transporting anyone injured through this area of the secondary escapeway.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure or protection afforded by the existing standard.

Dated: May 16, 2014.

Sheila McConnell,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 2014–12113 Filed 5–23–14; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2005–0022]

TÜV SÜD Product Services GmbH: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of TÜV SÜD Product Services GmbH (TUVPSG) for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before June 11, 2014.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2005–0022, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express delivery, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2005–0022). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before June 11, 2014 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *Meilinger.francis2@dol.gov*.

General and technical information: Contact Mr. David W. Johnson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *johnson.david.w@dol.gov*.

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

The Occupational Safety and Health Administration is providing notice that TUVPSG is applying for expansion of its current recognition as an NRTL. TUVPSG requests the addition of one recognized testing and certification site to its NRTL scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified in Title 29, Code of Federal Regulations, Section 1910.7 (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition, and is not a delegation or grant of government authority. Recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by an NRTL for initial recognition, and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL, including TUVPSG, which details the NRTL's scope of recognition. These pages are available from the OSHA Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

Each NRTL's scope of recognition has three elements: (1) The type of products the NRTL may test, with each type specified by its applicable test standard; (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope; and (3) the supplemental program(s) that the NRTL may use. Each of these elements allows the NRTL to rely on other parties to perform activities necessary for product testing and certification.

TUVPSG currently has one facility (site) recognized by OSHA for product testing and certification, with its headquarters located at: TÜV SÜD Product Services GmbH, Ridlerstrasse 65, Munich, Germany D–80339. A complete list of TUVPSG sites recognized by OSHA is available at *http://www.osha.gov/dts/otpca/nrtl/tuvpsg.html.*

II. General Background on the Application

TUVPSG submitted an application, dated March 27, 2013 (Exhibit 1), to expand its recognition to include the addition of one recognized testing and certification site located at: TÜV SÜD Product Services GmbH, Daimlerstrasse 11, Garching, Germany D–85748. OSHA staff performed a detailed analysis of the application and other pertinent information. OSHA staff also performed an on-site review of TUVPSG's testing facilities on April 26, 2013, in which the assessors found some nonconformances with the requirements of 29 CFR 1910.7. TUVPSG addressed these issues sufficiently, and OSHA staff preliminarily determined that OSHA should grant the application.

III. Preliminary Finding on the Application

TUVPSG submitted an acceptable application for expansion of its scope of recognition. OSHA's review of the application file and its detailed on-site assessment indicate that TUVPSG can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of the one site detailed above for NRTL testing and certification. This preliminary finding does not constitute an interim or temporary approval of TUVPSG's application.

OSHA welcomes public comment as to whether TUVPSG meets the requirements of 29 CFR 1910.7 for expansion of its recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if it is not adequately justified. To obtain or review copies of the publicly available information in TUVPSG's application, including pertinent documents (e.g., exhibits) and all submitted comments, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address; these materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2005–0022.

OSHA staff will review all comments to the docket submitted in a timely

manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary for Occupational Safety and Health whether to grant TUVPSG's application for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

IV. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on May 21, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–12138 Filed 5–23–14; 8:45 am]

BILLING CODE 4510–26– P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Proposed Extension of Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Rehabilitation Action Report (OWCP–44). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before July 28, 2014.

ADDRESSES: Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0701, fax (202) 693–1447, Email *ferguson.yoon@dol.gov*. Please use only one method of transmission for comments (mail, fax, or Email).

SUPPLEMENTARY INFORMATION:

I. Background: The Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA) and the Longshore and Harbor Workers' Compensation Act (LHWCA). These acts provide vocational rehabilitation services to eligible workers with disabilities. Section 8104(a) of the FECA and § 939(c) of the LHWCA provide that eligible injured workers are to be furnished vocational rehabilitation services, and § 8111(b) of the FECA and § 908(g) of the LHWCA provide that persons undergoing such vocational rehabilitation receive maintenance allowances as additional compensation. Form OWCP–44 is used to collect information necessary to decide if maintenance allowances should continue to be paid. Form OWCP–44 is submitted to OWCP by contractors hired to provide vocational rehabilitation services. Form OWCP–44 gives prompt notification of key events that may require OWCP action in the vocational rehabilitation process. This information collection is currently approved for use through September 30, 2014.

II. Review Focus: The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* enhance the quality, utility and clarity of the information to be collected; and

* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions: The Department of Labor seeks the approval for the extension of this currently approved information collection in order to ascertain the status of a rehabilitation case and to expedite adjudicatory claims action based on events arising from a rehabilitation effort.

Type of Review: Extension.

Agency: Office of Workers' Compensation Programs.

Title: Rehabilitation Action Report.

OMB Number: 1240–0008.

Agency Number: OWCP–44.

Affected Public: Businesses or other for-profit; State, Local, or Tribal Government.

Total Respondents: 4,775.

Total Annual Responses: 4,775.

Average Time per Response: 10 minutes.

Estimated Total Burden Hours: 797.

Frequency: Annually.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 20, 2014.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, US Department of Labor.

[FR Doc. 2014–12150 Filed 5–23–14; 8:45 am]

BILLING CODE 4510–CR–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2014–031]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request use of a voluntary survey of visitors to the National Archives Experience (NAE) in Washington, DC. NARA will use the information to determine how the various components of the NAE affect visitors' level of satisfaction with the NAE and how effectively the venues communicate that records matter. The information will support adjustments in

our offerings that will improve the overall visitor experience. NARA invites the public to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before July 28, 2014 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (ISSD), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–7409; or electronically mailed to *tamee.fechhelm@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Please direct requests for additional information, copies of the proposed information collection, or copies of the supporting statement to Tamee Fechhelm at telephone number 301–837–1694, or fax number 301–713–7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA'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; (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology; and (e) whether small businesses are affected by this collection. NARA will summarize submitted comments and include the summary in NARA's request for Office of Management and Budget (OMB) approval of the information collection. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: NARA Visitors Study

OMB number: 3095–0067

Agency form number: N/A

Type of review: Regular

Affected public: Visitors to the National Archives Experience in Washington, DC

Estimated number of respondents: 200

Estimated time per response: 12 minutes

Frequency of response: On occasion (when a person visits the NAE in Washington, DC)

Estimated total annual burden hours: 40 hours

Abstract: The general purpose of this voluntary data collection is to benchmark the performance of the NAE in relation to other history museums. Information collected from visitors will assess overall impact, expectations, presentation, logistics, motivation, demographic profile, and learning experience. Once NARA has analyzed it, this collected information will assist NARA in determining the NAE's success in achieving its goals.

Dated: May 19, 2104.

Swarnali Haldar,

Acting Executive for Information Services/CIO.

[FR Doc. 2014–12145 Filed 5–23–14; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2014–033]

Office of Government Information Services (OGIS), Freedom of Information Act Advisory Committee Meeting

AGENCY: National Archives and Records Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 U.S.C. app 2) and the second United States Open Government National Action Plan (NAP) released on December 5, 2013, NARA announces the following committee meeting to discuss improvements to the administration of FOIA and its policy matters.

DATES: The meeting is on June 24, 2014, from 10 a.m. to 1 p.m.

ADDRESSES: National Archives and Records Administration; 700 Pennsylvania Avenue NW., Archivist's Board Room, Washington, DC 20408.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public. However, due to space limitations and access procedures, individuals planning to attend must submit their name, email, and telephone number to the Office of Government Information Services (OGIS) no later than Tuesday, June 10, 2014. OGIS will call or email with additional instructions for access to the meeting, and will provide updates on the OGIS blog post.

FOR FURTHER INFORMATION CONTACT: Christa Lemelin, Designated Federal Officer for this committee, at NARA/OGIS, 800 N. Capital Street NW., Washington, DC 20007; by telephone at (202) 741–5773; or by email at *Christa.Lemelin@nara.gov.* You may also contact OGIS at *OGIS@NARA.gov.*

Dated: May 21, 2014.

Patrice Little Murray,

Acting Committee Management Officer.

[FR Doc. 2014–12146 Filed 5–23–14; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Li Ling Hamady, ACA Permit Officer, Division of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Or by email: *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: On April 16, 2014 the National Science Foundation published a notice in the **Federal Register** of a permit application received. The permit was issued on May 19, 2014 to: Andrew G. Fountain Permit No. 2014–031.

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2014–12031 Filed 5–23–14; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0122]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to

issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from April 31, 2014 to May 14, 2014. The last biweekly notice was published on May 13, 2014.

DATES: Comments must be filed by June 26, 2014. A request for a hearing must be filed by July 28, 2014.

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

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0122. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Shirley Rohrer, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5411, email: *Shirley.Rohrer@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2014–0122 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0122.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* Documents may be viewed in ADAMS by performing a search on the document date and docket number.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0122 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

I. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing

or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID

certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Accessing Information and Submitting Comments'' section of this document.

Florida Power and Light Company, et al. (FPL), Docket Nos. 50–335 and 50–389, St. Lucie Plant, Units 1 and 2, St. Lucie County, Florida

Date of amendment request: February 26, 2014. A publicly-available version is in ADAMS under Accession No. ML14077A265.

Description of amendment request: The amendments would revise technical specification (TS) requirements for mode change limitations in Limited Condition for Operation (LCO) 3.0.4 and Surveillance Requirements 4.0.4. The proposed changes would be consistent with the NRC approved Industry Technical Specification Task Force (TSTF) Standard TS change TSTF–359, ''Increase Flexibility in Mode Restraints,'' Revision 9.

The NRC issued a notice of opportunity for comment in the **Federal Register** (FR) on August 2, 2002 (67 FR 50475), on possible amendments concerning TSTF–359, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process (CLIIP). Subsequently, on April 4, 2003, the NRC published the Notice of Availability for TSTF–359, Revision 8 in the **Federal Register** (68 FR 16579). That Notice announced the availability of this TS improvement through the CLIIP. The NRC subsequently made two modifications in response to comments, as well as one editorial change, which have been incorporated into TSTF–359, Revision 9. The changes proposed in the licensee's submittal are, therefore, based on TSTF–359, Revision 9. FPL affirmed the applicability of the following NSHC determination in its application dated February 26, 2014.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration, as was published in the **Federal Register** is presented below:

Criterion 1—The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change allows entry into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS. Being in a TS condition and the associated required actions is not an initiator of any accident previously evaluated. Therefore, the probability of an accident previously evaluated is not significantly increased. The consequences of an accident while relying on required actions as allowed by proposed LCO 3.0.4, are no different than the consequences of an accident while entering and relying on the required actions while starting in a condition of applicability of the TS. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). Entering into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS, will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns.

Thus, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

Criterion 3—The proposed change does not involve a significant reduction in the margin of safety.

The proposed change allows entry into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions

of the TS. The TS allow operation of the plant without the full complement of equipment through the conditions for not meeting the TS Limiting Conditions for Operation (LCO). The risk associated with this allowance is managed by the imposition of required actions that must be performed within the prescribed completion times. The net effect of being in a TS condition on the margin of safety is not considered significant. The proposed change does not alter the required actions or completion times of the TS. The proposed change allows TS conditions to be entered, and the associated required actions and completion times to be used in new circumstances. This use is predicated upon the licensee's performance of a risk assessment and the management of plant risk. The change also eliminates current allowances for utilizing required actions and completion times in similar circumstances, without assessing and managing risk. The net change to the margin of safety is insignificant.

Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William S. Blair, Managing Attorney—Nuclear, Florida Power & Light, 700 Universe Blvd., MS LAW/JB, Juno Beach, FL 33408–0420.

Acting NRC Branch Chief: Lisa M. Regner.

Indiana Michigan Power Company (I&M), Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment request: March 7, 2014. A publicly-available version is in ADAMS under Accession No. ML14071A435.

Description of amendment request: The proposed amendment would revise the Donald C. Cook Nuclear Plant, Units 1 and 2, Technical Specification 5.5.14, ''Containment Leakage Rate Testing Program,'' by adopting Nuclear Energy Institute (NEI) 94–01 Revision 3–A, ''Industry Guideline for Implementing Performance-Based Option of 10 CFR Part 50, Appendix J'' (ADAMS Accession No. ML12221A202), as the implementing document for the performance-based Option B of 10 CFR Part 50, Appendix J.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed revision to TS 5.5.14 changes the testing period to a permanent 15-year interval for Type A testing (10 CFR Part 50, Appendix J, Option B, ILRT). The current test interval of 10 years would be extended to 15 years from the last Type A test. The proposed extension to Type A testing does not involve a significant increase in the consequences of an accident since research documented in NUREG–1493, ''Performance-Based Containment System Leakage Testing Requirements,'' September 1995, has found that, generically, very few potential containment leakage paths are not identified by Type B and C tests. NUREG–1493 concluded that reducing the Type A testing frequency to one per twenty years was found to lead to an imperceptible increase in risk. A high degree of assurance is provided through testing and inspection that the containment will not degrade in a manner detectable only by Type A testing. The last Type A test (November 2006) shows leakage to be below acceptance criteria, indicating a very leak tight containment. Inspections required by the ASME Code Section Xl (Subsections IWE and IWL) and Maintenance Rule monitoring (10 CFR 50.65, ''Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants['']) are performed in order to identify indications of containment degradation that could affect that leak tightness. Types B and C testing required by [technical specifications (TSs)] will identify any containment opening such as valves that would otherwise be detected by the Type A tests. These factors show that a Type A test interval extension will not represent a significant increase in the consequences of an accident.

The proposed amendment involves changes to the [Donald C. Cook Nuclear Plant (CNP)] Units 1 and 2 10 CFR Part 50, Appendix J Testing Program Plan. The proposed amendment does not involve a physical change to the plant or a change in the manner in which the units are operated or controlled. The primary containment function is to provide an essentially leak tight barrier against the uncontrolled release of radioactivity to the environment for postulated accidents. As such, the containment itself and the testing requirements to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident, and do not involve any accident precursors or initiators.

Therefore, the probability of occurrence of an accident previously evaluated is not significantly increased by the proposed amendment.

The proposed amendment adopts the [U.S. Nuclear Regulatory Commission (NRC)]-accepted guidelines of [Nuclear Energy Institute (NEI)] 94–01, Revision 3–A, for development of the CNP performance-based leakage testing program. Implementation of these guidelines continues to provide adequate assurance that during design basis accidents, the primary containment and its components will limit leakage rates to less than the values assumed in the plant safety analyses. The potential consequences of extending the [integrated leak rate testing (ILRT)] interval from 10 years to 15 years have been evaluated by analyzing the resulting changes in risk. The increase in risk in terms of person-rem per year resulting from design basis accidents was estimated to be acceptably small, and the increase in the [large early release frequency (LERF)] resulting from the proposed change was determined to be within the guidelines published in NRC [Regulatory Guide (RG)] 1.174. Additionally, the proposed change maintains defense-in-depth by preserving a reasonable balance among prevention of core damage, prevention of containment failure, and consequence mitigation. [Indiana Michigan Power Company (I&M)] has determined that the increase in [conditional containment failure probability (CCFP)] due to the proposed change would be very small.

Therefore, it is concluded that the proposed amendment does not significantly increase the consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed revision to TS 5.5.14 changes the testing period to a permanent 15-year interval for Type A testing (10 CFR Part 50, Appendix J, Option B, ILRT[)]. The current test interval of 10 years, based on past performance, would be extended to 15 years from the last Type A test (November 2006). The proposed extension to Type A testing does not create the possibility of a new or different type of accident since there are no physical changes being made to the plant and there are no changes to the operation of the plant that could introduce a new failure mode creating an accident or affecting the mitigation of an accident.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed revision to TS 5.5.14 changes the testing period to a permanent 15-year interval for Type A testing (10 CFR Part 50, Appendix J, Option B, ILRT[)]. The current test interval of 10 years, based on past performance, would be extended to 15 years from the last Type A test (November 2006). The proposed extension to Type A testing will not significantly reduce the margin of safety. NUREG–1493, ''Performance-Based Containment System Leakage Testing Requirements,'' September 1995, generic study of the effects of extending containment leakage testing, found that a 20 year extension to Type A leakage testing resulted in an imperceptible increase in risk to the public. NUREG–1493 found that, generically, the design containment leakage rate contributes about 0.1% to the individual risk and that the decrease in Type A testing frequency would have a minimal

effect on this risk since 95% of the potential leakage paths are detected by Type C testing. Regular inspections required by the ASME Code Section Xl (Subsections IWE and IWL) and maintenance rule monitoring (10 CFR 50.65, ''Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants['']) will further reduce the risk of a containment leakage path going undetected.

The proposed amendment adopts the NRC-accepted guidelines of NEI 94–01, Revision 3–A, for development of the CNP performance-based leakage testing program, and establishes a 15-year interval for the performance of the primary containment ILRT. The amendment does not alter the manner in which safety limits, limiting safety system setpoints, or limiting conditions for operation are determined. The specific requirements and conditions of the 10 CFR Part 50, Appendix J Testing Program Plan, as defined in the TS, ensure that the degree of primary containment structural integrity and leak-tightness that is considered in the plant safety analyses is maintained. The overall containment leakage rate limit specified by the TS is maintained, and the Type A, B, and C containment leakage tests will continue to be performed at the frequencies established in accordance with the NRC-accepted guidelines of NEI 94–01, Revision 3–A. Containment inspections performed in accordance with other plant programs serve to provide a high degree of assurance that the containment will not degrade in a manner that is detectable only by an ILRT. In addition, CNP has a containment monitoring capability for the detection of gross containment leakage that may develop during power operation. This combination of factors ensures that evidence of containment structural degradation is identified in a timely manner. Furthermore, a risk assessment using the current CNP PRA model concluded that extending the ILRT test interval from 10 years to 15 years results in a very small change to the CNP risk profile.

Therefore, the proposed amendment does not involve a significant reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Robert B. Haemer, Senior Nuclear Counsel, One Cook Place, Bridgman, MI 49106.

NRC Branch Chief: Robert D. Carlson.

Southern Nuclear Operating Company Docket Nos.: 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP) Units 3 and 4, Burke County, Georgia

Date of amendment request: April 18, 2014. A publicly-available version is in ADAMS under Accession No. ML14108A196.

Description of amendment request: The proposed license amendment request would revise the Updated Final Safety Analysis Report (UFSAR) in regard to Tier 2* information related to fire area boundaries. These changes add three new fire zones in the middle annulus to provide enclosures for the Class 1E electrical containment penetrations in accordance with UFSAR Appendix 9A, Subsection 9A.3.1.1.15. The addition of the three new fire zones extended the fire area boundaries for three existing fire areas and therefore constitutes a change to Tier 2* information. Additionally, the licensee proposed changes that require revisions to UFSAR Tier 2 information involving changes to plant-specific Tier 2* information.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed middle annulus fire barrier reconfiguration for the electrical penetrations would not adversely affect any safety-related equipment or function. The modified configuration for the Class 1E electrical containment penetration enclosures will maintain the fire protection function (i.e., barrier) as evaluated in Updated Final Safety Analysis Report (UFSAR), thus, the probability of a Class 1E electrical containment penetration failure is not significantly increased. The safe shutdown fire analysis is not affected, and the fire protection analysis results are not adversely affected. The proposed changes do not involve any accident, initiating event or component failure; thus, the probabilities of previously evaluated accidents are not affected. The maximum allowable leakage rate specified in the Technical Specifications is unchanged, and radiological material release source terms are not affected; thus, the radiological releases in the accident analyses are not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The addition of enclosures constructed of three-hour rated fire barriers to separate the fire zones in the middle annulus for the Class 1E electrical penetration assemblies will maintain the fire protection function as evaluated in the UFSAR. The addition of the fire barriers does not affect the function of the Class 1E electrical containment penetrations or electrical penetration assemblies, and thus, does not introduce a new failure mode. The addition of the fire barriers does not create a new fault or sequence of events that could result in a radioactive material release.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The use of enclosures constructed of three-hour rated fire barriers to separate the fire zones in the middle annulus for the Class 1E electrical penetration assemblies will maintain the fire protection function as evaluated in the UFSAR. The use of the fire barriers does not affect the ability of the Class 1E electrical containment penetrations, electrical penetration assemblies, or the containment to perform their design function. The Class 1E electrical containment penetrations and electrical penetration assemblies within the enclosures continue to comply with the existing design codes and regulatory criteria, and do not affect any safety limit. The use of fire barriers and enclosures to separate the Class 1E electrical penetration assemblies does not adversely affect any margin of safety.

Therefore, the proposed amendment does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Blach & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Lawrence J. Burkhart.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination,

and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Accessing Information and Submitting Comments'' section of this document.

Duke Energy Carolinas, LLC, Docket Nos. 50–269, 50–270 and 50–287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of application for amendments: October 30, 2012, as supplemented on January 21, June 11, September 3, October 21, and December 2, 2013.

Brief description of amendments: The amendments create new Technical Specification (TS) 3.7.19, ''Spent Fuel Pool Cooling (SFPC) Purification System Isolation from Borated Water Storage Tank (BWST),'' and 3.9.8, ''Reverse Osmosis (RO) System Operating Restrictions for Spent Fuel Pool (SFP),'' for the operation of an RO system to remove silica from the BWSTs and SFPs.

Date of Issuance: April 30, 2014.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 385, 387, and 386. A publicly-available version is in ADAMS under Accession No. ML14106A418; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: Amendments revised the license and the TSs.

Date of initial notice in Federal Register: November 26, 2013, 78 FR 70591.

The supplemental letters dated January 21, June 11, September 3, October 21, and December 2, 2013, provided additional information that clarified the application, did not expand the scope of the application as noticed, and did not change the staff's proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 30, 2014.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Date of application for amendments: June 10, 2013, as supplemented by letter dated November 6, 2013.

Brief description of amendments: The amendments modify the Technical Specifications (TSs) and Facility Operating Licenses (FOLs) to: (1) Increase the allowable as-found safety relief valve (SRV) and safety valve (SV) lift setpoint tolerance from ±1% to ±3%; (2) increase the required number of operable SRVs and SVs from 11 to 12; and (3) increase the Standby Liquid Control System pump discharge pressure from 1255 pounds per square inch gauge (psig) to 1275 psig.

Date of issuance: May 5, 2014.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendments Nos.: 290 and 293. A publicly-available version is in ADAMS under Accession No. ML14079A102; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–44 and DPR–56: The amendments revised the FOLs and TSs.

*Date of initial notice in **Federal Register***: December 26, 2013 (78 FR 78406). The letter dated November 6, 2013, provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the application beyond the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 5, 2014.

No significant hazards consideration comments received: No.

NextEra Energy Point Beach, LLC, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowac County, Wisconsin

Date of amendment request: June 4, 2013.

Description of amendment: The license amendment revised Technical Specifications 5.3.1 and 6.9.1.7 to allow the use of Optimized ZIRLO™ as an approved fuel rod cladding material at the Point Beach Nuclear Plant, Units 1 and 2; added two approved analytical methods; and made minor corrections to the titles of two approved topical reports.

Date of issuance: May 9, 2014.

Effective date: As of the date of issuance and shall be implemented with 120 days.

Amendment Nos.: 249 and 253. A publicly-available version is in ADAMS under Accession No. ML14058B029; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Operating License Nos. DPR–24 and DPR–27: The amendment revised the Renewed Facility Operating License and the Technical Specifications.

*Date of initial notice in **Federal Register***: October 29, 2013 (78 FR 64545).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 9, 2014.

No significant hazards consideration comments received: No.

Northern States Power Company—Minnesota, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: January 4, 2013.

Brief description of amendment: The amendment revises the Technical Specification (TS) Surveillance Requirement (SR) 3.6.4.3.1 and SR 3.7.4.1 which currently require operating the standby gas treatment (SGT) and control room emergency filtration (CREF) systems for at least 10 continuous hours with the heaters operating every 31 days. The SRs are changed to require at least 15 continuous minutes of ventilation system operation without heaters operating every 31 days, and include TS Bases changes summarizing and clarifying the purpose of the TSs in accordance with TS Task Force (TSTF) Standard Technical Specifications Change Traveler TSTF–522, Revision 0, ''Revise Ventilation System Surveillance Requirements to Operate for 10 hours

per Month'' (ADAMS Accession No. ML100890316). The amendment also removes the electric heater output testing requirement from TS 5.5.6, ''Ventilation Filter Testing Program (VFTP).''

Date of issuance: May 2, 2014.

Effective date: This amendment is effective as of its date of issuance and shall be implemented within 120 days from the date of issuance.

Amendment No.: 181. A publicly-available version is in ADAMS under Accession No. ML14058A825; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. DPR–22: This amendment revises the Renewed Facility Operating License and the Technical Specifications.

Date of initial notice in ***Federal Register***: March 4, 2013 (78 FR 14134). The supplemental letter dated December 27, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register.**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 2, 2014.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP) Units 3 and 4, Burke County, Georgia

Date of amendment request: April 25, 2013, as supplemented by the letter dated November 21, 2013.

Brief description of amendment: The amendment revises Tier 2* and associated Tier 2 information, incorporated into the VEGP Units 3 and 4 Updated Final Safety Analysis Report (UFSAR). Specifically, the amendment revises the following information related to fire area boundaries: (1) Various Annex Building and Turbine Building layout changes, (2) Turbine Building Stairwell S08 changes to support egress functions, and (3) an Annex Building Heating, Ventilation and Air Conditioning shaft UFSAR figure clarification.

Date of issuance: May 1, 2014.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 19. A publicly-available version is in ADAMS under Accession No. ML14050A445; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Combined Licenses No. NPF–91 and NPF–92: Amendment revised the Facility Combined Licenses.

Date of initial notice in ***Federal Register***: July 9, 2013, 2013 (78 FR 41118).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 1, 2014.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 19th day of May 2014.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–12018 Filed 5–23–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–1048: EA–14–044: NRC–2014–0098]

In the Matter of Tennessee Valley Authority, Watts Bar Nuclear Plant Independent Spent Fuel Storage Installation: Order Modifying License (Effective Immediately)

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; modification.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued a general license to the Tennesse Valley Authority (TVA), authorizing the operation of the Watts Bar Nuclear Plant Independent Spent Fuel Storage Installation (ISFSI), in accordance with its regulations. The Order is being issued to Exelon because Exelon has identified near term plans to store spent fuel in an ISFSI under the general license provisions of the NRC's regulations.

ADDRESSES: Please refer to Docket ID NRC–2014–0098 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0098. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: L. Raynard Wharton, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–9196; email: *Raynard.Wharton@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to § 2.106 of Title 10 of the *Code of Federal Regulations* (10 CFR), the NRC is providing notice, in the matter of Watts Bar Nuclear Plant Independent Spent Fuel Storage Installation (ISFSI) Order Modifying License (Effective Immediately).

II. Further Information

I

The NRC has issued a general license to TVA, authorizing the operation of an ISFSI, in accordance with the Atomic Energy Act of 1954, as amended, and 10 CFR Part 72. This Order is being issued to TVA because TVA has identified near-term plans to store spent fuel in an ISFSI under the general license provisions of 10 CFR Part 72. The Commission's regulations at 10 CFR 72.212(b)(5), 10 CFR 50.54(p)(1), and 10 CFR 73.55(c)(5) require licensees to maintain safeguards contingency plan procedures to respond to threats of radiological sabotage and to protect the spent fuel against the threat of radiological sabotage, in accordance with 10 CFR Part 73, Appendix C. Specific physical security requirements are contained in 10 CFR 73.51 or 73.55, as applicable.

Inasmuch as an insider has an opportunity equal to, or greater than, any other person, to commit radiological sabotage, the Commission has determined these measures to be prudent. Comparable Orders have been issued to all licensees that currently store spent fuel or have identified near-

term plans to store spent fuel in an ISFSI.

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and near Washington, DC, using large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. On October 16, 2002, the Commission issued Orders to the licensees of operating ISFSIs, to place the actions taken in response to the Advisories into the established regulatory framework and to implement additional security enhancements that emerged from NRC's ongoing comprehensive review. The Commission has also communicated with other Federal, State, and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has conducted a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain additional security measures (ASMs) are required to address the current threat environment, in a consistent manner throughout the nuclear ISFSI community. Therefore, the Commission is imposing requirements, as set forth in Attachments 1 and 2 of this Order, on all licensees of these facilities. These requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the public health and safety, and the environment, continue to be adequately protected, and that the common defense and security continue to be adequately protected, in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachments 1 and 2 to this Order, in response to previously issued Advisories, or on their own. It also recognizes that some measures may not be possible or necessary at some sites, or may need to be tailored to accommodate the specific circumstances existing at TVA's facility, to achieve the intended objectives and avoid any unforeseen effect on the safe storage of spent fuel.

Although the ASMs implemented by licensees in response to the Safeguards and Threat Advisories have been sufficient to promote the common defense and security and to provide reasonable assurance of adequate protection of public health and safety, in light of the continuing threat environment, the Commission concludes that these actions should be embodied in an Order, consistent with the established regulatory framework.

To provide assurance that licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, licenses issued pursuant to 10 CFR 72.210 shall be modified to include the requirements identified in Attachments 1 and 2 to this Order. In addition, pursuant to 10 CFR 2.202, I find that, in light of the common defense and security circumstances described above, the public health, safety, and interest require that this Order be effective immediately.

III

Accordingly, pursuant to Sections 53, 103, 104, 147, 149, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 50, 72, and 73, *it is hereby ordered, effective immediately,* that your general license is modified as follows:

A. TVA shall comply with the requirements described in Attachments 1 and 2 to this Order, except to the extent that a more stringent requirement is set forth in the Clinton Power Station's physical security plan. TVA shall demonstrate its ability to comply with the requirements in Attachments 1 and 2 to the Order no later than 365 days from the date of this Order or 90 days before the first day that spent fuel is initially placed in the ISFSI, whichever is earlier. TVA must implement these requirements before initially placing spent fuel in the ISFSI. Additionally, TVA must receive written verification from the NRC (Office of Nuclear Material Safety and Safeguards) that it has adequately demonstrated compliance with these requirements before initially placing spent fuel in the ISFSI.

B. 1. TVA shall, within twenty (20) days of the date of this Order, notify the Commission: (1) If it is unable to comply with any of the requirements described in Attachments 1 and 2; (2) if compliance with any of the requirements is unnecessary, in its specific circumstances; or (3) if implementation of any of the requirements would cause TVA to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide TVA's justification for seeking relief from, or variation of, any specific requirement.

2. If TVA considers that implementation of any of the requirements described in Attachments 1 and 2 to this Order would adversely impact the safe storage of spent fuel, TVA must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in Attachments 1 and 2 requirements in question, or a schedule for modifying the facility, to address the adverse safety condition. If neither approach is appropriate, TVA must supplement its response, to Condition B.1 of this Order, to identify the condition as a requirement with which it cannot comply, with attendant justifications, as required under Condition B.1.

C. 1. TVA shall, within twenty (20) days of this Order, submit to the Commission, a schedule for achieving compliance with each requirement described in Attachments 1 and 2.

2. TVA shall report to the Commission when it has achieved full compliance with the requirements described in Attachments 1 and 2.

D. All measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise.

TVA's response to Conditions B.1, B.2, C.1, and C.2, above, shall be submitted in accordance with 10 CFR 72.4. In addition, submittals and documents produced by TVA as a result of this Order, that contain Safeguards Information as defined by 10 CFR 73.22, shall be properly marked and handled, in accordance with 10 CFR 73.21 and 73.22.

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions, for good cause.

IV

In accordance with 10 CFR 2.202, TVA must, and any other person adversely affected by this Order may, submit an answer to this Order within 20 days of its publication in the **Federal Register**. In addition, TVA and any

other person adversely affected by this Order may request a hearing on this Order within 20 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be made, in writing, to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and include a statement of good cause for the extension.

The answer may consent to this Order. If the answer includes a request for a hearing, it shall, under oath or affirmation, specifically set forth the matters of fact and law on which TVA relies and the reasons as to why the Order should not have been issued. If a person other than TVA requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-filing rule (72 FR 49139; August 28, 2007). The E-filing process requires participants to submit and serve all adjudicatory documents electronically, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC's guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary of the Commission, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited

excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a hearing is requested by TVA or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), TVA may, in addition to requesting a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the grounds that the Order, including the need for immediate effectiveness, is not based on adequate evidence, but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions as specified in Section III shall be final twenty (20) days from the date this Order is published in the **Federal Register**, without further Order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions as specified in Section III, shall be final when the extension expires, if a hearing request has not been received. *An answer or a request for hearing shall not stay the immediate effectiveness of this order.*

Dated at Rockville, Maryland, this 20th day of May 2014.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Office of Nuclear Material Safety and Safeguards.

Attachment 1—Additional Security Measures (ASMs) for Physical Protection of Dry Independent Spent Fuel Storage Installations (ISFSIs) contains Safeguards Information and is not included in the **Federal Register** notice.

Attachment 2—Additional Security Measures for Access Authorization and Fingerprinting at Independent Spent Fuel Storage Installations, dated June 14, 2013

A. General Basis Criteria

1. These additional security measures (ASMs) are established to delineate an independent spent fuel storage installation (ISFSI) licensee's responsibility to enhance security measures related to authorization for unescorted access to the protected area of an ISFSI in response to the current threat environment.

2. Licensees whose ISFSI is collocated with a power reactor may choose to comply with the U.S. Nuclear Regulatory Commission (NRC)-approved reactor access authorization program for the associated reactor as an alternative means to satisfy the provisions of sections B through G below. Otherwise, licensees shall comply with the access authorization and fingerprinting requirements of section B through G of these ASMs.

3. Licensees shall clearly distinguish in their 20-day response which method they intend to use in order to comply with these ASMs.

B. Additional Security Measures for Access Authorization Program

1. The licensee shall develop, implement and maintain a program, or enhance its existing program, designed to ensure that persons granted unescorted access to the protected area of an ISFSI are trustworthy and reliable and do not constitute an unreasonable risk to the public health and safety for the common defense and security, including a potential to commit radiological sabotage.

a. To establish trustworthiness and reliability, the licensee shall develop, implement, and maintain procedures for conducting and completing background investigations, prior to granting access. The scope of background investigations must address at least the past three years and, as a minimum, must include:

i. Fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check (CHRC). Where an applicant for unescorted access has been previously fingerprinted with a favorably completed CHRC, (such as a CHRC pursuant to compliance with orders for access to safeguards information) the licensee may accept the results of that CHRC, and need not submit another set of fingerprints, provided the CHRC was completed not more than 3 years from the date of the application for unescorted access.

ii. Verification of employment with each previous employer for the most recent year from the date of application.

iii. Verification of employment with an employer of the longest duration during any calendar month for the remaining next most recent 2 years.

iv. A full credit history review.

v. An interview with not less than two character references, developed by the investigator.

vi. A review of official identification (e.g., driver's license; passport; government identification; state-, province-, or country-of-birth issued certificate of birth) to allow comparison of personal information data provided by the applicant. The licensee shall maintain a photocopy of the identifying document(s) on file, in accordance with ''Protection of Information,'' in Section G of these ASMs.

vii. Licensees shall confirm eligibility for employment through the regulations of the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, and shall verify and ensure, to the extent possible, the accuracy of the provided social security number and alien registration number, as applicable.

b. The procedures developed or enhanced shall include measures for confirming the term, duration, and character of military service for the past 3 years, and/or academic enrollment and attendance in lieu of employment, for the past 5 years.

c. Licensees need not conduct an independent investigation for individuals employed at a facility who possess active ''Q'' or ''L'' clearances or possess another active U.S. Government-granted security clearance (i.e., Top Secret, Secret, or Confidential).

d. A review of the applicant's criminal history, obtained from local criminal justice resources, may be included in addition to the FBI CHRC, and is encouraged if the results of the FBI CHRC, employment check, or credit check disclose derogatory information. The scope of the applicant's local criminal history check shall cover all residences of record for the past 3 years from the date of the application for unescorted access.

2. The licensee shall use any information obtained as part of a CHRC solely for the purpose of determining an individual's suitability for unescorted access to the protected area of an ISFSI.

3. The licensee shall document the basis for its determination for granting or denying access to the protected area of an ISFSI.

4. The licensee shall develop, implement, and maintain procedures for updating background investigations for persons who are applying for reinstatement of unescorted access. Licensees need not conduct an independent reinvestigation for individuals who possess active ''Q'' or ''L'' clearances or possess another active U.S. Government granted security clearance, i.e., Top Secret, Secret or Confidential.

5. The licensee shall develop, implement, and maintain procedures for reinvestigations of persons granted unescorted access, at intervals not to exceed 5 years. Licensees need not

conduct an independent reinvestigation for individuals employed at a facility who possess active ''Q'' or ''L'' clearances or possess another active U.S. Government granted security clearance, i.e., Top Secret, Secret or Confidential.

6. The licensee shall develop, implement, and maintain procedures designed to ensure that persons who have been denied unescorted access authorization to the facility are not allowed access to the facility, even under escort.

7. The licensee shall develop, implement, and maintain an audit program for licensee and contractor/vendor access authorization programs that evaluate all program elements and include a person knowledgeable and practiced in access authorization program performance objectives to assist in the overall assessment of the site's program effectiveness.

C. Fingerprinting Program Requirements

1. In a letter to the NRC, the licensee must nominate an individual who will review the results of the FBI CHRCs to make trustworthiness and reliability determinations for unescorted access to an ISFSI. This individual, referred to as the ''reviewing official,'' must be someone who requires unescorted access to the ISFSI. The NRC will review the CHRC of any individual nominated to perform the reviewing official function. Based on the results of the CHRC, the NRC staff will determine whether this individual may have access. If the NRC determines that the nominee may not be granted such access, that individual will be prohibited from obtaining access.[1] Once the NRC approves a reviewing official, the reviewing official is the only individual permitted to make access determinations for other individuals who have been identified by the licensee as having the need for unescorted access to the ISFSI, and have been fingerprinted and have had a CHRC in accordance with these ASMs. The reviewing official can only make access determinations for other individuals, and therefore cannot approve other individuals to act as reviewing officials. Only the NRC can approve a reviewing official. Therefore, if the licensee wishes to have a new or additional reviewing official, the NRC must approve that individual before he or she can act in the capacity of a reviewing official.

2. No person may have access to Safeguards Information (SGI) or unescorted access to any facility subject to NRC regulation, if the NRC has determined, in accordance with its administrative review process based on fingerprinting and an FBI identification and CHRC, that the person may not have access to SGI or unescorted access to any facility subject to NRC regulation.

3. All fingerprints obtained by the licensee under this Order, must be submitted to the Commission for transmission to the FBI.

4. The licensee shall notify each affected individual that the fingerprints will be used to conduct a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the ''Right to Correct and Complete Information,'' in section F of these ASMs.

5. Fingerprints need not be taken if the employed individual (e.g., a licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR 73.61, has a favorably adjudicated U.S. Government CHRC within the last 5 years, or has an active Federal security clearance. Written confirmation from the Agency/employer who granted the Federal security clearance or reviewed the CHRC must be provided to the licensee. The licensee must retain this documentation for a period of 3 years from the date the individual no longer requires access to the facility.

D. Prohibitions

1. A licensee shall not base a final determination to deny an individual unescorted access to the protected area of an ISFSI solely on the basis of information received from the FBI involving: an arrest more than 1 year old for which there is no information of the disposition of the case, or an arrest that resulted in dismissal of the charge, or an acquittal.

2. A licensee shall not use information received from a CHRC obtained pursuant to this Order in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall the licensee use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, sex, or age.

E. Procedures for Processing Fingerprint Checks

1. For the purpose of complying with this Order, licensees shall, using an appropriate method listed in 10 CFR 73.4, submit to the NRC's Division of Facilities and Security, Mail Stop T–03B46M, one completed, legible standard fingerprint card (Form FD–258, ORIMDNRCOOOZ) or, where practicable, other fingerprint records for each individual seeking unescorted access to an ISFSI, to the Director of the Division of Facilities and Security, marked for the attention of the Division's Criminal History Check Section. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling 301–415–5877, or by email to *forms@nrc.gov*. Practicable alternative formats are set forth in 10 CFR 73.4. The licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards because of illegible or incomplete cards.

2. The NRC will review submitted fingerprint cards for completeness. Any Form FD–258 fingerprint record containing omissions or evident errors will be returned to the licensee for corrections. The fee for processing fingerprint checks includes one re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as initial submittals and will require a second payment of the processing fee.

3. Fees for processing fingerprint checks are due upon application. The licensee shall submit payment of the processing fees electronically. To be able to submit secure electronic payments, licensees will need to establish an account with Pay.Gov (*https://www.pay.gov*). To request an account, the licensee shall send an email to *det@nrc.gov*. The email must include the licensee's company name, address, point of contact (POC), POC email address, and phone number. The NRC will forward the request to Pay.Gov; who will contact the licensee with a password and user lD. Once the licensee has established an account and submitted payment to Pay.Gov, they shall obtain a receipt. The licensee shall submit the receipt from Pay.Gov to the NRC along with fingerprint cards. For additional guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at 301–415–7513. Combined payment for multiple applications is acceptable. The application fee (currently $26) is the

[1] The NRC's determination of this individual's unescorted access to the ISFSI, in accordance with the process, is an administrative determination that is outside the scope of the Order.

sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a licensee, and an NRC processing fee, which covers administrative costs associated with NRC handling of licensee fingerprint submissions. The Commission will directly notify licensees who are subject to this regulation of any fee changes.

4. The Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for CHRCs, including the FBI fingerprint record.

F. Right To Correct and Complete Information

1. Prior to any final adverse determination, the licensee shall make available to the individual the contents of any criminal history records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the licensee for a period of 1 year from the date of notification.

2. If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (i.e., law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537–9700 (as set forth in 28 CFR 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. The licensee must provide at least 10 days for an individual to initiate an action challenging the results of a FBI CHRC after the record is made available for his/her review. The licensee may make a final access determination based on the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on access to an ISFSI, the licensee shall provide the individual its documented basis for denial. Access to an ISFSI shall not be granted to an individual during the review process.

G. Protection of Information

1. The licensee shall develop, implement, and maintain a system for personnel information management with appropriate procedures for the protection of personal, confidential information. This system shall be designed to prohibit unauthorized access to sensitive information and to prohibit modification of the information without authorization.

2. Each licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures, for protecting the record and the personal information from unauthorized disclosure.

3. The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining suitability for unescorted access to the protected area of an ISFSI. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have the appropriate need to know.

4. The personal information obtained on an individual from a CHRC may be transferred to another licensee if the gaining licensee receives the individual's written request to re-disseminate the information contained in his/her file, and the gaining licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

5. The licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

[FR Doc. 2014–12165 Filed 5–23–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0001]

Sunshine Act Meeting Notice

DATES: Weeks of May 26, June 2, 9, 16, 23, 30, 2014.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of May 26, 2014

Wednesday, May 28, 2014

9:00 a.m. Joint Meeting of the Federal Energy Regulatory Commission (FERC) and the Nuclear Regulatory Commission (NRC) on Grid Reliability (Part 1) (Public Meeting) (Contact: Jacob Zimmerman, 301–415–1220)

This meeting will be Web cast live at the Web address—*http://www.nrc.gov/.*

10:45 a.m. Joint Meeting of the Federal Energy Regulatory Commission (FERC) and the Nuclear Regulatory Commission (NRC) on Grid Reliability (Part 2) (Closed—Ex. 3)

Thursday, May 29, 2014

9:00 a.m. Briefing on Human Reliability Program Activities and Analyses (Public Meeting) (Contact: Sean Peters, 301–251–7582)

This meeting will be Web cast live at the Web address—*http://www.nrc.gov/.*

Week of June 2, 2014—Tentative

Tuesday, June 3, 2014

9:00 a.m. Briefing on Results of the Agency Action Review Meeting (AARM) (Public Meeting) (Contact: Michael Balazik, 301–415–2856)

This meeting will be Web cast live at the Web address—*http://www.nrc.gov/.*

Week of June 9, 2014—Tentative

There are no meetings scheduled for the week of June 9, 2014.

Week of June 16, 2014—Tentative

Tuesday, June 17, 2014

9:30 a.m. Strategic Programmatic Overview of the Operating Reactors Business Line (Public Meeting) (Contact: Trent Wertz, 301–415–1568)

This meeting will be Web cast live at the Web address—*http://www.nrc.gov/.*

Thursday, June 19, 2014

9:00 a.m. Briefing on NFPA 805 Fire Protection (Public Meeting) (Contact: Barry Miller, 301–415–4117)

This meeting will be Web cast live at the Web address—*http://www.nrc.gov/.*

Week of June 23, 2014—Tentative

There are no meetings scheduled for the week of June 23, 2014.

Week of June 30, 2014—Tentative

There are no meetings scheduled for the week of June 30, 2014.

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The schedule for Commission meetings is subject to change on short

notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *Darlene.Wright@nrc.gov.*

Dated: May 22, 2014.

Richard Laufer,

Technical Coordinator, Office of the Secretary.

[FR Doc. 2014–12249 Filed 5–22–14; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–1046; EA–14–045; NRC–2014–0123]

In the Matter of Exelon Generation Company, LLC, Clinton Power Station Independent Spent Fuel Storage Installation: Order Modifying License (Effective Immediately)

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; modification.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued a general license to the Exelon Generation Company, LLC, authorizing the operation of the Clinton Power Station Independent Spent Fuel Storage Installation (ISFSI), in accordance with its regulations. The Order is being issued to Exelon because Exelon has identified near term plans to store spent fuel in an ISFSI under the general license provisions of the NRC's regulations.

ADDRESSES: Please refer to Docket ID NRC–2014–0123 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0123. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: L. Raynard Wharton, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–9196; email: *Raynard.Wharton@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to § 2.106 of Title 10 of the *Code of Federal Regulations* (10 CFR), the NRC is providing notice, in the matter of Clinton Power Station Independent Spent Fuel Storage Installation (ISFSI) Order Modifying License (Effective Immediately).

II. Further Information

I

The NRC has issued a general license to Exelon Generation Company, LLC (Exelon), authorizing the operation of an ISFSI, in accordance with the Atomic Energy Act of 1954, as amended, and 10 CFR part 72. This Order is being issued to Exelon because Exelon has identified near-term plans to store spent fuel in an ISFSI under the general license provisions of 10 CFR part 72. The Commission's regulations at 10 CFR 72.212(b)(5), 10 CFR 50.54(p)(1), and 10 CFR 73.55(c)(5) require licensees to maintain safeguards contingency plan procedures to respond to threats of radiological sabotage and to protect the spent fuel against the threat of radiological sabotage, in accordance with 10 CFR part 73, Appendix C. Specific physical security requirements are contained in 10 CFR 73.51 or 73.55, as applicable.

Inasmuch as an insider has an opportunity equal to, or greater than, any other person, to commit radiological sabotage, the Commission has determined these measures to be prudent. Comparable Orders have been issued to all licensees that currently store spent fuel or have identified near-term plans to store spent fuel in an ISFSI.

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and near Washington, DC, using large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. On October 16, 2002, the Commission issued Orders to the licensees of operating ISFSIs, to place the actions taken in response to the Advisories into the established regulatory framework and to implement additional security enhancements that emerged from NRC's ongoing comprehensive review. The Commission has also communicated with other Federal, State, and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has conducted a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain additional security measures (ASMs) are required to address the current threat environment, in a consistent manner throughout the nuclear ISFSI community. Therefore, the Commission is imposing requirements, as set forth in Attachments 1 and 2 of this Order, on all licensees of these facilities. These

requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the public health and safety, and the environment, continue to be adequately protected, and that the common defense and security continue to be adequately protected, in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachments 1 and 2 to this Order, in response to previously issued Advisories, or on their own. It also recognizes that some measures may not be possible or necessary at some sites, or may need to be tailored to accommodate the specific circumstances existing at Exelon's facility, to achieve the intended objectives and avoid any unforeseen effect on the safe storage of spent fuel.

Although the ASMs implemented by licensees in response to the Safeguards and Threat Advisories have been sufficient to promote the common defense and security and to provide reasonable assurance of adequate protection of public health and safety, in light of the continuing threat environment, the Commission concludes that these actions should be embodied in an Order, consistent with the established regulatory framework.

To provide assurance that licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, licenses issued pursuant to 10 CFR 72.210 shall be modified to include the requirements identified in Attachments 1 and 2 to this Order. In addition, pursuant to 10 CFR 2.202, I find that, in light of the common defense and security circumstances described above, the public health, safety, and interest require that this Order be effective immediately.

III

Accordingly, pursuant to Sections 53, 103, 104, 147, 149, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 50, 72, and 73, *it is hereby ordered, effective immediately, that your general license is modified as follows:*

A. Exelon shall comply with the requirements described in Attachments 1 and 2 to this Order, except to the extent that a more stringent requirement is set forth in the Clinton Power Station's physical security plan. Exelon shall demonstrate its ability to comply with the requirements in Attachments 1 and 2 to the Order no later than 365 days from the date of this Order or 90 days before the first day that spent fuel is initially placed in the ISFSI, whichever is earlier. Exelon must implement these requirements before initially placing spent fuel in the ISFSI. Additionally, Exelon must receive written verification from the NRC (Office of Nuclear Material Safety and Safeguards) that it has adequately demonstrated compliance with these requirements before initially placing spent fuel in the ISFSI.

B. 1. Exelon shall, within twenty (20) days of the date of this Order, notify the Commission: (1) if it is unable to comply with any of the requirements described in Attachments 1 and 2; (2) if compliance with any of the requirements is unnecessary, in its specific circumstances; or (3) if implementation of any of the requirements would cause Exelon to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide Exelon's justification for seeking relief from, or variation of, any specific requirement.

2. If Exelon considers that implementation of any of the requirements described in Attachments 1 and 2 to this Order would adversely impact the safe storage of spent fuel, Exelon must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in Attachments 1 and 2 requirements in question, or a schedule for modifying the facility, to address the adverse safety condition. If neither approach is appropriate, Exelon must supplement its response, to Condition B.1 of this Order, to identify the condition as a requirement with which it cannot comply, with attendant justifications, as required under Condition B.1.

C. 1. Exelon shall, within twenty (20) days of this Order, submit to the Commission, a schedule for achieving compliance with each requirement described in Attachments 1 and 2.

2. Exelon shall report to the Commission when it has achieved full compliance with the requirements described in Attachments 1 and 2.

D. All measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise.

Exelon's response to Conditions B.1, B.2, C.1, and C.2, above, shall be submitted in accordance with 10 CFR 72.4. In addition, submittals and documents produced by Exelon as a result of this Order, that contain Safeguards Information as defined by 10 CFR 73.22, shall be properly marked and handled, in accordance with 10 CFR 73.21 and 73.22.

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions, for good cause.

IV

In accordance with 10 CFR 2.202, Exelon must, and any other person adversely affected by this Order may, submit an answer to this Order within 20 days of its publication in the **Federal Register**. In addition, Exelon and any other person adversely affected by this Order may request a hearing on this Order within 20 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be made, in writing, to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and include a statement of good cause for the extension.

The answer may consent to this Order. If the answer includes a request for a hearing, it shall, under oath or affirmation, specifically set forth the matters of fact and law on which Exelon relies and the reasons as to why the Order should not have been issued. If a person other than Exelon requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-filing rule (72 FR 49139; August 28, 2007). The E-filing process requires participants to submit and serve all adjudicatory documents electronically, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov*, or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC's guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov*, or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary of the Commission, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a hearing is requested by Exelon or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Exelon may, in addition to requesting a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the grounds that the Order, including the need for immediate effectiveness, is not based on adequate evidence, but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions as specified in Section III shall be final twenty (20) days from the date this Order is published in the **Federal Register**, without further Order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions as specified in Section III, shall be final when the extension expires, if a hearing request has not been received. *An answer or a request for hearing shall not stay the immediate effectiveness of this order.*

Dated at Rockville, Maryland, this 20th day of May 2014.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Office of Nuclear Material Safety and Safeguards.

Attachment 1—Additional Security Measures (ASMs) for Physical Protection of Dry Independent Spent Fuel Storage Installations (ISFSIs) Contains Safeguards Information and Is Not Included in the Federal Register Notice

Attachment 2—Additional Security Measures for Access Authorization and Fingerprinting at Independent Spent Fuel Storage Installations, Dated June 14, 2013

A. General Basis Criteria

1. These additional security measures (ASMs) are established to delineate an independent spent fuel storage installation (ISFSI) licensee's responsibility to enhance security measures related to authorization for unescorted access to the protected area of an ISFSI in response to the current threat environment.

2. Licensees whose ISFSI is collocated with a power reactor may choose to comply with the U.S. Nuclear Regulatory Commission (NRC)-approved reactor access authorization program for the associated reactor as an alternative means to satisfy the provisions of sections B through G below. Otherwise, licensees shall comply with the access authorization and fingerprinting requirements of section B through G of these ASMs.

3. Licensees shall clearly distinguish in their 20-day response which method they intend to use in order to comply with these ASMs.

B. Additional Security Measures for Access Authorization Program

1. The licensee shall develop, implement and maintain a program, or enhance its existing program, designed to ensure that persons granted unescorted access to the protected area of an ISFSI are trustworthy and reliable and do not constitute an unreasonable risk to the public health and safety for the common defense and security, including a potential to commit radiological sabotage.

a. To establish trustworthiness and reliability, the licensee shall develop, implement, and maintain procedures for conducting and completing background investigations, prior to granting access. The scope of background investigations must address at least the past 3 years and, as a minimum, must include:

i. Fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check (CHRC). Where an applicant for unescorted access has been previously fingerprinted with a favorably completed CHRC, (such as a CHRC pursuant to compliance with orders for access to safeguards information) the licensee may accept the results of that CHRC, and need not submit another set of fingerprints, provided the CHRC was completed not more than 3 years from the date of the application for unescorted access.

ii. Verification of employment with each previous employer for the most recent year from the date of application.

iii. Verification of employment with an employer of the longest duration during any calendar month for the remaining next most recent 2 years.

iv. A full credit history review.

v. An interview with not less than two character references, developed by the investigator.

vi. A review of official identification (e.g., driver's license; passport; government identification; state-, province-, or country-of-birth issued certificate of birth) to allow comparison of personal information data provided by the applicant. The licensee shall maintain a photocopy of the identifying document(s) on file, in accordance with ''Protection of Information,'' in Section G of these ASMs.

vii. Licensees shall confirm eligibility for employment through the regulations of the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, and shall verify and ensure, to the extent possible, the accuracy of the provided social security number and alien registration number, as applicable.

b. The procedures developed or enhanced shall include measures for confirming the term, duration, and character of military service for the past 3 years, and/or academic enrollment and attendance in lieu of employment, for the past 5 years.

c. Licensees need not conduct an independent investigation for individuals employed at a facility who possess active ''Q'' or ''L'' clearances or possess another active U.S. Government-granted security clearance (i.e., Top Secret, Secret, or Confidential).

d. A review of the applicant's criminal history, obtained from local criminal justice resources, may be included in addition to the FBI CHRC, and is encouraged if the results of the FBI CHRC, employment check, or credit check disclose derogatory information. The scope of the applicant's local criminal history check shall cover all residences of record for the past 3 years from the date of the application for unescorted access.

2. The licensee shall use any information obtained as part of a CHRC solely for the purpose of determining an individual's suitability for unescorted access to the protected area of an ISFSI.

3. The licensee shall document the basis for its determination for granting or denying access to the protected area of an ISFSI.

4. The licensee shall develop, implement, and maintain procedures for updating background investigations for persons who are applying for reinstatement of unescorted access. Licensees need not conduct an independent reinvestigation for individuals who possess active ''Q'' or ''L'' clearances or possess another active U.S. Government granted security clearance, i.e., Top Secret, Secret or Confidential.

5. The licensee shall develop, implement, and maintain procedures for reinvestigations of persons granted unescorted access, at intervals not to exceed 5 years. Licensees need not conduct an independent reinvestigation for individuals employed at a facility who possess active ''Q'' or ''L'' clearances or possess another active U.S. Government granted security clearance, i.e., Top Secret, Secret or Confidential.

6. The licensee shall develop, implement, and maintain procedures designed to ensure that persons who have been denied unescorted access authorization to the facility are not allowed access to the facility, even under escort.

7. The licensee shall develop, implement, and maintain an audit program for licensee and contractor/vendor access authorization programs that evaluate all program elements and include a person knowledgeable and practiced in access authorization program performance objectives to assist in the overall assessment of the site's program effectiveness.

C. Fingerprinting Program Requirements

1. In a letter to the NRC, the licensee must nominate an individual who will review the results of the FBI CHRCs to make trustworthiness and reliability determinations for unescorted access to an ISFSI. This individual, referred to as the ''reviewing official,'' must be someone who requires unescorted access to the ISFSI. The NRC will review the CHRC of any individual nominated to perform the reviewing official function. Based on the results of the CHRC, the NRC staff will determine whether this individual may have access. If the NRC determines that the nominee may not be granted such access, that individual will be

prohibited from obtaining access.[1] Once the NRC approves a reviewing official, the reviewing official is the only individual permitted to make access determinations for other individuals who have been identified by the licensee as having the need for unescorted access to the ISFSI, and have been fingerprinted and have had a CHRC in accordance with these ASMs. The reviewing official can only make access determinations for other individuals, and therefore cannot approve other individuals to act as reviewing officials. Only the NRC can approve a reviewing official. Therefore, if the licensee wishes to have a new or additional reviewing official, the NRC must approve that individual before he or she can act in the capacity of a reviewing official.

2. No person may have access to Safeguards Information (SGI) or unescorted access to any facility subject to NRC regulation, if the NRC has determined, in accordance with its administrative review process based on fingerprinting and an FBI identification and CHRC, that the person may not have access to SGI or unescorted access to any facility subject to NRC regulation.

3. All fingerprints obtained by the licensee under this Order, must be submitted to the Commission for transmission to the FBI.

4. The licensee shall notify each affected individual that the fingerprints will be used to conduct a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the ''Right to Correct and Complete Information,'' in section F of these ASMs.

5. Fingerprints need not be taken if the employed individual (e.g., a licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR 73.61, has a favorably adjudicated U.S. Government CHRC within the last 5 years, or has an active Federal security clearance. Written confirmation from the Agency/employer who granted the Federal security clearance or reviewed the CHRC must be provided to the licensee. The licensee must retain this documentation for a period of 3 years from the date the individual no longer requires access to the facility.

D. Prohibitions

1. A licensee shall not base a final determination to deny an individual unescorted access to the protected area of an ISFSI solely on the basis of information received from the FBI involving: an arrest more than 1 year old for which there is no information of the disposition of the case, or an arrest that resulted in dismissal of the charge, or an acquittal.

2. A licensee shall not use information received from a CHRC obtained pursuant to this Order in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall the licensee use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, sex, or age.

E. Procedures for Processing Fingerprint Checks

1. For the purpose of complying with this Order, licensees shall, using an appropriate method listed in 10 CFR 73.4, submit to the NRC's Division of Facilities and Security, Mail Stop T–03B46M, one completed, legible standard fingerprint card (Form FD–258, ORIMDNRCOOOZ) or, where practicable, other fingerprint records for each individual seeking unescorted access to an ISFSI, to the Director of the Division of Facilities and Security, marked for the attention of the Division's Criminal History Check Section. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling 301–415–5877, or by email to forms@nrc.gov. Practicable alternative formats are set forth in 10 CFR 73.4. The licensee shall establish procedures to ensure that the quality of the fingerprints taken results in minimizing the rejection rate of fingerprint cards because of illegible or incomplete cards.

2. The NRC will review submitted fingerprint cards for completeness. Any Form FD–258 fingerprint record containing omissions or evident errors will be returned to the licensee for corrections. The fee for processing fingerprint checks includes one re-submission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free re-submission must have the FBI Transaction Control Number reflected on the re-submission. If additional submissions are necessary, they will be treated as initial submittals and will require a second payment of the processing fee.

3. Fees for processing fingerprint checks are due upon application. The licensee shall submit payment of the processing fees electronically. To be able to submit secure electronic payments, licensees will need to establish an account with Pay.Gov (*https://www.pay.gov*). To request an account, the licensee shall send an email to *det@nrc.gov*. The email must include the licensee's company name, address, point of contact (POC), POC email address, and phone number. The NRC will forward the request to Pay.Gov; who will contact the licensee with a password and user lD. Once the licensee has established an account and submitted payment to Pay.Gov, they shall obtain a receipt. The licensee shall submit the receipt from Pay.Gov to the NRC along with fingerprint cards. For additional guidance on making electronic payments, contact the Facilities Security Branch, Division of Facilities and Security, at 301–415–7513. Combined payment for multiple applications is acceptable. The application fee (currently $26) is the sum of the user fee charged by the FBI for each fingerprint card or other fingerprint record submitted by the NRC on behalf of a licensee, and an NRC processing fee, which covers administrative costs associated with NRC handling of licensee fingerprint submissions. The Commission will directly notify licensees who are subject to this regulation of any fee changes.

4. The Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for CHRCs, including the FBI fingerprint record.

F. Right to Correct and Complete Information

1. Prior to any final adverse determination, the licensee shall make available to the individual the contents of any criminal history records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the licensee for a period of 1 year from the date of notification.

2. If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (i.e., law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division,

[1] The NRC's determination of this individual's unescorted access to the ISFSI, in accordance with the process, is an administrative determination that is outside the scope of the Order.

Washington, DC 20537–9700 (as set forth in 28 CFR 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. The licensee must provide at least 10 days for an individual to initiate an action challenging the results of a FBI CHRC after the record is made available for his/her review. The licensee may make a final access determination based on the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on access to an ISFSI, the licensee shall provide the individual its documented basis for denial. Access to an ISFSI shall not be granted to an individual during the review process.

G. Protection of Information

1. The licensee shall develop, implement, and maintain a system for personnel information management with appropriate procedures for the protection of personal, confidential information. This system shall be designed to prohibit unauthorized access to sensitive information and to prohibit modification of the information without authorization.

2. Each licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures, for protecting the record and the personal information from unauthorized disclosure.

3. The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining suitability for unescorted access to the protected area of an ISFSI. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have the appropriate need to know.

4. The personal information obtained on an individual from a CHRC may be transferred to another licensee if the gaining licensee receives the individual's written request to re-disseminate the information contained in his/her file, and the gaining licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

5. The licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

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BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974: Consolidate, Update, Amend and Terminate System of Records

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Consolidate, update, amend, and terminate system of records.

SUMMARY: OPM proposes to consolidate the Security Officer Control Files (Internal-3) with the Adjudication Officer Control Files (Internal-16), and then update and amend the Adjudication Officer Control Files (Internal-16) contained in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: These changes will become effective without further notice forty (40) calendar days from the date of this publication, unless we receive comments that result in a contrary determination.

ADDRESSES: Send written comments to the Program Manager for the Freedom of Information and Privacy Act office, Federal Investigative Services, U.S. Office of Personnel Management, 1137 Branchton Road, PO Box 618, Boyers, Pennsylvania 16018.

FOR FURTHER INFORMATION CONTACT: Program Manager, Freedom of Information and Privacy Act office, *FISSORNComments@opm.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Office of Personnel Management, Federal Investigative Services (OPM–FIS) proposes to consolidate the Security Officer Control Files (Internal-3) with the Adjudication Officer Control Files (Internal-16), and then update and amend the Adjudication Officer Control Files (Internal-16) contained in its inventory of record systems. Since the Security Officer Control Files (Internal-3) will be consolidated with the Adjudication Officer Control Files (Internal-16), we propose to terminate the Security Officer Control Files (Internal-3).

The specific changes to the record system being amended are set forth below. The proposed amendment is within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems reports.

OPM/Internal-16

SYSTEM NAME:

Adjudications Officer Control Files

SYSTEM LOCATION:

Delete entry and replace with ''U.S. Office of Personnel Management (OPM), Federal Investigative Services (FIS), 131 Rebecca Lane, Slippery Rock, PA 16057''

Add ''Facilities, Security, and Contracting (FSC)—Personnel Security; 1137 Branchton Road, Boyers, Pennsylvania 16018.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Replace ''This system contains records on individuals, other than OPM employees: (1) Who work on an OPM-Investigations Service (IS) contract; (2) who need to access IS facilities or use IS equipment; or (3) about whom OPM—IS has provided a suitability or security adjudication advisory opinion at the request of another Federal agency's adjudication or security office. . . .'' with ''This system contains records on active, inactive, and pending OPM employees and employees of OPM contractors. This system also contains records on individuals who need to access OPM facilities or use OPM systems.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with: ''The records in the system may contain the following: Personally identifiable information such as name, date and place of birth, Social Security Number, citizenship status, grade, organization, employer(s), position sensitivity and public trust classification, initial investigation and reinvestigation history; and access authorization history; the formal request(s) and justification(s) for access authorization processing; security forms, fingerprint cards, and acknowledgments completed by the individual for both the initial investigation and reinvestigation; results of pre-employment checks (if required); Personnel Identification Verification (PIV) sponsorship and tracking information; report of investigation provided by an agency which has previously conducted an investigation

of the individual for employment or security clearance purposes; approvals for classified visits; photographs; foreign travel documents; personnel security interview transcripts or summaries of the interviews, and evaluations of the interviews; reports of hospitalization or treatment for a mental condition or substance abuse, including information provided by an Employee Assistance Program provider; reports of OPM-sponsored mental evaluations conducted by competent medical authorities; public record information to include law enforcement, financial, divorce, bankruptcy, name change and other court information or reports and copies of information appearing in the media; information concerning citizenship status, foreign contacts, and spouse and/or individual(s) with whom the individual resides; administrative review processing data; information related to an individual's work performance on an OPM contract, documents concerning an individual's conduct, security, and policy violations; written evaluations of reported derogatory information; credit check results; copies of correspondence to and from the individual concerning the items above and copies of inter- and intra-agency correspondence concerning the items above; and any other material relevant to the individual's OPM access, suitability, fitness, or security determination or processing.''

Add ''Note: Individuals must request access to background investigations in accordance with the requirements in the governing System of Records Notice. Requests for background investigations maintained in the Adjudications Officer Control Files will be denied.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add ''13488.''

PURPOSE(S):

Delete entry and replace with ''OPM Adjudications Officers, Contract Administrators, and Personnel Security staff, or designees, use these records to make suitability, fitness, or security determinations, PIV access determinations, determinations concerning security clearances for access to classified or National Security information, determinations regarding the need and eligibility to use OPM facilities or systems, assign position sensitivity to OPM employees and contractors, and to document an individual's performance and conduct on an OPM contract or employment.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete ''Information in these records may be used:'' and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records of information contained in this system may be disclosed outside OPM as a routine use pursuant to 5 U.S.C. 552a(b)(3). The routine uses listed below are specific to this system of records only:''

Re-label the routine uses 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 to a, b, c, d, e, f, g, h, i, j, k respectively.

Add: ''l. To appropriate agencies, entities, and persons when (1) OPM suspects or has confirmed that the security or confidentiality of the information in a system of records has been compromised; (2) OPM 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 OPM or another agency or entity) that rely on the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the OPM's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.''

Add: ''m. To the State unemployment compensation office upon their request in order to adjudicate a claim for unemployment compensation benefits when the claim for benefits is made as the result of a qualifications, suitability, fitness or security determination.''

Add: ''n. To any source from which information is requested in the course of obtaining information to make a suitability, security, or access determination, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.''

Add: ''o. To a competent medical authority who, under a formal agreement for payment of services with the OPM personnel security element, conducts evaluations under the Adjudicative Guidelines for Determining Eligibility for Access to Classified Information, to determine whether an individual has a mental condition of a nature which causes, or may cause, a significant defect in judgment or reliability.''

SAFEGUARDS:

Replace ''OPM stores the file folders in locked, metal file cabinets in a secured room. OPM restricts access to the records on the databases to employees who have the appropriate clearance and need-to-know.'' with ''OPM stores the hardcopy files in locked, metal file cabinets in a secured room or as digital images on the OPM Local Area Network. All employees who have a need to access the information are required to have the appropriate investigation consistent with the risk and sensitivity designation of that position, and the investigation must be favorably adjudicated or an interim access be granted before they are allowed access to the records.''

RETENTION AND DISPOSAL:

Delete entry and replace with: ''OPM maintains the entire record three (3) years after the individual's employment or contract status with OPM ends, the need to use OPM systems or facilities has terminated, or the Federal agency notifies OPM that the person whose case OPM adjudicated has separated from that agency. Classified Information Nondisclosure Agreements (Standard Form 312) signed by contractors are maintained for 70 years. Classified Information Nondisclosure Agreements (Standard Form 312) signed by federal employees are filed in the Official Personnel Folder (OPF). Contents of the file folders are destroyed by shredding and recycling and computer records are destroyed by electronic erasure.''

SYSTEM MANAGERS AND ADDRESSES:

Delete entry and replace with: ''Associate Director, Federal Investigative Services, U.S. Office of Personnel Management, PO Box 618, 1137 Branchton Road, Boyers, PA 16018–0618''

Add: ''Director, Facilities, Security and Contracting, U.S. Office of Personnel Management, 1900 E. Street NW., Washington, DC 20415.''

NOTIFICATION PROCEDURE:

The notification procedures and record access procedures section were merged. Replace current notification procedures and record access procedures section with:

''Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(c)(3) and (d), regarding accounting of disclosures and access to and amendment of records. The section of this notice titled Systems Exempted from Certain Provisions of the Act indicates the kinds of material exempted and the reasons for exempting them from access.

Individuals wishing to ask if this system of records contains information about them or wishing to request access to their record should determine which category they fit into and write to the following addresses:

Federal Investigative Services maintains records for those who (1) work(ed) in OPM's FSC-Personnel Security, (2) who work(ed) on an OPM–FIS contract, or (3) have or had access to OPM–FIS facilities or OPM–FIS systems. This category of individuals should write to: U.S. Office of Personnel Management, Federal Investigative Services, Freedom of Information and Privacy Act office, PO Box 618, 1137 Branchton Road, Boyers, PA 16018–0618.

Facilities, Security and Contracting maintains records for all other OPM employees or OPM contractors. This category of individuals should write to: U.S. Office of Personnel Management, FOIA Requester Service Center, 1900 E. Street NW., Room 5415, Washington, DC 20415–7900.

Individuals must furnish the following information for their record to be located and identified:

a. Full name, former name, and any other names used.

b. Date and place of birth.

c. Social Security Number.

d. Identify the records being requested, to include any available information regarding the type of record involved.

e. The address to which the record information should be sent.

f. Telephone number. (optional)

g. Handwritten Signature.

In addition, the requester must provide an original notarized statement or an unsworn declaration in accordance with 28 U.S.C. 1746, in the following format: I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).

Attorneys or other persons acting on behalf of an individual must provide written authorization from that individual for the representative to act on their behalf. The written authorization must include an original notarized statement or an unsworn declaration in accordance with 28 U.S.C. 1746, in the following format: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).''

AMENDMENT PROCEDURES:

Delete ''Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d) regarding access to and amendment of records. The section of this notice titled ''System Exemptions'' indicates the kinds of material exempted and the reasons for exempting them from amendment. Individuals wishing to request amendment of their non-exempt records should write to the Federal Investigations Processing Center and furnish the following information for their record to be located:'' and replace with ''Individuals wishing to request amendment of their non-exempt records should determine the category they fit into as outlined above in Notification and Record Access Procedures and contact the appropriate office in writing. Individuals must furnish the following information for their record to be located and identified:''

Add: ''In addition, the requester must provide an original notarized statement or an unsworn declaration in accordance with 28 U.S.C. 1746, in the following format: I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

Add: ''Attorneys or other persons acting on behalf of an individual must provide written authorization from that individual for the representative to act on their behalf. The written authorization must include an original notarized statement or an unsworn declaration in accordance with 28 U.S.C. 1746, in the following format: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

RECORD SOURCE CATEGORIES:

Replace ''OPM–IS'' with ''OPM–FIS'' in item 2 and item 3.

Delete item 4 and replace with ''4. Employment information maintained by OPM's Director of Personnel or regional personnel offices.''

Add: ''6. Federal agencies.''

Add: ''7. By personal investigation or written inquiry from sources such as employers, educational institutions, references, neighbors, associates, police departments, courts, credit bureaus, medical records, probation officials, prison officials, newspapers, magazines, periodicals, and other publications.''

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Replace ''. . .in 5 U.S.C. 552a(k)(1), (2), (3), (4), (5), (6) or (7) is exempt . . .'' with ''. . . in 5 U.S.C. 552a(k)(1), (2), (5), or (6) is exempt. . .''

Delete items 3, 4, 7.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2014–12043 Filed 5–23–14; 8:45 am]

BILLING CODE 6325–53–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on May 29, 2014 at 3:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Stein, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting will be: institution and settlement of injunctive actions; institution and settlement of administrative proceedings; and other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: May 21, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–12310 Filed 5–22–14; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72194; File No. SR–NYSEMKT–2014–45]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 975NY to Provide for New Procedures To Account for Erroneous Trades Occurring From Disruptions and/or Malfunctions of Exchange Systems

May 20, 2014.

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 May 12, 2014, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 975NY to provide for new procedures to account for erroneous trades occurring from disruptions and/or malfunctions of Exchange systems. 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 975NY to provide for new procedures to account for erroneous trades occurring from disruptions and/or malfunctions of Exchange systems. This filing is based on the rules of the Chicago Board Options Exchange, Incorporated (''CBOE'').[4]

Proposed new Rule 975NY(a)(9) would provide that any electronic or open outcry transactions that arise out of a ''verifiable systems disruption or malfunction'' in the use or operation of an Exchange automated quotation, dissemination, execution, or communication system may either be nullified or adjusted by Trading Officials.[5] In addition, the proposed rule would provide that transactions that qualify for price adjustment will be adjusted to a Theoretical Price, as defined in paragraph (a)(2) of Rule 975NY. The Exchange notes that proposed Rule 975NY(a)(9) is virtually identical to CBOE Rule 6.25(a)(3) and similar to rules in effect at other options exchanges that allow for the nullification or modification of transactions that resulted from verifiable disruptions and/or malfunctions of Exchanges systems.[6] The proposed rule change differs from CBOE Rule 6.25(a)(3) because the Exchange proposes to permit a Trading Official to nullify or adjust a transaction, which is similar to NYSE Arca Rule 6.89, rather than require nullification or adjustment as required under CBOE Rule 6.25(a)(3).

The proposed rule change would provide the Exchange with the same authority to nullify or adjust trades in the event of a ''verifiable disruption or malfunction'' in the use of operation of its systems as other exchanges have. The Exchange believes that it is appropriate to provide the flexibility and authority provided for in proposed Rule 975NY(a)(9) so as not to limit the Exchange's ability to plan for and respond to unforeseen systems problems or malfunctions. For this reason, the Exchange believes that, in the interest of maintaining a fair and orderly market and for the protection of investors, authority to nullify trades in these circumstances, consistent with the authority on other exchanges, is warranted.

The Exchange notes that the options markets are currently in the process of identifying how to harmonize their respective obvious and catastrophic error rules, including a rule specifying the circumstances in which an options exchange may nullify trades because of a systems problem or malfunction. Because it is uncertain when this harmonized rule will be filed with and approved by the Commission, the Exchange believes it is critical to its current ability to maintain a fair and orderly market and to protect investors to propose an amendment to its current Obvious Error and Catastrophic Errors Rule 975NY. Today's proposed rule would be superseded by a future proposed harmonized rule.

The Exchange further proposes that, similar to CBOE Rule 6.25(b)(3), the Exchange's ability to act on its own motion pursuant to proposed Rule 975NY(a)(9) would be subject to Rule 975NY(b)(3) procedures for reviewing trades on Exchange motion. Accordingly, the Exchange proposes to amend Rule 975NY(b)(3) to provide that the Exchange may act on its own motion for any transaction subject to paragraphs (a)(3)–(a)(9) of Rule 975NY.

The Exchange also proposes technical changes that would add paragraphs (a)(7) and (a)(8) to Rule 975NY(b)(3), which is consistent with CBOE rules, and which cross references were previously inadvertently excluded from Rule 975NY(b)(3). The Exchange also proposes to amend Rule 975NY(a) to be more similar to the corresponding provision in CBOE's rules by deleting the specific paragraph references and instead refer generally to the conditions specified in paragraph (a) of Rule 975NY.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5),[8] 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 a national market system.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* CBOE Rule 6.25(a)(3). The proposed rule change is also substantially similar to NYSE Arca, Inc. (''NYSE Arca'') Rule 6.89 and is similar to NASDAQ OMX PHLX, LLC (''Phlx'') Rule 1092(c)(ii)(A).

[5] Trading Officials are employees or officers of the Exchange and are not affiliated with ATP Holders. *See* Rule 900.2NY(82).

[6] *See supra* n. 3 [sic].

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and national market system and promote a fair and orderly market because it would provide authority for the Exchange to nullify or adjust trades that may have resulted from a verifiable systems disruption or malfunction. The Exchange believes that it is appropriate to provide the flexibility and authority provided for in proposed Rule 975NY(a)(9) so as not to limit the Exchange's ability to plan for and respond to unforeseen systems problems or malfunctions that may result in harm to the public. The Exchange notes that the proposed rule change is based on CBOE rules and is substantially similar to rules of other markets.[9] The Exchange further notes that pursuant to existing Rule 975NY(b)(3), when acting under its own motion to nullify or adjust trades pursuant to proposed Rule 975NY(a)(9), the Exchange must consider whether taking such action would be in the interest of maintaining a fair and order market and for the protection of investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposed rule change is pro-competitive because it will align the Exchange's rules with the rules of other markets, including CBOE, NYSE Arca, and Phlx. By adopting proposed Rule 975NY(a)(9), the Exchange will be in a position to treat transactions that are a result of a verifiable systems issue or malfunction in a manner similar to other exchanges.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] 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 after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder. [12]

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. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2014–45 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2014–45. 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 at 100 F Street NE., Washington, DC 20549–1090 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–NYSEMKT–2014–45, and should be submitted on or before June 17, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–12073 Filed 5–23–14; 8:45 am]

BILLING CODE 8011–01–P

[9] *Supra* n. 3 [sic].

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii). 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.

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72196; File No. SR–FINRA–2014–005]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Partial Amendment No. 1 and Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change, as Modified by Partial Amendment No. 1, Relating to Broadening Arbitrators' Authority to Make Referrals During an Arbitration Proceeding

May 20, 2014.

I. Introduction

On July 12, 2010, the Financial Industry Regulatory Authority (''FINRA'') filed a proposal pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] with the Securities and Exchange Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(''Commission'') to amend Rule 12104 (Effect of Arbitration on FINRA Regulatory Activities) of the Code of Arbitration Procedure for Customer Disputes (''Customer Code'') and Rule 13104 (Effect of Arbitration on FINRA Regulatory Activities) of the Code of Arbitration Procedure for Industry Disputes (''Industry Code'') (together, ''Codes'') to permit arbitrators to make referrals to FINRA during an arbitration case, and to adopt new rules to address the assessment of hearing session fees, costs, and expenses if an arbitrator made a referral during a case that resulted in withdrawal of the entire panel (''original proposal'').[3] Under the original proposal, if an arbitrator made a mid-case referral, a party could request that the referring arbitrator withdraw. Upon a party's request that the referring arbitrator withdraw, the entire panel also would have been required to withdraw. On July 7, 2011, FINRA responded to comments received by the Commission by filing an amendment to the original proposal,[4] which replaced it in its entirety.

Under the amended original proposal, an arbitrator would have been permitted to make a mid-case referral if he or she became aware of any matter or conduct that the arbitrator had reason to believe posed a serious ongoing or imminent threat that was likely to harm investors. A mid-case referral could not have been based solely on allegations in the pleadings. The amended original proposal also would have instructed the arbitrator to wait until the arbitration concluded to make a referral if investor protection would not have been materially compromised by the delay. Further, if an arbitrator made a mid-case referral, the Director of Arbitration (''Director'') would have disclosed the act of making the referral to the parties, and a party would have been permitted to request recusal of the referring arbitrator. The amended original proposal would have required either the President of FINRA Dispute Resolution (''President'') or the Director to evaluate the referral and determine whether to forward it to other divisions of FINRA for further review. Finally, the amended original proposal would have retained the provision in Rule 12104(b) of the Customer Code and Rule 13104(b) of the Industry Code that permits an arbitrator to make a post-case referral. The Commission received five comment letters in response to the amended original proposal.

On January 29, 2014, FINRA withdrew the amended original proposal[5] without responding to the comments and filed the current proposal. The current proposal is identical to the amended original proposal and FINRA's filing responds to comments received on the amended original proposal. The proposed rule change was published for comment in the **Federal Register** on February 12, 2014.[6] The Commission received ten comment letters in response to the current proposal.[7] On March 28, 2014, FINRA extended to May 20, 2014 the time period in which the Commission must approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change. On May 19, 2014, FINRA responded to the comments and filed Partial Amendment No. 1 to the current proposal.[8]

The Commission is publishing this notice and order to solicit comments on Partial Amendment No. 1 from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Act[9] to determine whether to approve or disapprove the proposed rule change as modified by Partial Amendment No. 1.

Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to the proposed rule change, nor does it mean that the Commission will ultimately disapprove the proposed rule change. Rather, as discussed below, the Commission seeks additional input from interested parties on the proposed rule change, as modified by Partial Amendment No. 1, and issues presented by the proposal.

II. Description of the Proposed Rule Change

As further described in the Notice of Filing, FINRA is proposing to amend Rule 12104 of the Customer Code and Rule 13104 of the Industry Code to broaden arbitrators' authority to make referrals during an arbitration proceeding. Under the current proposal, an arbitrator would be permitted to make a mid-case referral if the arbitrator becomes aware of any matter or conduct that the arbitrator has reason to believe poses a serious ongoing or imminent threat that is likely to harm investors. A mid-case referral could not be based solely on allegations in the pleadings. The proposed rule change would further provide that when a case is nearing completion, the arbitrator should wait until the case concludes to make a referral if, in the arbitrator's judgment, investor protection would not be materially compromised by the delay. If an arbitrator makes a mid-case referral, the Director would disclose the act of making the referral to the parties, and a party would be permitted to request recusal of the referring arbitrator. The proposal would require either the President or the Director to evaluate the referral and determine whether to forward it to other divisions of FINRA for further review. Finally, the proposal would retain the provision in Rule 12104(b) of the Customer Code and Rule 13104(b) of the Industry Code that permits an arbitrator to make a post-case referral.

III. Discussion of Public Comments on the Proposed Rule

The Commission received ten comment letters[10] on the current proposal, two of which support the

[3] *See* Securities Exchange Act Rel. No. 62930 (Sept. 17, 2010), 75 FR 58007 (Sept. 23, 2010) (SR–FINRA–2010–036).

[4] *See* Securities Exchange Act Rel. No. 64954 (Jul. 25, 2011), 76 FR 45631 (Jul. 29, 2011) (SR–FINRA–2010–036) (Notice of Filing Proposed Rule Change and Amendment No. 1 to Amend the Codes of Arbitration Procedure To Permit Arbitrators To Make Mid-Case Referrals) (hereinafter, the ''amended original proposal,'' to distinguish Amendment No.1 to the original proposal from the current proposal as amended by Partial Amendment No. 1. *See infra,* Section IV).

[5] *See* SR–FINRA–2010–036, Withdrawal of Proposed Rule Change, available at *http://www.finra.org/Industry/Regulation/RuleFilings/2010/P121722.*

[6] *See* Securities Exchange Act Rel. No. 71534 (Feb 12, 2014), 79 FR 9523 (Feb. 19, 2014) (SR–FINRA–2014–005) (''Notice of Filing'').

[7] *See* Letters from Gary Berne, Stolle Berne, dated Feb. 6, 2014 (''Berne''); Jason Doss, President, Public Investors Arbitration Bar Association, dated Feb. 26, 2014 (''PIABA''); Steven B. Caruso, Esq., Maddox Hargett & Caruso, P.C., dated Mar. 4, 2014 (''Caruso''); George H. Friedman, George H. Friedman Consulting, LLC, dated Mar. 5, 2014 (''Friedman''); William A. Jacobson, Clinical Professor of Law, Cornell Law School, and Director, Cornell Securities Law Clinic, dated Mar. 11, 2014 (''Cornell''); William D. Nelson, Lewis Roca Rothgerber LLP, dated Mar. 11, 2014 (''Nelson''); Nicole G. Iannarone, Esq., Assistant Clinical Professor, Georgia State University College of Law Investor Advocacy Clinic, dated Mar. 11, 2014 (''GSU''); Elissa Germaine, Supervising Attorney, and Michelle N. Robinson, Student Intern, Pace Investor Rights Clinic, Pace Law School, dated Mar. 12, 2014 (''Pace''); Ryan Jennings, Christian Corkery, and Daniel Coleman, Legal Interns, St. John's University School of Law Securities Arbitration Clinic, dated Mar. 12, 2014 (''St. John's''); and Richard P. Ryder, Esquire, President, Securities Arbitration Commentator, dated Mar. 12, 2014 (''Ryder''). Comment letters are available at *http://www.sec.gov.*

[8] *See* Letter from Mignon McLemore, Assistant General Counsel, FINRA Dispute Resolution, to Lourdes Gonzalez, Commission, dated May 19, 2014 (''FINRA Response''). The FINRA Response and the text of Partial Amendment No. 1 are available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA, and at the Commission's Public Reference Room. The FINRA Response is also available on the Commission's Web site at *http://www.sec.gov.*

[9] 15 U.S.C. 78s(b)(2)(B).

[10] *See* note 7, *supra.*

current proposal;[11] three of which support the goal of the current proposal, but seek some modifications;[12] and five of which oppose the current proposal.[13] Supporters believe that permitting arbitrators to make mid-case referrals would be beneficial for public investors[14] and help FINRA to detect and respond to ongoing fraud more quickly.[15] Other commenters, however, raised concerns regarding various aspects of the proposal. For example, some commenters suggested that a referral would lead to requests for recusals or challenges to awards because of perceived bias, and that investors would be unfairly burdened by disruptions in arbitration proceedings that might result from an arbitrator making a mid-case referral and receiving a recusal request.[16] Commenters suggested different approaches, including requiring FINRA or the party that requested recusal to compensate an investor whose case is disrupted by a mid-case referral that leads to one or more arbitrators recusing themselves,[17] explicitly excluding referrals as a basis for recusal of an arbitrator or panel,[18] and excluding referrals as a basis for challenging an award.[19] Some commenters suggested that the proposed rule would offer limited help to FINRA to uncover fraud[20] and would negatively affect investors if a mid-case referral could be used as grounds to request recusal of an arbitrator[21] or to challenge the arbitration award.[22] Other commenters suggested that the proposed rule would compromise the integrity of the arbitration process and arbitrator neutrality.[23] On May 19, 2014, FINRA responded to the comments[24] and filed Partial Amendment No. 1 to the proposed rule change. The Commission is considering FINRA's response and Partial Amendment No. 1, both of which are in the public comment file for this rule filing.

IV. escription of Partial Amendment No. 1

On May 19, 2014, FINRA proposed in Partial Amendment No. 1 that a party that wishes to request recusal of an arbitrator following a mid-case referral must do so within three days of being notified of the referral. FINRA believes that Partial Amendment No. 1 would prevent a party from receiving notice of the mid-case referral and reserving the right to strategically request recusal when it would best benefit that party.

V. Proceedings to Determine Whether to Approve or Disapprove SR–FINRA–2014–005 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether to approve or disapprove the proposed rule change.[25] Institution of such proceedings appears appropriate at this time in view of the legal and policy issues raised by the proposal. As noted above, institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to comment on the proposed rule change, as modified by Partial Amendment No. 1, and to provide the Commission with arguments to support the Commission's analysis as to whether to approve or disapprove the proposal, as amended.

Pursuant to Section 19(b)(2)(B) of the Act,[26] the Commission is providing notice of the grounds for disapproval under consideration. Section 15A(b)(6) of the Act[27] requires, among other things, that FINRA rules must be designed to 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. The Commission believes FINRA's proposed rule change, as amended, raises questions as to whether it is consistent with the requirements of Section 15A(b)(6) of the Act.

VI. Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect any issues raised by the proposed rule change, as modified by Partial Amendment No. 1. In particular, the Commission invites the written views of interested persons concerning (1) any issues related to the changes made to the proposal by Partial Amendment No. 1 and (2) whether the proposed rule change, as modified by Partial Amendment No. 1, is consistent with Section 15A(b)(6) of the Act. The Commission also requests comment on the issues raised by FINRA's response to comments.

In addition, the Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to questions raised by commenters about the potentially adverse consequences of the proposal for retail investors whose cases may be delayed or disrupted by a mid-case referral. These questions include:

- Would the proposal adversely affect retail investors? If so, how?
- Should FINRA propose a different standard for referral? If so, what standard(s) would be appropriate?
- Does Partial Amendment No. 1 ameliorate commenters' concerns that notifying parties of a mid-case referral could lead to adverse consequences to the claimant, including requests for recusal and challenges to an award? If not, should FINRA amend the proposal to preclude the Director, or anyone else, from notifying the parties of a referral?

Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4(g) promulgated under the Act, any request for an opportunity to make an oral presentation.[28]

Interested persons are invited to submit written data, views, and arguments by June 26, 2014 concerning whether the proposed rule change, as modified by Partial Amendment No. 1, should be approved or disapproved. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by July 11, 2014. Comments may be submitted by any of the following methods:

[11] *See* Caruso and Friedman.

[12] *See* GSU, PACE, and Cornell.

[13] *See* PIABA, Berne, Nelson, St. John's, and Ryder.

[14] *See* Caruso.

[15] *See* Friedman.

[16] *See* Berne, PIABA, GSU, PACE, Nelson, St. John's, and Ryder.

[17] *See* PIABA.

[18] *See* PACE and Cornell.

[19] *See* Cornell.

[20] *See* St. John's, Nelson, PIABA.

[21] *See* PACE, GSU, and Cornell.

[22] *See* Cornell.

[23] *See* Berne, Nelson, Ryder, and St. John's.

[24] *See* FINRA Response, note 8, *supra.*

[25] 15 U.S.C. 78s(b)(2). Section 19(b)(2)(B) of the Act provides that proceedings to determine whether to approve or disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. The time for conclusion of the proceedings may be extended for up to an additional 60 days if the Commission determines that a longer period is appropriate and publishes its reasons for so finding or if the self-regulatory organization that filed the proposed rule change consents to the extension.

[26] 15 U.S.C. 78s(b)(2)(B).

[27] 15 U.S.C. 78*o*–3(b)(6).

[28] *See* Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29, 89 Stat. 97 (1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See also* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

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–FINRA–2014–005 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2014–005. 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 principle office of FINRA. 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 publicly available.

All submissions should refer to File Number SR–FINRA–2014–005 and should be submitted on or before June 26, 2014. If comments are received, any rebuttal comments should be submitted by July 11, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–12075 Filed 5–23–14; 8:45 am]

BILLING CODE 8011–01–P

[29] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72192; File No. SR–NYSEARCA–2014–60]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .02 to Exchange Rule 6.72 in Order to Extend the Penny Pilot in Options Classes in Certain Issues Through December 31, 2014

May 20, 2014.

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 May 14, 2014, 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, II, and III 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 amend Commentary .02 to Exchange Rule 6.72 in order to extend the Penny Pilot in options classes in certain issues (''Pilot Program'') previously approved by the Securities and Exchange Commission (''Commission'') through December 31, 2014. 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.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange hereby proposes to amend Commentary .02 to Exchange Rule 6.72 to extend the time period of the Pilot Program,[4] which is currently scheduled to expire on June 30, 2014, through December 31, 2014. The Exchange also proposes that the dates to replace issues in the Pilot Program that have been delisted be revised to the second trading day following July 1, 2014.[5]

This filing does not propose any substantive changes to the Pilot Program: all classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [6] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5),[7] 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 mechanisms of a free and open market and a national market system. The Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options. The proposal to extend the Pilot Program is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating

[4] *See* Securities Exchange Act Release No. 71159 (December 20, 2013), 78 FR 71163 (December 27, 2013) (SR–NYSEArca-2013–145).

[5] The month immediately preceding a replacement class's addition to the Pilot Program (i.e., June) would not be used for purposes of the analysis for determining the replacement class. Thus, a replacement class to be added on the second trading day following July 1, 2014 would be identified based on The Option Clearing Corporation's trading volume data from December 1, 2013 through May 31, 2014. The Exchange will announce the replacement issues to the Exchange's membership through a Trader Update.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, by allowing the Exchange and the Commission additional time to analyze the impact of the Pilot Program while also allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

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. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot Program is an industry wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot Program will allow for continued competition between Exchange market participants trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9] 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[12] However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2014–60 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2014–60. 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 Section, 100 F Street NE., Washington, DC 20549 on business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–2014–60 and should be submitted on or before June 17, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–12071 Filed 5–23–14; 8:45 am]

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[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] 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 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. The Exchange has satisfied this pre-filing requirement.

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] 15 U.S.C. 78s(b)(2)(B).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72197; File No. SR–CBOE–2014–042]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Trading Space Allocation Procedures

May 20, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 12, 2014, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Exchange Commission (the ''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 proposes to adopt Rule 24.22 (Allocation of Trading Spaces) related to the allocation of newly-created trading spaces on the Exchange floor to Trading Permit Holders (''TPHs''). The text of the proposed rule change is provided below.

(additions are italicized; deletions are [bracketed])

* * * * *

Chicago Board Options Exchange, Incorporated Rules

* * * * *

Rule 24.21. Index Crowd Space Dispute Resolution Procedures

(a)—(m) No Change.

[. . . *Interpretations and Policies:*

.01 In connection with an expansion of the back area of the SPX trading crowd, CBOE may allocate the available trading spaces using a random lottery process or an order in time process. Under either of the processes that it chooses to utilize, CBOE would announce a deadline by which an approved individual CBOE Trading Permit Holder who would like to use the trading space can submit an indication of interest for one of the available trading spaces in the back area of the SPX trading crowd. Only those individuals who are approved Trading Permit Holders of CBOE would be eligible to submit an indication of interest, and the individual who would be using the trading space must be an effective Trading Permit Holder under CBOE Rule 3.10 (i.e., must have a Trading Permit) at the time of the random lottery process or the order in time process. After the deadline for indications of interest has passed, the available trading spaces in the back area of the SPX trading crowd would be allocated through a random lottery process or an order in time process.]

* * * * *

Rule 24.22. Allocation of Trading Spaces

(a) In connection with an expansion or other physical modification of an area of a trading crowd or creation of a new trading crowd, CBOE may allocate the available trading spaces using a random lottery process or an order in time process. Under either of the processes that it chooses to utilize, CBOE would announce a deadline by which an approved individual CBOE Trading Permit Holder who would like to use the trading space can submit an indication of interest for one of the available trading spaces. Only those individuals who are approved Trading Permit Holders of CBOE would be eligible to submit an indication of interest, and the individual who would be using the trading space must be an effective Trading Permit Holder under CBOE Rule 3.10 (i.e., must have a Trading Permit) at the time of the random lottery process or the order in time process. After the deadline for indications of interest has passed, the available trading spaces would be allocated through a random lottery process or an order in time process.

(b) CBOE may, in its discretion, determine the specific dimensions and parameters of each trading space in a trading crowd, provided that each Trading Permit Holder performing a specific trading function (i.e., Designated Primary Market-Maker (''DPM''), Lead Market-Maker (''LMM''), Market-Maker, or Floor Broker) in a trading crowd be allocated the same amount of space as each other Trading Permit Holder performing the same respective trading function in that trading crowd. Any determinations made by the Exchange pursuant to this Rule as to the specific dimensions and parameters of the trading spaces within a particular trading crowd shall be communicated in a Regulatory Circular.

* * * * *

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to allow the Exchange to utilize its current process and procedures for allocating new trading spaces in the back area of the SPX trading crowd to allocate new trading spaces that may be created in other areas of the SPX trading crowd and other trading crowds on the floor of the Exchange. In addition, the Exchange proposes to adopt a rule, which will allow the Exchange to determine the dimensions and parameters of each trading space in a particular trading crowd.

Newly-Created Trading Spaces

Historically, an order in time process has generally been applied to determine which individuals can use new trading spaces in a crowd located on the CBOE trading floor. In 2008, however, in connection with an expansion of the back area of the SPX trading crowd, the Exchange adopted Interpretation and Policy .01 to Rule 24.21, which provided that the Exchange may allocate newly-created trading spaces in the back area of the SPX trading crowd by either a random lottery process or an order in time process.[3] Thus, Interpretation and Policy .01 to Rule 24.21 was adopted in response to many new trading spaces in the back area of the SPX trading crowd becoming available due to expansion of the SPX trading crowd area. At the time, the Exchange believed that Interpretation and Policy .01 to Rule 24.21 would provide for the issuance of new trading spaces in an objective manner and consequently would provide for fair access to the Exchange.

The Exchange would like the ability to utilize the process and procedures set forth in Interpretation and Policy .01 to Rule 24.21 to allocate other trading spaces that may be created on the Exchange floor due to expansion or other physical modifications to areas on the trading floor besides the ''back area of the SPX trading crowd.'' From time to time, the Exchange may expand, renovate, or make physical changes to trading crowd areas on the Exchange floor besides the area in the back of the SPX trading crowd. Although the Exchange's current rules provide a process and procedures for allocating newly-created trading spaces on the floor of the Exchange, they apply only

[3] *See* Release No. 34–58978; File No. SR–CBOE–2008–116; 73 FR 229, 72089–91 (Nov. 26, 2008).

to trading spaces located in the ''back area of the SPX trading crowd.'' The Exchange would like the ability to allocate such other newly-created trading spaces in other areas of the Exchange floor using the process set forth in Interpretation and Policy .01 to Rule 24.21 when the Exchange deems that process would be an effective and orderly way of allocating the available trading spaces.

Given the Exchange's desire to extend the procedures set forth in Interpretation and Policy .01 to Rule 24.21 beyond its current scope to apply to trading crowd areas across the floor of the Exchange, the Exchange believes that the process and procedures should be moved to another rule as opposed to an interpretation and policy under Rule 24.21. The Exchange adopted Interpretation and Policy .01 to Rule 24.21 in connection with expansion of the back area of the SPX trading area. Thus, the Exchange placed the trading space allocation procedure under Rule 24.21 (Index Crowd Space Dispute Resolution Procedures). The Exchange believes that the broader policy should be placed under a separate rule and thus, proposes to adopt new Rule 24.22 (Allocation of Trading Spaces) for this procedure.

Trading Space Dimensions

The Exchange also proposes to adopt Rule 24.22(b), which will allow the Exchange to determine the specific dimensions and parameters of each ''trading space'' in a particular trading crowd when the Exchange deems necessary. Certain trading crowds on the floor of the Exchange continue to be densely populated by many TPHs. The proposed rule codifies the Exchange's policies with respect to TPHs' use of the Exchange's facilities. Specifically, the rule sets forth the process that the Exchange may use to allocate trading spaces to TPHs in a fair, equal and non-discriminatory manner. The Exchange believes that Rule 24.22(b) will contribute to the continued maintenance of fair and orderly markets.

The proposed rule provides that the Exchange may, in its discretion, determine the dimensions and parameters of each trading space in a trading crowd, provided that each TPH performing a specific trading function (i.e., Designated Primary Market-Maker (''DPM''), Lead Market-Maker (''LMM''), Market-Maker, or Floor Broker) in a trading crowd be allocated the same amount of space as each other Trading Permit Holder performing the same respective trading function in that trading crowd. The proposed rule allows the Exchange to apportion different amounts of space to TPHs in a trading crowd based on their differing functions because TPHs within a trading crowd may have different technological necessities that may require more or less space. For example, a Floor Broker may have a need for a PAR workstation or order handling device. The proposed rule allows the Exchange the flexibility to apportion trading space based on the functions of the various TPHs in a trading crowd provided that all TPHs performing the same trading function in the crowd are allocated an equal amount of space in the particular trading crowd. Because not all trading crowds are densely populated, such rules are not necessary in all trading crowds. Accordingly, the Exchange proposes flexibility in the rule so that the Exchange can employ these rules when and where it determines they are needed.

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).[4] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b) (5)[5] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that these procedures will contribute to the maintenance of fair and orderly markets by codifying a fair, objective, and nondiscriminatory procedure for allocating trading spaces that may be created in densely populated trading crowds on the floor of the Exchange. The Exchange believes that the proposed rule change is nondiscriminatory because any newly-created trading spaces on the floor of the Exchange that would be allocated under this process would be made equally available to all TPHs who wish to participate in the allocation process. In addition, the Exchange believes that adopting rules to ensure that all TPHs within densely populated trading crowds are afforded specific, defined, and equal trading spaces in terms of dimensions and parameters will protect TPHs against unfair discrimination on the trading floor of the Exchange.

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. Rather, the proposed rule will contribute to more robust and competitive markets by providing TPHs with trading spaces that maximize sightlines between potential counterparties and allow the Exchange to utilize its resources in an efficient manner to promote trading. The rule will also encourage greater participation and competition in the markets by allowing the Exchange to allocate newly-created trading spaces on the Exchange floor in an orderly fashion to TPHs who want to occupy those spaces. Furthermore, the proposed rule will remove burdens on competition by ensuring that all TPHs performing the same trading functions in densely populated trading crowds are afforded trading spaces of equal size and dimensions.

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

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[7] and Rule 19b–4(f)(6)[8] thereunder.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] *Id.*

[7] 15 U.S.C. 78s(b)(3)(a)(ii).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml*); or
- Send an Email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2014–042 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2014–042. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions.

You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2014–042 and should be submitted on or before June 17, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

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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.

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72195; File No. SR–CBOE–2014–044]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Regulatory Cooperation

May 20, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on May 8, 2014, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') proposes to amend its rules related to regulatory cooperation. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 15.9(a) to make explicit the Exchange's authority to enter into information sharing agreements with the Public Company Accounting Oversight Board (the ''PCAOB'').

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the ''Dodd-Frank Act'')[3] amended the Sarbanes-Oxley Act of 2002 (''Sarbanes-Oxley'')[4] to give the PCAOB authority to oversee the audits of brokers and dealers registered with the Securities and Exchange Commission (the ''SEC'' or the ''Commission''). Among other things, Section 104(a)(2) of Sarbanes-Oxley authorizes the PCAOB to establish an inspection program by rule. In August 2011, the Commission approved Temporary Rule 4020T of the PCAOB to implement this new authority.[5] By granting the PCAOB regulatory authority over the audits of registered brokers and dealers, Congress granted the PCAOB authority to receive financial data and related underlying data about registered broker-dealers, such as that which would be provided by the Exchange under the proposed rule change.

The Exchange has entered into an information sharing agreement with the PCAOB. The Exchange intends to share, for example, Trading Permit Holder FOCUS Report[6] data with the PCAOB.

[3] Public Law 111–203, 124 Stat 1376 (July 21, 2010).

[4] Public Law 107–204, 116 Stat. 745.

[5] *See* Securities Exchange Act Release No. 65163 (August 18, 2011), 76 FR 52996 (August 24, 2011) (approving PCAOB temporary rule for an interim program of inspections related to registered public accounting firm audits of broker-dealers).

[6] The ''FOCUS Report (Form X–17A–5) constitutes the basic financial and operational report required of those brokers or dealers subject

Continued

Under the information sharing agreement, the PCAOB has agreed to treat all information provided to it by the Exchange as confidential and to assert such confidentiality and other applicable privileges in response to requests for such information from third parties.[7] Under the agreement shared information may be used by the recipient solely to fulfill its regulatory duties and purposes. The proposed rule makes explicit the Exchange's authority to enter into an agreement under such terms.

As discussed above, Congress has expressly granted the PCAOB authority to inspect broker-dealers and the Commission has approved the PCAOB's interim rule to implement that authority. The Exchange believes sharing information with the PCAOB, due to its audit oversight role over broker-dealers, including CBOE Trading Permit Holders, will assist the PCAOB in performing the oversight intended by Congress, under terms approved by the Commission.[8] By explicitly permitting the Exchange to share confidential information with the PCAOB for the purposes stated in Rule 15.9, the proposed rule change will therefore make express the Exchange's authority to assist the PCAOB to fulfill its Congressional mandate, under terms approved by the Commission. Further, the proposed rule change will notify Trading Permit Holders of the Exchange's authority to enter into such information sharing agreements with the PCAOB.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[10] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[11] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed rule change is in the public's interest as it will explicitly authorize the Exchange to enter into an information sharing agreement with the PCAOB, thereby facilitating the sharing of information with the PCAOB. The ability to obtain information from the Exchange will better enable the PCAOB to perform its functions related to broker-dealer audit oversight. Better oversight of registered broker-dealer audits is in the public's interest and will serve to prevent fraudulent and manipulative acts and practices. Additionally, one of the essential purposes of the proposed rule change is to foster cooperation and coordination with persons engaged in regulating and processing information related to transactions in securities.

The Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,[12] which provides that the Exchange 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 Trading Permit Holders and persons associated with its Trading Permit Holders with the Act, the rules and regulations thereunder, and the rules of the Exchange. The PCAOB has agreed to reciprocate in sharing information of regulatory interest to the Exchange, which will provide the Exchange with more tools and information to enforce compliance by Trading Permit Holders and persons associated with Trading Permit Holders. As further evidence of its intent to reciprocate in sharing information with the Exchange, the PCAOB has filed a proposed change to its Rule 5108 to ''conform to the Dodd-Frank amendments that permit the [PCAOB] to share confidential information with 'a self-regulatory organization, with respect to an audit report for a broker or dealer that is under the jurisdiction of such self-regulatory organization.''' [13]

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 proposed rule change is not designed to address any competitive issues but rather is designed to facilitate the sharing of information between PCAOB and the Exchange to better enable each to fulfill its respective regulatory duties and responsibilities.

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

Because the foregoing rule 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 if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,[14] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16] 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

to any minimum net capital requirement set forth in Rule 15c3–1.'' General Instructions to FOCUS Report Form X–17A–5 Part IIA, OMB Number 3235–0123, available at: *http://www.sec.gov/about/forms/formx-17a-5_2a.pdf.*

[7] The recipient of shared information under the agreement may provide shared information to the SEC, if the information is accompanied by a Freedom of Information Act confidential treatment request, and to other self-regulatory or regulatory organizations pursuant to information sharing agreements that require the organizations to maintain the confidentiality of the shared information.

[8] *See supra,* note 5. The Exchange notes that if Temporary Rule 4020T of the PCAOB is not renewed, the Exchange would no longer have authority to share information with PCAOB pursuant to CBOE Rule 15.9(a).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *Id.*

[12] 15 U.S.C. 78f(b)(1).

[13] *See* Securities Exchange Act Release No. 34–71237 (January 6, 2014), 79 FR 6272 (February 3, 2014) (notice of filing of proposed rules on amendments to conform the PCAOB's rules and forms to the Dodd-Frank Act and make certain updates and clarifications). The Commission notes that it has since taken action on the PCAOB proposal. *See* Securities Exchange Act Release No. 72087 (May 2, 2014), 79 FR 26491 (May 8, 2014) (File No. PCAOB–2013–03) (notice of filing of Amendment No. 1, and order granting accelerated approval).

[14] The Exchange has fulfilled this requirement.

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

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–CBOE–2014–044 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2014–044. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2014–044 and should be submitted on or before June 17, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–12074 Filed 5–23–14; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72190; File No. SR–NYSEMKT–2014–47]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .02 to NYSE Amex Options Rule 960NY in Order to Extend the Penny Pilot in Options Classes in Certain Issues Through December 31, 2014

May 20, 2014.

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 May 14, 2014, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 amend Commentary .02 to NYSE Amex Options Rule 960NY in order to extend the Penny Pilot in options classes in certain issues (''Pilot Program'') previously approved by the Securities and Exchange Commission (''Commission'') through December 31, 2014. 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 hereby proposes to amend Commentary .02 to Exchange Rule 960NY to extend the time period of the Pilot Program,[4] which is currently scheduled to expire on June 30, 2014, through December 31, 2014. The Exchange also proposes that the dates to replace issues in the Pilot Program that have been delisted be revised to the second trading day following July 1, 2014.[5]

This filing does not propose any substantive changes to the Pilot Program: all classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[6] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5),[7] 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 mechanisms of a free and open market and a national market system. The

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 71163 (December 20, 2013), 78 FR 79049 (December 27, 2013) (SR–NYSEMKT–2013–104).

[5] The month immediately preceding a replacement class's addition to the Pilot Program (i.e., June) would not be used for purposes of the analysis for determining the replacement class. Thus, a replacement class to be added on the second trading day following July 1, 2014 would be identified based on The Option Clearing Corporation's trading volume data from December 1, 2013 through May 31, 2014. The Exchange will announce the replacement issues to the Exchange's membership through a Trader Update.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options. The proposal to extend the Pilot Program is designed 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 mechanisms of a free and open market and a national market system, by allowing the Exchange and the Commission additional time to analyze the impact of the Pilot Program while also allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

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. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot Program is an industry wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot Program will allow for continued competition between NYSE Amex Options market participants trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot Program.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9] 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[12] However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2014–47 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2014–47. 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 Section, 100 F Street NE., Washington, DC 20549 on business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–NYSEMKT–2014–47 and should be submitted on or before June 17, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–12069 Filed 5–23–14; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] 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 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. The Exchange has satisfied this pre-filing requirement.

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] 15 U.S.C. 78s(b)(2)(B).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72193; File No. SR–FINRA–2014–006]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change Relating to per Share Estimated Valuations for Unlisted DPP and REIT Securities

May 20, 2014.

I. Introduction

On January 31, 2014, the Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend provisions in the NASD and FINRA rulebooks addressing per share estimated valuations for unlisted direct participation program (''DPP'') and real estate investment trust (''REIT'') securities. The proposed rule change was published for comment in the **Federal Register** on February 19, 2014.[3] The Commission received eighteen (18) comment letters in response to the proposed rule change.[4] On March 14, 2014, FINRA extended the time period in which the Commission must approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to May 20, 2014. The Commission is publishing this order to institute proceedings pursuant to Section 19(b)(2)(B) of the Act [5] to determine whether to approve or disapprove the proposed rule change.

Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to the proposed rule change, nor does it mean that the Commission will ultimately disapprove the proposed rule change. Rather, as discussed below, the Commission seeks additional input from interested parties on the issues presented by the proposal.

II. Description of the Proposed Rule Change

NASD Rule 2340 (Customer Account Statements)

NASD Rule 2340 generally requires that general securities members [6] provide periodic account statements to customers, on at least a quarterly basis, containing a description of any securities positions, money balances or account activity since the last statement. As further described in the Notice of Filing, FINRA proposes to amend NASD Rule 2340 to eliminate the requirement contained in paragraph (c) that a general securities member disclose in a customer's account statement a per share estimated value of the customer's unlisted DPP or REIT securities holdings, provided that such a value is reflected in the DPP's or REIT's annual report. Thus, under the proposal, a general securities member would no longer be required to include a per share estimated value for an unlisted DPP or REIT security in a customer account statement, but any member may do so if the value has been developed in a manner reasonably designed to ensure that it is reliable, the member has no reason to believe that it is unreliable, and the account statement includes certain disclosures. FINRA proposes two methodologies under which an estimated value would be presumed to have been developed in a manner reasonably designed to ensure that it is reliable: (1) The net investment methodology; and (2) the independent valuation methodology.

The net investment methodology would reflect the ''net investment'' disclosed in the issuer's most recent periodic or current report. The ''net investment'' would be based on the ''amount available for investment'' percentage in the ''Estimated Use of Proceeds'' section of the offering prospectus or, where ''amount available for investment'' is not provided, another equivalent disclosure.[7] The per share estimated value also must deduct the portion, if any, of cumulative distributions per share that exceeded Generally Accepted Accounting Principles (''GAAP'') net income per share for the corresponding period, after adding back depreciation and amortization or depletion expenses. Moreover, the deduction for each distribution would be limited to the full amount of the distribution.

The independent valuation methodology would consist of the most recent valuation disclosed in the issuer's periodic or current reports. It would also require that a third-party valuation expert or experts determine, or provide material assistance in the process of determining, the valuation.[8]

FINRA Rule 2310 (Direct Participation Programs)

FINRA Rule 2310 generally provides that no member is permitted to participate in a public offering of DPP or REIT securities unless the general partner or sponsor will disclose in each annual report distributed to investors

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Release No. 34–71545 (Feb. 12, 2014), 79 FR 9535 (Feb. 19, 2014) (Notice of Filing of Proposed Rule Change Relating to Per Share Estimated Valuations for Unlisted DPP and REIT Securities) (''Notice of Filing''). The comment period closed on March 12, 2014.

[4] Letters to Elizabeth Murphy, Secretary, SEC, from Mark Goldberg, Chairman, Investment Program Association, dated February 5, 2014; David Bellaire, Executive Vice President and General Counsel, Financial Services Institute, dated February 5, 2014; Mark Kosanke, President, Real Estate Investment Securities Association, dated February 11, 2014; Steven Wechsler, President and CEO, National Association of Real Estate Investment Trusts, dated February 14, 2014; Kirk Montgomery, Head of Regulatory Affairs, CNL Financial Group, LLC, dated March 12, 2014; Dechert LLP, dated March 12, 2014 (''Dechert Letter''); Jeff Johnson, CEO, Dividend Capital Diversified Property Fund Inc., dated February 28, 2014; David Bellaire, Executive Vice President and General Counsel, Financial Services Institute, dated March 12, 2014 (''FSI Letter''); Mark Goldberg, Chairman, Investment Program Association, dated March 12, 2014 (''IPA Letter''); Michael Crimmins, CEO and Managing Director, KBS Capital Markets Group, dated February 28, 2014; Steve Morrison, Senior Vice President and Associate Counsel, LPL Financial, dated March 12, 2014; Steven Wechsler, President and CEO, National Association of Real Estate Investment Trusts, dated March 12, 2014 (''NAREIT Letter''); Martel Day, Principal, NLR Advisory Services, LLC, dated March 12, 2014; Scott Ilgerfritz, Immediate Past-President, Public Investors Arbitration Bar Association, dated March 11, 2014; Mark Kosanke, President, Real Estate Investment Securities Association, dated March 12, 2014 (''REISA Letter''); Thomas Price, Managing Director, Securities Industry and Financial Markets Association, dated March 12, 2014; David Hirschmann, President and CEO, U.S. Chamber of Commerce, Center for Capital Markets Competitiveness, dated March 12, 2014 (''Chamber of Commerce Letter''); Jacob Frydman, Chairman and CEO, United Realty Trust Incorporated, dated March 12, 2014.

[5] 15 U.S.C. 78s(b)(2)(B).

[6] NASD Rule 2340(d)(2) defines ''general securities member'' as any member that conducts a general securities business and is required to calculate its net capital pursuant to the provisions of Rule 15c3–1(a) under the Act. A member that does not carry customer accounts and does not hold customer funds or securities is exempt from the definition.

[7] FINRA states that this disclosure is typically included in the prospectus for REIT offerings and is described in the SEC's Securities Act Industry Guide 5 (Preparation of registration statements relating to interests in real estate limited partnerships). FINRA states that it would permit the use of equivalent disclosure in DPP offerings if the disclosure provides a percentage amount available for investment by the issuer after deduction of organizational and offering expenses.

[8] According to FINRA, valuation definitions and methodologies for real estate investments generally use GAAP (ASC 820) as a standard. Performance reporting for institutional real estate investments also relies on GAAP as its foundational basis. *See* Investment Program Association Practice Guidelines 2013–01, entitled ''Valuations of Publicly Registered Non-Listed REITs'' (Apr. 29, 2013).

pursuant to Section 13(a) of the Act: (1) A per share estimated value of the securities; (2) the method by which the estimated value was developed; and (3) the date of the data used to develop the estimated value.[9]

As further described in the Notice of Filing, FINRA proposes to amend FINRA Rule 2310 to provide that a member may not participate in a public offering of a DPP or REIT security unless: (A) A per share estimated value is calculated on a periodic basis in accordance with a methodology disclosed in the prospectus, or (B) the general partner or sponsor has agreed to disclose in the first periodic report filed pursuant to Section 13(a) or 15(d) of the Act after the second anniversary of breaking escrow: (1) A per share estimated value of the DPP or REIT calculated by, or with the material assistance of, a third-party valuation expert; (2) an explanation of the method by which the per share estimated value was developed; (3) the date of the valuation; and (4) the identity of the third-party valuation expert used. In addition, the general partner or sponsor of the DPP or REIT must have agreed to ensure that the valuation is conducted at least once every two years; is derived from a methodology that conforms to standard industry practice; and is accompanied by a written opinion to the general partner or sponsor of the DPP or REIT that explains the scope of the review, the methodology used to develop the valuation, and the basis for the per share estimated value.

III. Summary of Comments

While the commenters to the Notice of Filing generally expressed support for the goals of the proposed rule change, they raised a number of concerns regarding various aspects of the proposal. For instance, several commenters opposed the deduction of offering and organizational costs from the share price under the net investment methodology, citing difficulties in accurately determining those expenses.[10] A number of commenters also opposed the net investment methodology's deduction of ''over-distributions'' from the share value, arguing, among other things, that such a requirement was unprecedented and would have severe implementation challenges, as well as unintended negative consequences, such as actually reducing the level of investor understanding regarding the sources of distributions.[11]

Many commenters opposed the elimination of any requirement to include a per share valuation of unlisted DPP or REIT securities in customer account statements. Commenters stated that FINRA, in its proposal, put forth two valuation methodologies that it deems presumptively reliable, and allowing an unlisted DPP or REIT security to nevertheless be shown as ''not priced'' in customer account statements would deprive investors of useful information and be viewed as a retreat from a policy of transparency.[12]

In addition, some commenters raised concerns about the proposed rule change's anticipated implementation period.[13] These commenters favored a longer period in order to minimize investor confusion and avoid market disruption as the industry develops the appropriate controls and procedures to comply with the rule.

Commenters further questioned, among other things, the timing of the initiation of valuations for unlisted DPP and REIT securities under FINRA Rule 2310;[14] the frequency with which valuations are estimated under FINRA Rule 2310;[15] the effect of the proposed rule change on business development companies and daily NAV REITs;[16] and the lack of an economic analysis.[17]

On May 16, 2014, FINRA noted that it is still considering the points raised by commenters and anticipates filing an official response in the near future.[18]

IV. Proceedings To Determine Whether To Approve or Disapprove SR–FINRA–2014–006 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether the proposed rule change should be approved or disapproved.[19] Institution of such proceedings appears appropriate at this time in view of the legal and policy issues raised by the proposal. As noted above, institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to comment on the issues presented by the proposed rule change and provide the Commission with arguments to support the Commission's analysis as to whether to approve or disapprove the proposal.

Pursuant to Section 19(b)(2)(B) of the Act,[20] the Commission is providing notice of the grounds for disapproval under consideration. In particular, Section 15A(b)(6) of the Act[21] requires, among other things, that FINRA rules must be designed to 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. In addition, Section 15A(b)(9) of the Act[22] requires that FINRA rules not impose any unnecessary or inappropriate burden on competition.

The Commission believes FINRA's proposed rule change raises questions as to whether it is consistent with the requirements of Section 15A(b)(6) and 15A(b)(9) of the Act.

V. Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues raised by the proposed rule change. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is inconsistent with Sections 15A(b)(6) and 15A(b)(9), or any other provision, of the Act, or the rules and regulations thereunder.

Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[23] Interested persons

[9] FINRA Rule 2310(b)(5) (Valuation for Customer Account Statements).

[10] *See, e.g.,* REISA Letter.

[11] *See, e.g.,* IPA Letter.

[12] *Id.*

[13] *See, e.g.,* NAREIT Letter.

[14] *See, e.g.,* IPA Letter.

[15] *See, e.g.,* FSI Letter.

[16] *See, e.g.,* Dechert Letter.

[17] *See, e.g.,* Chamber of Commerce Letter.

[18] *See* Letter from Matthew Vitek, Assistant General Counsel, FINRA, to Kevin O'Neill, Deputy Secretary, SEC, dated May 16, 2014. Any FINRA response will be included in the comment file for this rule filing.

[19] 15 U.S.C. 78s(b)(2). Section 19(b)(2)(B) of the Act provides that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. The time for conclusion of the proceedings may be extended for up to an additional 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding or if the self-regulatory organization consents to the extension.

[20] 15 U.S.C. 78s(b)(2)(B).

[21] 15 U.S.C. 78*o*–3(b)(6).

[22] 15 U.S.C. 78*o*–3(b)(9).

[23] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29, 89 Stat. 97 (1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking,

are invited to submit written data, views, and arguments by June 26, 2014 concerning whether the proposed rule change should be approved or disapproved. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by July 11, 2014. 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–FINRA–2014–006 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2014–006. 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 principle office of FINRA. 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 publicly available.

All submissions should refer to File Number SR–FINRA–2014–006 and should be submitted on or before July 11, 2014. If comments are received, any rebuttal comments should be submitted by July 11, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–12072 Filed 5–23–14; 8:45 am]

BILLING CODE 8011–01–P

Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[24] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72191; File No. SR–FINRA–2014–024]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Definition of ''Reporting Member'' in the Order Audit Trail System Rules

May 20, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 12, 2014, Financial Industry Regulatory Authority, Inc. (''FINRA'') 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 FINRA. 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

FINRA is proposing to amend FINRA Rule 7410 to permit members to route orders to two Reporting Members for a defined period of time provided certain conditions are met without losing the exception from the definition of ''Reporting Member'' in the Order Audit Trail System (''OATS'') rules.

Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

7000. CLEARING, TRANSACTION AND ORDER DATA REQUIREMENTS, AND FACILITY CHARGES

* * * * *

7400. ORDER AUDIT TRAIL SYSTEM

7410. Definitions

(a) through (n) No Change.

(o) ''Reporting Member'' shall mean a member that receives or originates an order and has an obligation to record and report information under Rules 7440 and 7450.

(1) A member shall not be considered a Reporting Member in connection with an order, if the following conditions are met:

(A) the member engages in a non-discretionary order routing process, pursuant to which it immediately routes, by electronic or other means, all of its orders to*:*

(i) a single receiving Reporting Member; *or*

(ii) two receiving Reporting Members, provided:

(a) orders are routed by the member to each receiving Reporting Member on a pre-determined schedule approved by FINRA; and

(b) orders are routed to two receiving Reporting Members pursuant to the schedule for a time period not to exceed one year; and

(B) the member does not direct and does not maintain control over subsequent routing or execution by the receiving Reporting Member*(s);*

(C) the receiving Reporting Member*(s)* record*(s)* and report*(s)* all information required under Rules 7440 and 7450 with respect to the order; and

(D) the member has a written agreement with the receiving Reporting Member*(s)* specifying the respective functions and responsibilities of each party to effect full compliance with the requirements of Rules 7440 and 7450.

(2) 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, FINRA 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. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. *Purpose*

FINRA Rules 7410 through 7470 (the ''OATS Rules'') impose obligations on FINRA members to record in electronic form and report to FINRA on a daily basis certain information with respect to orders originated, received, transmitted, modified, canceled, or executed by members relating to OTC equity securities and NMS stocks. OATS captures this order information and integrates it with quote and transaction information to create a time-sequenced record of orders, quotes, and transactions. This information is then used by FINRA staff to conduct surveillance and investigations of member firms for potential violations of FINRA rules and federal securities laws.

In general, the OATS Rules apply to any FINRA member that is a ''Reporting Member,'' which is defined in Rule 7410 as ''a member that receives or originates an order and has an obligation to record and report information under Rules 7440 and 7450.'' [3] Under Rule 7410, a member is not considered a Reporting Member in connection with an order if the following four criteria are met:

- The member engages in a non-discretionary order routing process, pursuant to which it immediately routes, by electronic or other means, all of its orders to a single receiving Reporting Member;
- The member does not direct and does not maintain control over subsequent routing or execution by the receiving Reporting Member;
- The receiving Reporting Member records and reports all information required under Rules 7440 and 7450 with respect to the order; and
- The member has a written agreement with the receiving Reporting Member specifying the respective functions and responsibilities of each party to effect full compliance with the requirements of Rules 7440 and 7450.[4]

One of the current criteria that must be met for a member to take advantage of the exception from the definition of Reporting Member is that the member immediately route orders on a non-discretionary basis to a single receiving Reporting Member. Thus, members will not be excepted from the definition if they route orders to more than one receiving firm. This exception is generally, though not exclusively, relied upon by introducing firms that route all of their orders to a single clearing firm that reports the introducing firms' orders on their behalf. As FINRA noted when it adopted the exception, it is intended largely to avoid duplicative reporting of the same order information by two different firms and to avoid imposing unnecessary compliance costs and burdens on firms that route all of their orders immediately to another single firm that reports the information to OATS.[5]

The proposed rule change would permit a member to continue to rely on the exception from the definition of Reporting Member if, for a limited time, the member routes orders to two different Reporting Members, provided certain criteria are met. Although not limited to this purpose, the proposed rule change is intended to accommodate introducing firms that transition to a different clearing firm over time and, during the transition, route their orders to two different clearing firms, both of which report the introducing firm's order information to OATS during the transition period. Without the proposed rule change, introducing firms would be subject to the OATS Rules during the transition period, which is generally less than one year. FINRA believes it is unnecessarily burdensome to require introducing firms to report order information directly to OATS under these circumstances when the transition period is less than one year. FINRA notes that the concern over duplicative reporting is similarly present in the case where all of a firm's order information is being reported by another Reporting Member even if, for a limited period of time, order information is reported by two separate Reporting Members. Further, FINRA believes it would be burdensome for a member that meets the exception to Reporting Member to have to commence OATS reporting for a limited period, to only later meet the terms of the exception again.

Under the proposed rule change, a member would remain excepted from the definition of Reporting Member during a transition period to a new clearing firm when it routes to both its former and new clearing firm provided certain additional criteria are met in addition to the existing criteria necessary to meet the exception. Specifically, under the terms of the proposed rule change: (i) All orders must be routed by the member to each receiving Reporting Member on a pre-determined schedule approved by FINRA; and (ii) the orders may only be routed to two receiving Reporting Members pursuant to the schedule for a time period not to exceed one year. In addition to these additional criteria, members must continue to meet the existing criteria in the rule.

Under the proposed rule change, FINRA must be notified in advance and must approve the schedule for the transition to a new clearing firm.[6] The time period for the transition set out in the schedule may not exceed one year. This requirement is necessary to ensure that FINRA staff is aware of the transition schedule and can ensure that surveillance using OATS data is conducted correctly and that order information is properly identified. In addition, FINRA believes that the ability to rely on the exception should be limited to transition periods of one year or less. FINRA believes that members otherwise excepted from the definition of Reporting Member should not be required to incur the costs associated with OATS reporting for standard transitions between clearing firms; however, FINRA does not believe it is appropriate to permit members to take advantage of the exception and avoid directly reporting to OATS for lengthy periods of time (i.e., in excess of one year) where they route orders to multiple firms.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so FINRA can implement the proposed rule change immediately.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[7] which requires, among other things, that FINRA rules must be designed to 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. FINRA believes that permitting members that are excepted from the definition of ''Reporting Member'' to continue to rely on the exception during a transition to another clearing firm will avoid duplicative order information being reported to

[3] Rule 7410(o).

[4] Rule 7410(o)(1). Rule 7410 also includes an exception from Reporting Member for certain firms who waived into FINRA membership pursuant to NASD IM–1013–1 or NASD IM–1013–2. *See* Rule 7410(o)(2).

[5] *See* Securities Exchange Act Release No. 52521 (September 28, 2005), 70 FR 57909 (October 4, 2005) (Order Approving SR–NASD–2000–23).

[6] FINRA anticipates that firms would notify FINRA by contacting OATS Operations staff by telephone and then supplying FINRA with a copy of the transition schedule prepared by the firm.

[7] 15 U.S.C. 78*o*-3(b)(6).

OATS and will avoid the imposition of unnecessary compliance costs on introducing firms.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA believes the proposed rule change will reduce the potential burden of reporting to OATS for a limited time for a member that does not meet the current exception to Reporting Member only to later meet the terms of the exception again. FINRA believes that, in the limited circumstances in which the proposed rule change will apply, members should not be compelled to undertake the time and costs associated with OATS reporting when FINRA is able to ensure the accuracy and completeness of OATS information when the terms in the proposed rule change are met.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [8] and Rule 19b-4(f)(6) thereunder.[9]

FINRA has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow members that currently rely on the exception from being considered a Reporting Member to continue to do so for a limited period of time while they change clearing firms, provided the criteria in the proposed rule change are met, thus eliminating the burden of reporting directly to OATS for such members and maintaining the integrity of the OATS data. For this reason, the Commission designates the proposed rule change to be operative upon filing.[10]

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–FINRA–2014–024 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2014–024. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2014–024 and should be submitted on or before June 17, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–12070 Filed 5–23–14; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), FINRA provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[10] 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).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

International Development and Environmental Holdings; Order of Suspension of Trading

May 22, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of International Development and Environmental Holdings (''IDEH'') because it has not filed a periodic report since it filed its Form 10–Q for the period ending June 30, 2011, filed on August 22, 2011.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of IDEH. Therefore, it is ordered, pursuant to Section 12(k) of the Exchange Act, that trading in the securities of IDEH is suspended for the period from 9:30 a.m. E.D.T. on May 22, 2014, through 11:59 p.m. E.D.T. on June 5, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–12255 Filed 5–22–14; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Angel Acquisition Corp. n/k/a Biogeron, Inc.;Order of Suspension of Trading

May 22, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Angel Acquisition, Corp. n/k/a BioGeron, Inc. (''BioGeron'') because it has not filed a periodic report since it filed its Form 10–Q for the period ending September 30, 2011, filed on November 14, 2011.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of BioGeron. Therefore, it is ordered, pursuant to Section 12(k) of the Exchange Act, that trading in the securities of BioGeron is suspended for the period from 9:30 a.m. E.D.T. on May 22, 2014, through 11:59 p.m. E.D.T. on June 5, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–12248 Filed 5–22–14; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

First Power & Light, Inc.,: n/k/a Volt Solar Systems, Inc; Order of Suspension of Trading

May 22, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of First Power & Light, Inc. n/k/a Volt Solar Systems, Inc. (''VOLT'') because of questions concerning the adequacy and accuracy of publicly available information about VOLT, including, among other things, its corporate transactions, the control of the company, and trading in its securities.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. E.D.T. on May 22, 2014, through 11:59 p.m. E.D.T. on June 5, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–12247 Filed 5–22–14; 11:15 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request extension, without change, of the currently approved information collection described below from the Office of Management and Budget (OMB). The Paperwork Reduction Act (PRA) of 1995, 44 U.S.C Chapter 35 requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with such requirement.

DATES: Submit comments on or before July 28, 2014.

ADDRESSES: Send all comments to Nicholas Walker, Management Analyst, Office of Entrepreneurial Development, Small Business Administration, 409 3rd Street SW., Room 6043, Washington, DC 20416. Comments must be received by the deadline in order to be considered.

FOR FURTHER INFORMATION CONTACT: Nicholas Walker, Management Analyst, 202–205–6637 *edmis@sba.gov* or Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@sba.gov*.

SUPPLEMENTARY INFORMATION: This information collection, which consists of the Counseling Information Form and the Management Training Report, is used by SBA's Office of Entrepreneurial Development (OED) to collect information from the Agency's resource partners, including: Small Business Development Centers, SCORE, and Women's Business Centers, on the training and counseling provided to existing or potential small business owners through SBA funded grants, cooperative agreements or contracts. The information may be uploaded to SBA through the Entrepreneurial Development Management Information System (EDMIS). OED uses the information to facilitate its management and oversight of each OED program or activity funded by SBA and to assist in evaluating the impact of each program or activity on the small business community. SBA is not proposing any changes to this collection of information at this time, rather, as stated above, the pending request will seek OMB's approval to continue the use of the existing approved information collection beyond the current expiration date of September 30, 2014. Implementation of the changes proposed in the **Federal Register** notice published on May 3, 2013 at 78 FR 26099 has been postponed until a later date.

Solicitation of Public Comments

SBA is requesting comments on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

Title: Entrepreneurial Development Management Information System (EDMIS) Counseling Information Form & Management Training Report.

OMB Control Number: 3245–0324.

Description of Respondents: SBA resource partners, including Small Business Development Centers (SBDCs), Women's Business Centers (WBCs), and SCORE, Form Numbers: Form 641 (Counseling Information Form) and Form 888 (Management Training Report).

Estimated Annual Responses: 1.4 million.

Estimated Annual Hour Burden: 160,000.

Curtis Rich,

Management Analyst.

[FR Doc. 2014–12123 Filed 5–23–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 13999 and # 14000]

Texas Disaster # TX–00433

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of TEXAS dated 05/20/2014.

Incident: Wildfires.

Incident Period: 05/11/2014 and continuing..

Effective Date: 05/20/2014.

Physical Loan Application Deadline Date: 07/21/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 02/20/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: HUTCHINSON

Contiguous Counties:

Texas: Carson, Hansford, Moore, Ochiltree, Roberts Sherman.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.375
Homeowners Without Credit Available Elsewhere	2.188
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 13999 5 and for economic injury is 14000 0.

The State which received an EIDL Declaration # is Texas.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: May 20, 2014.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–12125 Filed 5–23–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 13997 and # 13998]

Tennessee Disaster # TN–00080

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Tennessee dated 05/20/2014.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 04/27/2014 through 04/29/2014.

Effective Date: 05/20/2014.

Physical Loan Application Deadline Date: 07/21/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 02/20/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Lincoln.

Contiguous Counties:

Tennessee: Bedford; Franklin; Giles; Marshall; Moore.

Alabama: Limestone; Madison.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.375
Homeowners Without Credit Available Elsewhere	2.188
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 13997 B and for economic injury is 13998 0.

The States which received an EIDL Declaration # are Tennessee, Alabama.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: May 20, 2014.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–12126 Filed 5–23–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 13988 and#13989]

Washington Disaster # WA–00042

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Washington dated 05/19/2014.

Incident: North Bend Explosion.

Incident Period: 04/25/2014.

Effective Date: 05/19/2014.

Physical Loan Application Deadline Date: 07/18/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 02/19/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: King.

Contiguous Counties:

Washington: Chelan; Kitsap; Kittitas; Pierce; Snohomish; Yakima.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.375
Homeowners Without Credit Available Elsewhere	2.188
Businesses With Credit Available Elsewhere	6.000

	Percent
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 13988 4 and for economic injury is 13989 0.

The States which received an EIDL Declaration # are Washington.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: May 19, 2014.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–12124 Filed 5–23–14; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 8745]

Proposed Information Collection, 60-Day Notice: DS–7646, U.S. National Commission for UNESCO Laura W. Bush Traveling Fellowship

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to July 26, 2014.

ADDRESS: Direct comments and questions to Allison Wright, Executive Director to the U.S. National Commission for UNESCO at the Department of State, who may be reached at 202–663–0024. You may submit comments by any of the following methods:

- *Web:* Persons with access to the Internet may use the Federal Docket Management System (FDMS) to comment on this notice by going to *www.Regulations.gov*. You can search for the document by entering ''Public Notice 8745'' in the Search bar. If necessary, use the Narrow by Agency filter option on the Results page.
- *Email: wrightas@state.gov*.
- *Mail:* Allison Wright, Office of UNESCO Affairs, Department of State, 2121 Virginia Avenue NW., #6200, Washington, DC 20037.
- *Fax:* 202–663–0035.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Allison Wright, who may be reached on 202–663–0024 or at *wrightas@state.gov*.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* U.S. National Commission for UNESCO Laura W. Bush Traveling Fellowship.
- *OMB Control Number:* 1405–0180.
- *Type of Request:* Extension of a currently approved collection.
- *Originating Office:* Bureau of International Organization Affairs, Office of UNESCO Affairs, Executive Secretariat U.S. National Commission for UNESCO (IO/UNESCO).
- *Form Number:* DS–7646.
- *Respondents:* U.S. college and university students applying for a Fellowship.
- *Estimated Number of Respondents:* 100.
- *Estimated Number of Responses:* 100.
- *Average Time per Response:* 10 hours.
- *Total Estimated Burden Time:* 1,000 hours.
- *Frequency:* On occasion.
- *Obligation To Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: Fellowship applicants, U.S. citizen students at U.S. colleges and universities, will submit descriptions of self-designed proposals for brief travel abroad to conduct work that is consistent with UNESCO's substantive mandate to contribute to peace and security by promoting collaboration among nations through education, science, and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations. The fellowship is funded through private donations. The information will be reviewed for the purpose of identifying the most meritorious proposals, as measured against the published evaluation criteria.

Methodology: The U.S. Department of State, Bureau of International Organization Affairs, Office of UNESCO Affairs, Executive Secretariat U.S. National Commission for UNESCO (IO/UNESCO) will collect this information via electronic submission.

Dated: May 20, 2014.

Allison Wright,

Executive Director, U.S. National Commission for UNESCO Bureau of International Organization Affairs, U.S. Department of State.

[FR Doc. 2014–12147 Filed 5–23–14; 8:45 am]

BILLING CODE 4710–19–P

DEPARTMENT OF EDUCATION

Request for Nominations: National Advisory Council on Indian Education (NACIE)

AGENCY: , White House Initiative on American Indian and Alaska Native Education, U.S. Department of Education.

ACTION: Request for nominations—National Advisory Council on Indian Education (NACIE).

The Obama Administration is seeking nominations for individuals to fill vacant seats and serve on the National Advisory Council on Indian Education (NACIE). NACIE is authorized by section 7141 of the Elementary and Secondary Education Act of 1965

(ESEA), 20 U.S.C. 7471. NACIE advises the Secretary of the U.S. Department of Education (Secretary) concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under Title VII, Part A of the ESEA, with respect to which the Secretary has jurisdiction and (a) that includes Indian children or adults as participants; or (b) that may benefit Indian children or adults; makes recommendations to the Secretary for filling the position of the Director of Indian Education, U.S. Department of Education, whenever a vacancy occurs; submits to the Congress, not later than June 30 of each year, a report on the activities of NACIE, including any recommendations that NACIE considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants or that may benefit Indian children or adults, and recommendations concerning the funding of any such program.

NACIE is governed by provisions of the Federal Advisory Committee Act (FACA) (Pub. L. 92–463; as amended, 5 U.S.C. app.) which sets forth standards for the formation and use of advisory committees. On behalf of the Administration, the White House Initiative on American Indian and Alaska Native Education will receive nominations for membership on NACIE consistent with the requirements listed in the Supplementary Information section of this notice. Nominations should be submitted with a cover letter addressed to the President that includes:

- Your reason(s) for nominating the individual;
- A copy of the nominee's current resume or curriculum vitae;
- Contact information for the nominee (name, title, business address, business phone, fax number, and business email address); and
- A written confirmation that the nominee accepts the nomination.

DATES: Submit nominations by 5pm EST no later than 30 days after the posting date of this notice.

ADDRESSES: Nominations must be emailed to *WHIAIANE@ED.GOV* with the subject line ''Nomination-NACIE''.

SUPPLEMENTARY INFORMATION: The Council consists of fifteen (15) members who are Indian (including Alaska Native) as defined in 20 U.S.C. 7491(3), and are appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations. The fifteen members represent different geographic areas of the United States. Members serve as Special Government Employees (SGEs). SGEs are asked to provide their own best judgment without representing any particular point of view, group or special interest, and more importantly, in a manner that is free from any conflict of interest. The SGEs provide advice and recommendations based on their judgment formed by their expertise and experience. The NACIE meets at the call of the Designated Federal Official (DFO) in consultation with the Chairperson (approximately two meetings per year). The President or his delegate shall appoint a Chairperson and a Vice Chairperson from among the members. Members of NACIE may receive reimbursement for travel expenses incident to attending NACIE meetings, including per diem, as authorized by 5 U.S.C. 5703 for persons intermittently employed in the government service.

Accessible Format: Individuals with disabilities may obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Sedelta Oosahwee, Associate Director, White House Initiative on American Indian and Alaska Native Education, 400 Maryland Ave SW., Room 4W120, Telephone: 202–453–5618, Email: *Sedelta.Oosahwee@ed.gov.*

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You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: 29 U.S.C. 765.

Dated: May 20, 2014.

Ted Mitchell,

Under Secretary, U.S. Department of Education.

[FR Doc. 2014–12097 Filed 5–23–14; 8:45 am]

BILLING CODE 4001–01–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0076]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SALINA 48; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 26, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0076. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SALINA 48 is:

Intended Commercial Use of Vessel: ''Coastwise passenger charters of up to 6 passengers''

Geographic Region: ''Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Maine''

The complete application is given in DOT docket MARAD–2014–0076 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

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 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: May 20, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–12122 Filed 5–23–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0079]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel DEVOCEAN; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 26, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0079. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel DEVOCEAN is:

Intended Commercial Use of Vessel: ''Harbor sailing instruction and sailing charters.''

Geographic Region: ''New Jersey, New York, Connecticut, Rhode Island, Massachusetts.''

The complete application is given in DOT docket MARAD–2014–0079 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

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 (Volume 65, Number 70; Pages 19477–78).

Dated: May 20, 2014.

By Order of the Maritime Administrator.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–12120 Filed 5–23–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0075]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SPITFIRE; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 26, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0075. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except

federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SPITFIRE is:

Intended Commercial Use of Vessel: ''6 pack Charters.''

Geographic Region: ''California.''

The complete application is given in DOT docket MARAD–2014–0075 at http://www.regulations.gov. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

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 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: May 20, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–12137 Filed 5–23–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0078]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LIVIN' WRIGHT; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 26, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0078. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel LIVIN' WRIGHT is:

Intended Commercial Use of Vessel: ''day charter''

Geographic Region: ''Florida''

The complete application is given in DOT docket MARAD–2014–0078 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

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 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: May 20, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–12132 Filed 5–23–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0074]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SUNNY 1; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 26, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0074. Written comments may be submitted by hand or by mail to the Docket Clerk,

U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SUNNY 1 is:

Intended Commercial Use of Vessel: ''Charter boat for local sight-seeing tours and special events in the Anacortes and La Conner, Washington area''

Geographic Region: ''Washington State.''

The complete application is given in DOT docket MARAD–2014–0074 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

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 (Volume 65, Number 70; Pages 19477–78).

Dated: May 19, 2014.

By Order of the Maritime Administrator.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–12136 Filed 5–23–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0077]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SUNSET SEAKER; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before June 26, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0077. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, *Email Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SUNSET SEAKER is:

Intended Commercial Use of Vessel: ''6 pack dinner cruise''

Geographic Region: ''Florida''

The complete application is given in DOT docket MARAD–2014–0077 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

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 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: May 20, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–12144 Filed 5–23–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0011]

Report, Forms and Record Keeping Requirement

AGENCY: National Highway Traffic Safety Administration, U.S. Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice

announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on March 14, 2014.

DATES: Comments must be submitted on or before June 26, 2014.

FOR FURTHER INFORMATION CONTACT: Wayne McKenzie, Office of Crash Avoidance Standards (NVS–121), National Highway Traffic Safety Administration, West Building W43–462, 1200 New Jersey Avenue SE., Washington, DC 20590. Mr. McKenzie can be reached at (202) 366–1729.

SUPPLEMENTARY INFORMATION:

Title: 49 CFR Part 564, Replaceable Light Source Dimensional Information Collection.

OMB Control Number: 2157–0563.

Type of Request: Extension of a currently approved collection.

Abstract: The information to be collected is in response to 49 CFR part 564, ''Replaceable Light Source Dimensional Information.'' Persons desiring to use newly designed replaceable headlamp light sources are required to submit interchangeability and performance specifications to the agency. After a short agency review to assure completeness, the information is placed in a public docket for use by any person who would like to manufacture headlamp light sources for highway motor vehicles. In Federal Motor Vehicle Safety Standard No. 108, Lamps, reflective devices and associated equipment, ''Part 564 submissions'' are referenced as being the source of information regarding the performance and interchangeability information for legal headlamp light sources, whether original equipment or replacement equipment. The submitted information about headlamp light sources becomes the basis for certification of compliance with safety standards. Comments from two major lighting suppliers have been in favor of the proposed information collection in regards to headlamp light sources.

Affected Public: Businesses or other for profit organizations.

Estimated Number of Respondents: 7.

Estimated Number of Responses: 7.

Annual Estimated Total Annual Burden Hours: 28 hours.

Frequency of Collection:

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

Claude H. Harris,

Acting Associate Administrator for Rulemaking.

[FR Doc. 2014–12131 Filed 5–23–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, U.S. Department of Transportation.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on January 3, 2011 (76 FR 210).

This document describes a collection of labeling information on five Federal motor vehicle safety standards for which the National Highway Traffic Safety Administration (NHTSA) seeks OMB approval. The labeling requirements include brake fluid warning, glazing labeling, safety belt labeling, and vehicle certification labeling.

DATES: Comments must be submitted on or before June 26, 2014.

FOR FURTHER INFORMATION CONTACT: Mrs. Lori Summers, U.S. Department of Transportation, NHTSA, Room W43–320, 1200 New Jersey Avenue SE., Washington, DC 20590. Mrs. Summer's telephone number is (202) 366–4917 and fax number is (202) 366–7002.

SUPPLEMENTARY INFORMATION: National Highway Traffic Safety Administration.

Title: Consolidated Labeling Requirements for Motor Vehicles (except the VIN).

OMB Control Number: 2127–0512.

Type of Request: Extension of a currently approved collection.

Abstract: In order to ensure that manufacturers are complying with the FMVSS and regulations, NHTSA requires a number of information collections in FMVSS Nos. 105, 135, 205, 209 and Part 567.

FMVSS No. 105, ''Hydraulic and electric brake systems'' and FMVSS No. 135, ''Light vehicle brake systems,'' require that each vehicle shall have a brake fluid warning statement in letters at least one-eighth of an inch high on the master cylinder reservoirs and located so as to be visible by direct view.

FMVSS No. 205, ''Glazing materials,'' provides labeling requirements for glazing and motor vehicle manufacturers. In accordance with the standard, NHTSA requires each new motor vehicle glazing manufacturer to request and be assigned a unique mark or number. This number is then used by the manufacturer as their unique company identification on their self-certification label on each piece of motor vehicle glazing. As part of that certification label, the company must identify with the simple two or three digit number assigned by the agency and the model of the glazing. In addition to these requirements, which apply to all glazing, certain specialty glazing items, such as standee windows in buses, roof openings, and interior partitions made of plastic require that the manufacturer affix a removable label to each item. The label specifies cleaning instructions, which will minimize the loss of transparency. Other information may be provided by the manufacturer but is not required.

FMVSS No. 209, ''Seat belt assemblies,'' requires safety belts to be labeled with the year of manufacture, the model, and the name or trademark of the manufacturer (S4.1(j)). Additionally replacement safety belts that are for use only in specifically stated motor vehicles must have labels or accompanying instruction sheets to specify the applicable vehicle models and seating positions (S4.1(k)). All other replacement belts are required to be accompanied by an installation instruction sheet (S4.1(k)).

Seat belt assemblies installed as original equipment in new motor vehicles need not be required to be labeled with position/model information. This information is only useful if the assembly is removed with the intention of using the assembly as a replacement in another vehicle; this is not a common practice.

Part 567, ''Certification,'' requires each manufacturer or distributor of motor vehicles to furnish to the dealer, or distributor of the vehicle, a certification that the vehicle meets all applicable FMVSS. This certification is required by that provision to be in the form of a label permanently affixed to the vehicle. Under 49 U.S.C. 32504, vehicle manufacturers are directed to make a similar certification with regard to bumper standards. To implement this requirement, NHTSA issued 49 CFR Part 567. The agency's regulations establish form and content requirements for the certification labels.

Affected Public: Businesses.

Estimated Total Annual Burden: 74,091 hours

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Authority: 44 U.S.C. 350(c); delegation of Authority at 49 CFR 1.50.

Claude H. Harris,

Acting Associate Administrator for Rulemaking.

[FR Doc. 2014–12129 Filed 5–23–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0033]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Notice and request for public comments on a proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information. NHTSA invites public comments about our intention to request OMB approval for a new collection of information. The collection involves eligibility, demographic, scheduling preferences, and debriefing questionnaires. The information will be used to recruit participants for a research study that focuses on driver response with various automatic transmission gear selector designs during routine and emergency simulated driving scenarios.

DATES: Written comments must be received on or before July 28, 2014.

ADDRESS: You may submit comments identified by the Docket No. NHTSA–2014–0033 through one of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the instructions for submitting comments on the electronic docket site by clicking ''Help'' or ''FAQs.''

Mail or Hand Delivery: Docket Management Facility, M–30, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590. Hand delivered documents accepted between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal Holidays. Telephone: (202) 366–9826.

Fax: (202) 493–2251

Instructions: Each submission must include the Agency name and the Docket number for this proposed collection of information. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received 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) or you may visit *http://www.dot.gov/privacy.html*.

FOR FURTHER INFORMATION CONTACT: For background documents, contact Lisa Gavin, Office of Crash Avoidance Standards (NVS–121), U.S. Department of Transportation, National Highway Traffic Safety Administration, West Building, W43–432, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Gavin can be reached at (202) 366–9291.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must request public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How 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, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information:

Title: Recruitment and Debriefing of Human Subjects for Research Related to Motor Vehicle Gear Selection Controls

Type of Request: New information collection.

OMB Control Number: 2127-New.

Form Number: N/A.

Requested Expiration Date of Approval: Upon completion of the study.

Abstract: The introduction of electronically-controlled transmissions has allowed much greater freedom in the design of driver interfaces, with the result that drivers are being confronted with new and different types of gear selector controls—joysticks, push buttons, rotary knobs, etc. This information collection is incidental to the recruitment of participants for human-factors studies designed to measure the ability of drivers to adapt to unfamiliar types of gear-selection controls. There is no known published usability research related to these new types of driver interfaces.

The proposed studies will examine driver response to non-traditional gear selector configurations in routine and emergency simulated driving scenarios, noting driver confusion, distraction and unintended consequences due to the unconventional gear selector configuration. The research method consists of driving simulations to collect objective and subjective data about six different gear selector types. Approximately 500 drivers will respond to the request for participants. It is estimated that of the 500 respondents, 360 will ultimately be recruited and participate. The estimated burden hours were calculated for the pre and post experiment questionnaires and for performing the driving tasks for the 500 respondents accordingly.

Participants will be tested individually in a driving simulator located at the Volpe National Transportation Systems Center (Volpe Center), which will conduct this research under an Intra-Agency Agreement (IAA) with NHTSA. The information being collected consists of that required for scheduling appointments and for balancing the subject sample across age groups, gender, and previous driving experience with various motor vehicle gear selector configurations. The experimental data will contain the demographic and past-experience descriptors for each participant, but no personally identifiable information. During or after the experimental sessions, participants may be queried regarding their perceptions and preferences about various aspects of gear-selection controls.

Description of the Need for the Information and Proposed Use of the Information: The collection of information consists of: (1) An eligibility questionnaire, (2) a demographic questionnaire; (3) scheduling preferences; and (4) post-experiment questionnaires. The information to be collected will be used to:

- Eligibility questionnaire will be used to obtain self-reported driving history information. Individuals interested in participating in the study will be asked to provide information about their driving history (e.g., years of driving experience, daily driving usage, familiarity with different types of gear selectors). Individuals will be excluded from participating in the experiment if they do not have a valid driver license.
- Demographic questionnaire will be used to obtain demographic information to confirm that the study group includes participants from various age groups and both genders.
- Scheduling preferences will be used to establish a convenient time for the participants to visit the Volpe Center.
- Post-experiment questionnaire will be used to gather information about drivers' beliefs and attitude towards each gear selector configuration tested, and to explore respondent knowledge of how a motor vehicle will likely respond when shifted to positions other than Drive at highway speed. These questionnaires will also be used to assess perceived usability of the various gear selector configurations in terms of acceptance and satisfaction, as well as willingness to have a particular gear selector configuration in their vehicle.

Respondents: drivers with a valid driver license.

Estimated Number of Respondents: 500.

Estimated Number of Respondents Selected: 360.

Estimated Total Annual Burden: 595 hours (1 hour and 38 minutes per selected respondent and 3 minutes per respondent not selected.)

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for the agency's performance of its functions; (b) the accuracy of the estimated burden; (c) ways for the agency to enhance the quality, utility and clarity of the information to be collected; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize your comments and the agency's responses in the request for OMB clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. chap. 35; 49 U.S.C. 30181–83; under authority delegated in 49 CFR 1.95

Claude H. Harris,

Acting Associate Administrator for Rulemaking.

[FR Doc. 2014–12096 Filed 5–23–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department Of Transportation.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstract below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on March 14, 2014 (79 FR 14593). The agency received no comments.

DATES: Comments must be submitted on or before June 26, 2014.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. Comments to OMB are most effective if OMB receives them within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck at the National Highway Traffic Safety Administration, Office of International Policy, Fuel Economy and Consumer Programs, 1200

New Jersey Avenue SE., West Building, Room W43–443, Washington, DC 20590. Ms. Mazyck's telephone number is (202–366–4139).

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: 49 CFR Part 583-Automobile Parts Content Labeling.

OMB Number: 2127–0573.

Type of Request: Request for public comment on a previously approved collection of information.

Abstract: Part 583 establishes requirements for the disclosure of information relating to the countries of origin of the equipment of new passenger motor vehicles. This information will be used by NHTSA to determine whether manufacturers are complying with the American Automobile Labeling Act (49 U.S.C. 32304). The American Automobile Labeling Act requires all new passenger motor vehicles (including passenger cars, certain small buses, all light trucks and multipurpose passenger vehicles with a gross vehicle weight rating of 8,500 pounds or less), to bear labels providing information about domestic and foreign content of their equipment. With the affixed label on the new passenger motor vehicles, it serves as an aid to potential purchasers in the selection of new passenger motor vehicles by providing them with information about the value of the U.S./Canadian and foreign parts of each vehicle, the countries of origin of the engine and transmission, and the site of the vehicle's final assembly.

NHTSA anticipates approximately 21 vehicle manufacturers will be affected by these reporting requirements. NHTSA does not believe that any of these 21 manufacturers are a small business (i.e., one that employs less than 500 persons) since each manufacturer employs more than 500 persons. Manufacturers of new passenger motor vehicles, including passenger cars, certain small buses, and light trucks with a gross vehicle weight rating of 8,500 pounds or less, must file a report annually.

Affected Public: Vehicle manufacturers.

Estimated Total Annual Burden: NHTSA estimates that the vehicle manufacturers will incur a total annual reporting hour and cost burden of 52,962 hours and $2,439,108 respectively. The amount includes annual burden hours incurred by multi-stage manufacturers and motor vehicle equipment suppliers. We estimate that the annual reporting and recordkeeping hour burden of 52,962 remains the same because there was no change in the number of respondents. There is an increase in annual cost due to inflation.

Claude H. Harris,

Acting Associate Administrator for Rulemaking.

[FR Doc. 2014–12128 Filed 5–23–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Vehicle Theft Prevention Standard; Jaguar Land Rover North America LLC

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the Jaguar Land Rover North America LLC's, (Jaguar Land Rover) petition for an exemption of the Discovery Sport vehicle line in accordance with 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of 49 CFR part 541, *Federal Motor Vehicle Theft Prevention Standard* (Theft Prevention Standard). Jaguar Land Rover also requested confidential treatment of specific information in its petition. The agency will address Jaguar Land Rover's request for confidential treatment by separate letter.

DATES: The exemption granted by this notice is effective beginning with the 2015 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, W43–443, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Mazyck's phone number is (202) 366–4139. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated February 19, 2014, Jaguar Land Rover requested an exemption from the parts-marking requirements of the Theft Prevention Standard for the Jaguar Land Rover Discovery Sport vehicle line beginning with MY 2015. The petition requested an exemption from parts-marking pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under 49 CFR 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, Jaguar Land Rover provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Discovery Sport vehicle line. Jaguar Land Rover stated that the MY 2015 Discovery Sport vehicle line will be equipped with a passive, transponder based, electronic engine immobilizer antitheft device as standard equipment. Key components of its antitheft device will include a power train control module (PCM), instrument cluster, body control module (BCM), keyless vehicle module (KVM), remote frequency receiver (RFA), Immobilizer Antenna Unit, Smart Key and door control units. Jaguar Land Rover stated that its antitheft device will also be installed with an audible and visual perimeter alarm system as standard equipment. Jaguar Land Rover stated that the perimeter alarm system can be armed with the Smart Key or programmed to be passively armed. The alarm will sound and the vehicle's exterior lights will flash if unauthorized entry is attempted by opening the hood, doors or luggage compartment. Jaguar Land Rover's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

The immobilizer device is automatically armed when the Smart Key is removed from the vehicle. Jaguar Land Rover stated that the Smart key is programmed and synchronized to the vehicle through the means of a unique identification key code for each key and a randomly generated secret code that is unique to each vehicle.

Jaguar Land Rover stated that there will be three methods for unlocking the doors and starting the engine of the Discovery Sport vehicle line. The three methods of system operation will either be through the vehicle's automatic detection of the Smart Key, unlocking the vehicle with the Smart key unlock button or by using the emergency key blade. Jaguar Land Rover stated that automatic detection of the Smart key method occurs when authentication of the correct Smart Key via a low frequency to remote frequency challenge response sequence occurs. Specifically, when the driver approaches the vehicle and pulls the driver's door handle, the doors will unlock. When the driver

presses the ignition start button, a search begins to find and authenticate the Smart Key within the vehicle interior. If successful, this information is passed through a coded data transfer to the BCM via the RFA. Jaguar Land Rover stated that the BCM will then pass the valid key status to the instrument cluster, send the ''key valid'' message to the PCM, initiate a coded data transfer and authorize the engine to start. Method two of unlocking the vehicle with the Smart Key unlock button occurs when the driver approaches the vehicle, presses the Smart Key unlock button and unlocks the doors. Jaguar Land Rover stated that once the driver presses the ignition start button, the operation process is the same as method one. Method three involves using the emergency key blade. Jaguar Land Rover stated that if the Smart Key has a discharged or damaged battery, there is an emergency key blade that can be removed from the Smart Key and used to unlock the doors. Once the driver presses the ignition start button, a search begins to find and authenticate the Smart Key within the vehicle interior. If this is unsuccessful, the Smart Key needs to be docked in the lower steering column cowl. Once the Smart Key is placed in the correct position and the ignition start button is pressed again, the BCM and Smart key enter a coded data exchange via the immobilizer antenna unit. The BCM passes the valid key status to the instrument cluster, via the immobilizer antenna unit and then sends the ''key valid'' message to the PCM initiating a coded data transfer. If successful, the engine will start the vehicle.

In addressing the specific content requirements of § 543.6, Jaguar Land Rover provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Jaguar Land Rover conducted tests based on its own specified standards. Jaguar Land Rover provided a detailed list of the tests conducted (i.e., temperature and humidity cycling, high and low temperature cycling, mechanical shock, random vibration, thermal stress/shock tests, material resistance tests, dry heat, dust and fluid ingress tests). Jaguar Land Rover stated that it believes that its device is reliable and durable because it has complied with specified requirements for each test. Additionally, Jaguar Land Rover stated that the key recognition sequence includes in excess of a billion code combinations which include encrypted data that are secure against copying. Jaguar Land Rover also stated that the coded data transfer between modules use a unique secure identifier, a random number and a secure public algorithm. Furthermore, Jaguar Land Rover stated that since the Discovery Sport vehicle line will utilize push button vehicle ignition, it does not have a conventional mechanical key barrel. Therefore, there will be no means of forcibly bypassing the key-locking system.

Jaguar Land Rover stated that the Discovery Sport is a new vehicle line and therefore no theft data is available. Jaguar Land Rover further stated that its immobilizer antitheft device is substantially similar to the antitheft device installed on the Jaguar F-Type, Jaguar XK, Jaguar XJ, Land Rover LR2 and Land Rover Range Rover Evoque vehicle lines and have all been granted parts-marking exemptions by the agency. Jaguar Land Rover stated that based on MY 2011 theft information published by NHTSA, the Jaguar Land Rover vehicles equipped with immobilizers had a combined theft rate of 0.79 per thousand vehicles, which is below NHTSA's overall theft rate of 0.99 thefts per thousand. The theft rates for the Jaguar XK, XJ and Land Rover LR2 are 0.8192, 1.4025 and 0.9001, respectively. Theft rate data is not available for the Jaguar F-Type and Land Rover Evoque. Jaguar Land Rover believes these low theft rates demonstrate the effectiveness of the immobilizer device. Additionally, Jaguar Land Rover notes a Highway Loss Data Institute news release (July 19, 2000) showing approximately a 50% reduction in theft for vehicles installed with an immobilizer device.

The agency agrees that the device is substantially similar to devices installed on other vehicle lines for which the agency has already granted exemptions

Based on the supporting evidence submitted by Jaguar Land Rover on its device, the agency believes that the antitheft device for the Discovery Sport vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). The agency concludes that the device will provide the five types of performance listed in § 543.6(a)(3): promoting activation; attract attention to the efforts of an unauthorized person to enter or move a vehicle by means other than a key; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7 (b), the agency grants a petition for exemption from the parts-marking requirements of Part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that Jaguar Land Rover has provided adequate reasons for its belief that the antitheft device for the Jaguar Land Rover Discovery Sport vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541). This conclusion is based on the information Jaguar Land Rover submitted on its device.

For the foregoing reasons, the agency hereby grants in full Jaguar Land Rover's petition for exemption for the Jaguar Land Rover Discovery Sport vehicle line from the parts-marking requirements of 49 CFR Part 541. The agency notes that 49 CFR Part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR Part 543.7(f) requires NHTSA to publish a notice of its decision to grant or deny an exemption petition in the **Federal Register**. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Jaguar Land Rover decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Jaguar Land Rover wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Claude H. Harris,

Acting Associate Administrator for Rulemaking.

[FR Doc. 2014–12130 Filed 5–23–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA—2012–0068; Notice 5]

RIN 2127–AK72

Early Warning Reporting, Foreign Defect Reporting, and Motor Vehicle and Equipment Recall Reporting; Training Sessions

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Meeting Notice—Training Sessions for Online Recalls Portal.

SUMMARY: NHTSA is requiring manufacturers to submit recall reports and associated documents online through a web-based, Internet portal beginning August 2014. Through this portal, manufacturers will not only file new reports, but will update and amend those reports, file quarterly reports on the progress of their recall campaigns, submit copies of representative communications they issue to owners and dealers, and conduct a host of other routine filings and communications with the agency attendant to a safety recall campaigns. NHTSA will offer twenty (20) online training sessions to instruct manufacturer staff and representatives on how to obtain accounts and use the new portal between July 28, 2014, and August 8, 2014

DATES: The training sessions will be offered between July 28, 2014, and August 8, 2014. Participants must register by July 25, 2014. Specific training dates and times can be found in the **SUPPLEMENTARY INFORMATION** section below.

ADDRESSES: All training sessions will be instructor-led and online. The web address and passcode will be provided to registered participants before their selected session. Attendees must register by close of business July 25, 2014. To register please send an email to *recalls.training@dot.gov* with the names of your participants, company name, company location, desired training date, and session choice.

FOR FURTHER INFORMATION CONTACT: Alex Ansley, Safety Recall Specialist, NHTSA, Phone: 202–493–0481, Email: *alexander.ansley@dot.gov.*

SUPPLEMENTARY INFORMATION: On August 20, 2013, NHTSA published a final rule requiring manufacturers to submit required recall information through a web-based, Internet portal accessed through our Web site *www.safercar.gov. See* 78 FR 51382, 51403. Through this portal, manufacturers will not only file new part 573 reports, but will update and amend those reports, file quarterly reports on the progress of their recall campaigns, submit copies of representative communications they issue to owners and dealers, and conduct a host of other routine filings and communications with the agency attendant to a safety recall campaigns. Safety recall document submissions will only be accepted through the new Recalls Portal beginning August 20, 2014. After this date, recall document submissions will not be accepted by U.S. Mail, email, or facsimile.

Online training sessions will be offered to any manufacturer personnel, representatives, and interested members of the public.[1] We recommend that manufacturer recall administrators and any persons that submit recall reports join a training session. We will offer two (2) types of training sessions: general sessions and specialty sessions. General sessions will be open to anyone and cover a broad range of scenarios and possible use-cases. Specialty sessions will also be open to anyone, but will be catered to certain types of manufacturers.

All training will be instructor-led WebEx sessions. Each training session will be limited to fifty (50) registered participants.

TRAINING SESSION DATES AND TIMES:

Training session date	Morning session (9:00 a.m.—11:30 a.m. Eastern)	Afternoon session (1:30 p.m.—4:00 p.m. Eastern)
Monday, July 28	General Session	Specialty Session (Passenger Vehicle MFRs).
Tuesday, July 29	General Session	Specialty Session (Child Restraint MFRs).
Wednesday, July 30	General Session	Specialty Session (Equipment MFRs).
Thursday, July 31	General Session	Specialty Session (Passenger Vehicle MFRs).
Friday, August 1	Specialty Session (Passenger Vehicle MFRs)	General Session.
Monday, August 4	Specialty Session (Heavy Duty Vehicle MFRs)	General Session.
Tuesday, August 5	Specialty Session (Tire MFRs)	General Session.
Wednesday, August 6	Specialty Session (Equipment MFRs)	General Session.
Thursday, August 7	General Session	Specialty Session (Heavy Duty Vehicle MFRs).
Friday, August 8	General Session	Specialty Session (Child Restraint MFRs).

How To Register

To register, please send an email to *recalls.training@dot.gov* and include the first and last name of the participant(s), company name, company location, desired training date, and choose the morning or the afternoon session. Also, please include an alternative date/session in the event your first choice is full. Registration emails must be received by July 25, 2014, in order to attend an online training session.

Training session access instructions will be sent to registered participants on or about July 25, 2014.

[1] NHTSA can likely accommodate in-person training at the U.S. Department of Transportation Headquarters in Washington, DC, to those who require it. Interested participants should indicate their need for in-person training when they reserve a training session.

For those unable to attend a training session, a recorded version of the Online Recalls Portal Training Presentation, along with other training materials, will be available as a reference. We will place this recording in a conspicuous location at *http://www.safercar.gov.* The recording will be available in August 2014.

Jennifer Timian,

Chief, Recall Management Division, NHTSA.

[FR Doc. 2014–11941 Filed 5–23–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 21, 2014.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before June 26, 2014 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8141, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by emailing *PRA@treasury.gov,* calling (202) 622–1295, or viewing the entire information collection request at *www.reginfo.gov.*

Office of International Affairs

OMB Number: 1505–0001.

Type of Review: Revision of a currently approved collection.

Title: Treasury International Capital Form S, ''Purchases and Sales of Long-term Securities by Foreign-Residents.''

Form: Form S.

Abstract: Form S is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR part 128), and is designed to collect timely information on international portfolio capital movements. Form S is a monthly report used to cover transactions in long-term marketable securities undertaken directly with foreigners by banks, other depository institutions, brokers, dealers, underwriting groups, funds and other individuals and institutions. This information is used by the U.S. Government in the formulation of international financial and monetary policies and for the preparation of the U.S. balance of payments accounts and the U.S. international investment position.

Affected Public: Businesses or other for-profit organizations.

Estimated Annual Burden Hours: 13,452.

OMB Number: 1505–0010.

Type of Review: Revision of a currently approved collection.

Title: Monthly Consolidated Foreign Currency Report of Major Market Participants.

Form: Form FC–2.

Abstract: The filing of Foreign Currency Form FC–2 is pursuant to 31 U.S.C. 5315, which directs the Secretary of the Treasury to prescribe regulations (31 CFR part 128, Subpart C), requiring reports on foreign currency transactions conducted by a United States person or a foreign person controlled by a United States person. The form collects monthly consolidated data on the foreign exchange contracts and foreign currency denominated assets and liabilities of significant market participants.

Affected Public: Businesses or other for-profit organizations.

Estimated Annual Burden Hours: 1,080.

OMB Number: 1505–0012.

Type of Review: Revision of a currently approved collection.

Title: Weekly Consolidated Foreign Currency Report of Major Market Participants.

Form: Form FC–1.

Abstract: The filing of Foreign Currency Form FC–1 is pursuant to 31 U.S.C. 5315, which directs the Secretary of the Treasury to prescribe regulations (31 CFR part 128, Subpart C), requiring reports on foreign currency transactions conducted by a United States person or a foreign person controlled by a United States person. The form collects weekly consolidated data on the foreign exchange contracts and positions of significant market participants.

Affected Public: Businesses or other for-profit organizations.

Estimated Annual Burden Hours: 1,040.

OMB Number: 1505–0014.

Type of Review: Revision of a currently approved collection.

Title: Quarterly Consolidated Foreign Currency Report.

Form: Form FC–3.

Abstract: The filing of Foreign Currency Form FC–3 is pursuant to 31 U.S.C. 5315, which directs the Secretary of the Treasury to prescribe regulations (31 CFR part 128, Subpart C), requiring reports on foreign currency transactions conducted by a United States person or a foreign person controlled by a United States person. The form collects quarterly consolidated data on foreign exchange contracts and foreign currency denominated assets and liabilities of foreign exchange market participants.

Affected Public: Businesses or other for-profit organizations.

Estimated Annual Burden Hours: 1,728.

OMB Number: 1505–0123.

Type of Review: Revision of a currently approved collection.

Title: Survey of Foreign-Residents' Holdings of U.S. Securities.

Form: Form SHL, Form SHLA.

Abstract: These forms are used to conduct annual surveys of holdings by foreign-residents of U.S. securities for portfolio investment purposes. These data are used by the U.S. Government in the formulation of international and financial policies and for the computation of the U.S. balance of payments accounts and the U.S. international investment position. These data will also be used to provide information to the public and to meet international reporting commitments. The benchmark survey (Form SHL) is conducted once every five years; in nonbenchmark years, an annual survey (Form SHLA) is conducted.

Affected Public: Businesses or other for-profit organizations.

Estimated Annual Burden Hours: 32,053.

OMB Number: 1505–0235.

Type of Review: Revision of a currently approved collection.

Title: Treasury International Capital Form SLT, ''Aggregate Holdings of Long-Term Securities by U.S. and Foreign Residents.''

Form: TIC Form SLT.

Abstract: Form SLT is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR part 128) for the purpose of providing timely information on international capital movements. Form SLT is used to collect monthly data on cross-border ownership by U.S. and foreign residents of long-term securities for portfolio investment purposes. These data are used by the U.S. Government in the formulation of international and financial policies and for the

preparation of the U.S. balance of payments accounts and the U.S. international investment position. Form SLT is filed by U.S.-resident custodians, U.S.-resident issuers of long-term securities, and U.S.-resident end-investors (including endowments, foundations, pension funds, mutual funds, and other investment managers/advisors/sponsors) in long-term foreign securities.

Affected Public: Businesses or other for-profit organizations; not-for-profit institutions.

Estimated Annual Burden Hours: 42,912.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2014–12118 Filed 5–23–14; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 21, 2014.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before June 26, 2014 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8141, Washington, DC 20220, or email at *PRA@treasury.gov*.

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by emailing *PRA@treasury.gov,* calling (202) 622–1295, or viewing the entire information collection request at *www.reginfo.gov*.

Internal Revenue Service (IRS)

OMB Number: 1545–2187.

Type of Review: Extension without change of a currently approved collection.

Title: Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits.

Form: Form 8955–SSA.

Abstract: Form 8955–SSA, the designated successor to Schedule SSA (Form 5500), is used to satisfy the reporting requirements of Internal Revenue Code section 6057(a). Plan administrators of employee benefit plans subject to the vesting standards of ERISA section 203 use the form to report information about separated participants with deferred vested benefits under the plan. The information is generally given to the Social Security Administration (SSA), which provides the reported information to separated participants when they file for social security benefits.

Affected Public: Businesses or other for-profit organizations.

Estimated Annual Burden Hours: 166,000.

OMB Number: 1545–2195.

Type of Review: Revision of a currently approved collection.

Title: Statement of Specified Foreign Financial Assets.

Form: Form 8938.

Abstract: A taxpayer uses Form 8938 to report specified foreign financial assets if the total value of all the specified foreign financial assets in which the taxpayer has an interest is more than the appropriate reporting threshold.

Affected Public: Individuals or households.

Estimated Annual Burden Hours: 1,627,500.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2014–12143 Filed 5–23–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Submission for OMB Review, Comment Request

May 21, 2014.

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 comment on one new proposed information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). The Treasury is soliciting comments concerning a proposed generic information collection that will allow the Treasury to conduct research that will serve to inform the development of and assess the effectiveness of strategies to increase access to financial services and to enhance financial decision-making skills.

DATES: Written comments should be received on or before July 28, 2014 to be assured of consideration.

ADDRESSES: Comments regarding these information collections should be addressed to the Treasury Office of Consumer Policy Contact listed below and to the Treasury Department PRA Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by contacting James Gatz, Policy Analyst, Office of Consumer Policy, Room 1426, U.S. Treasury Department, 1500 Pennsylvania Avenue NW., Washington, DC 20228, by telephone at 202–622–3946, or by email at *James.Gatz@Treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for Treasury Financial Empowerment and Innovation Research Projects.

OMB Control Number: NEW.

Abstract: As many of the activities will use identical methodologies or otherwise share a common element, the Treasury Office of Consumer Policy (OCP) requests OMB approval for generic clearance to conduct various information collection activities using qualitative and survey methods including focus groups, interviews, in-person and on-line surveys of individuals, financial institutions and other organizations and state, local and tribal governments. Over the next three years, the OCP anticipates undertaking a variety of new information collection activities related to OCP's functions to expand the level of understanding and knowledge about financial products and services, the availability of products and services for individuals and families, and the ability of individuals and households to make informed financial decisions. Following standard OMB requirements, for each information collection that OCP proposes to undertake under this generic clearance, the OMB will be notified at least two weeks in advance and provided with a copy of the information collection instrument along with supportive materials. The OCP will only undertake a new collection if the OMB does not object to the OCP's proposal.

Type of Review: New Collection.

Affected Public: Individuals and households, businesses and organizations, State, Local or Tribal governments.

Respondent's Obligation: Voluntary.

Estimated Number of Respondents: Approximately 50,000 per year.

Estimated Average Time per Respondent: 20—30 minutes per response.

Estimated Total Annual Burden Hours: Approximately up to 25,000 burden hours.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the OCP, including whether the information will have practical utility; (b) the accuracy of the above 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 collection on respondents, including the use of automated collection techniques or other forms of information technology.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. 2014–12116 Filed 5–23–14; 8:45 am]

BILLING CODE 4810–25–P

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Part II

Department of Health and Human Services

45 CFR Parts 144, 146, 147, *et al.*

Patient Protection and Affordable Care Act; Exchange and Insurance Market Standards for 2015 and Beyond; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Parts 144, 146, 147, 148, 153, 154, 155, 156, and 158

[CMS–9949–F]

RIN 0938–AS02

Patient Protection and Affordable Care Act; Exchange and Insurance Market Standards for 2015 and Beyond

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This final rule addresses various requirements applicable to health insurance issuers, Affordable Insurance Exchanges (''Exchanges''), Navigators, non-Navigator assistance personnel, and other entities under the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 (collectively referred to as the Affordable Care Act). Specifically, the rule establishes standards related to product discontinuation and renewal, quality reporting, non-discrimination standards, minimum certification standards and responsibilities of qualified health plan (QHP) issuers, the Small Business Health Options Program, and enforcement remedies in Federally-facilitated Exchanges. It also finalizes: A modification of HHS's allocation of reinsurance collections if those collections do not meet our projections; certain changes to allowable administrative expenses in the risk corridors calculation; modifications to the way we calculate the annual limit on cost sharing so that we round this parameter down to the nearest $50 increment; an approach to index the required contribution used to determine eligibility for an exemption from the shared responsibility payment under section 5000A of the Internal Revenue Code; grounds for imposing civil money penalties on persons who provide false or fraudulent information to the Exchange and on persons who improperly use or disclose information; updated standards for the consumer assistance programs; standards related to the opt-out provisions for self-funded, non-Federal governmental plans and related to the individual market provisions under the Health Insurance Portability and Accountability Act of 1996 including excepted benefits; standards regarding how enrollees may request access to non-formulary drugs under exigent circumstances; amendments to Exchange appeals standards and coverage enrollment and termination standards; and time-limited adjustments to the standards relating to the medical loss ratio (MLR) program. The majority of the provisions in this rule are being finalized as proposed.

DATES: This rule is effective July 28, 2014 except for amendments to 45 CFR 155.705 which are effective May 27, 2014.

FOR FURTHER INFORMATION CONTACT: For general matters and matters related to Parts 144, 146, 147, 148 and 154: Jacob Ackerman, (301) 492–4179.

For matters related to reinsurance, under Part 153: Adrianne Glasgow, (410) 786–0686.

For matters related to risk corridors, under Part 153: Jaya Ghildiyal, (301) 492–5149.

For matters related to non-interference with Federal law and non-discrimination standards, and Navigator, non-Navigator assistance personnel, and certified application counselor program standards, under Part 155, subparts B and C: Tricia Beckmann, (301) 492–4328.

For matters related to civil money penalties for noncompliant consumer assistance entities, under Part 155, subpart C: Emily Ames, (301) 492–4246.

For matters related to enrollment of a qualified individual, under Part 155, subpart E: Jack Lavelle, (410) 786–0639.

For matters related to civil money penalties for false or fraudulent information or improper use of information, under Part 155, subpart C; exemptions under Part 155, subparts D and G, and matters related to eligibility appeals, under Part 155, subparts F and H: Christine Hammer, (301) 492–4431.

For matters related to special enrollment periods under Part 155, Subpart E: Spencer Manasse, (301) 492–5141.

For matters related to the Small Business Health Options Program, under Part 155, subpart H: Christelle Jang, (410) 786–8438.

For matters related to the required contribution percentage for affordability exemptions, under Part 155, subpart G: Ariel Novick, (301) 492–4309.

For matters related to cost sharing, under Part 156, subpart B: Pat Meisol, (410) 786–1917.

For matters related to quality standards, under Parts 155 and 156: Nidhi Singh Shah, (301) 492–5110.

For matters related to enforcement remedies, under Part 156: Cindy Yen, (301) 492–5142.

For matters related to minimum essential coverage, under Part 156, subpart G: Cam Clemmons, (410) 786–1565.

For all other matters related to Parts 155 and 156: Leigha Basini, (301) 492–4380.

For matters related to the medical loss ratio program, under Part 158: Julie McCune, (301) 492–4196.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also available from the **Federal Register** online database through *Federal Digital System (FDsys),* a service of the U.S. Government Printing Office. This database can be accessed via the internet at *http://www.gpo.gov/fdsys.*

Table of Contents

I. Executive Summary
II. Background
A. Legislative Overview
B. Stakeholder Consultation and Input
C. Structure of Final Rule
III. Provisions of the Proposed Regulations and Analysis and Responses to Public Comments
A. Part 144—Requirements Relating to Health Insurance Coverage
B. Part 146—Requirements for the Group Health Insurance Market
C. Part 147—Health Insurance Reform Requirements for the Group and Individual Health Insurance Markets
Guaranteed Availability and Guaranteed Renewability of Coverage (§§ 147.104 and 147.106)
a. No Effect on Other Laws
b. Product Discontinuance and Uniform Modification of Coverage Exceptions to Guaranteed Renewability Requirements
D. Part 148—Requirements for the Individual Health Insurance Market
1. Conforming Changes to Individual Market Regulations (§§ 148.101 through 148.128)
2. Fixed Indemnity Insurance in the Individual Health Insurance Market (§ 148.220)
E. Part 153—Standards Related to Reinsurance, Risk Corridors, and Risk Adjustment Under the Affordable Care Act
1. Provisions and Parameters for the Permanent Risk Adjustment Program
2. Provisions and Parameters for the Transitional Reinsurance Program
3. Provisions for the Temporary Risk Corridors Program (§ 153.500)
F. Part 154—Health Insurance Issuer Rate Increases: Disclosure and Review Requirements
G. Part 155—Exchange Establishment Standards and Other Related Standards Under the Affordable Care Act
1. Subpart B—General Standards Related to the Establishment of the Exchange Non-Interference With Federal Law and Non-Discrimination Standards (§ 155.120)
2. Subpart C—General Functions of an Exchange
a. Civil Money Penalties for Violations of Applicable Exchange Standards by Consumer Assistance Entities in Federally-Facilitated Exchanges (§ 155.206)

b. Navigator, Non-Navigator Assistance Personnel, and Certified Application Counselor Program Standards (§§ 155.210, 155.215, and 155.225)
c. Payment of Premiums (§ 155.240)
d. Privacy and Security of Personally Identifiable Information (§ 155.260)
e. Bases and Process for Imposing Civil Money Penalties for Provision of False or Fraudulent Information to an Exchange or Improper Use or Disclosure of Information (§ 155.285)
3. Subpart D—Exchange Functions in the Individual Market: Eligibility Determinations for Exchange Participation and Insurance Affordability Programs
a. Verification Process Related to Eligibility for Insurance Affordability Programs (§ 155.320)
b. Eligibility Redetermination During a Benefit Year (§ 155.330)
4. Subpart E—Exchange Functions in the Individual Market: Enrollment in Qualified Health Plans
a. Enrollment of Qualified Individuals in a QHP (§ 155.400)
b. Initial and Annual Open Enrollment Periods (§ 155.410)
c. Special Enrollment Periods (§ 155.420)
d. Termination of Coverage (§ 155.430)
5. Subpart F—Appeals of Eligibility Determinations for Exchange Participation and Insurance Affordability Programs
a. General Eligibility Appeals Requirements (§ 155.505)
b. Dismissals (§ 155.530)
c. Employer Appeals Process (§ 155.555)
6. Subpart G—Exchange Functions in the Individual Market: Eligibility Determinations for Exemptions
a. Required Contribution Percentage
b. Options for Conducting Eligibility Determinations for Exemptions (§ 155.625)
7. Subpart H—Exchange Functions: Small Business Health Options Program
a. Functions of a SHOP (§ 155.705)
b. Enrollment Periods under SHOP (§ 155.725)
c. SHOP Employer and Employee Eligibility Appeals Requirements (§ 155.740)
8. Subpart O—Quality Reporting Standards for Exchanges
a. Quality Rating System (§ 155.1400)
b. Enrollee Satisfaction Survey System (§ 155.1405)
H. Part 156—Health Insurance Issuer Standards under the Affordable Care Act, Including Standards Related to Exchanges
1. Subpart B—Essential Health Benefits Package
a. Prescription Drug Benefits (§ 156.122)
b. Cost-Sharing Requirements (§ 156.130)
2. Subpart C—General Functions of an Exchange
a. QHP Issuer Participation Standards (§ 156.200)
b. Enrollment Process for Qualified Individuals (§ 156.265)
3. Subpart G—Minimum Essential Coverage
a. Other Coverage that Qualifies as Minimum Essential Coverage (§ 156.602)
b. Requirements for Recognition as Minimum Essential Coverage for Types of Coverage Not Otherwise Designated Minimum Essential Coverage in the Statute or This Subpart (§ 156.604)
4. Subpart I—Enforcement Remedies in Federally-Facilitated Exchanges
a. Available Remedies; Scope (§ 156.800)
b. Bases and Process for Imposing Civil Money Penalties in Federally-Facilitated Exchanges (§ 156.805)
c. Notice of Non-compliance (§ 156.806)
d. Bases and Process for Decertification of a QHP Offered by an Issuer Through a Federally-Facilitated Exchange (§ 156.810)
5. Subpart L—Quality Standards
a. Establishment of Standards for HHS-Approved Enrollee Satisfaction Survey Vendors for Use by QHP Issuers in Exchanges (§ 156.1105)
b. Quality Rating System (§ 156.1120)
c. Enrollee Satisfaction Survey (§ 156.1125)
I. Part 158—Issuer Use of Premium Revenue: Reporting and Rebate Requirements
1. Subpart A—Disclosure and Reporting
a. ICD–10 Conversion Expenses (§ 158.150)
2. Subpart B—Calculating and Providing the Rebate
a. MLR and Rebate Calculations in States with Merged Individual and Small Group Markets (§§ 158.211, 158.220, 158.231)
b. Accounting for Special Circumstances (§ 158.221)
c. Distribution of *De Minimis* Rebates (§ 158.243)
IV. Provisions of Final Regulations
V. Waiver of Delay in Effective Date
VI. Collection of Information Requirements
A. ICRs Regarding Recertification for Certified Application Counselors (§ 155.225)
B. ICRs Regarding Consumer Authorization (§§ 155.210 and 155.215)
C. ICRs Regarding Enrollee Satisfaction & Marketplace Surveys (§§ 155.1200, 156.1105, and 156.1125)
D. ICR Regarding Quality Rating System (§ 156.1120)
E. ICRs Regarding Quality Standards for Exchanges (§§ 155.1400 and 155.1405)
F. ICR Regarding Medical Loss Ratio Requirements (§§ 158.150, 158.211, 158.220, 158.221, and 158.231)
G. ICRs Regarding Civil Money Penalties (§§ 155.206 and 155.285)
H. ICRs Regarding Fixed Indemnity Plans, Minimum Essential Coverage, Certifications of Creditable Coverage and HIPAA Opt-Out Election Notice, Notice of Discontinuation, Notice of Renewal (§§ 146.152, 146.180, 147.106, 148.122, 148.220, and 156.602)
I. Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)
VII. Regulatory Impact Analysis
A. Summary
B. Executive Orders 13563 and 12866
1. Need for Regulatory Action
2. Summary of Impacts
3. Anticipated Benefits, Costs and Transfers
C. Regulatory Alternatives
1. Collecting ESS Data at the Product Level Instead of Each Product Per Metal Tier
2. Using Medicaid CAHPS® As Is Instead of Adding Additional and New Questions to the ESS
3. Collecting QRS Data for Each Product Per Metal Tier Instead of at the Product Level
4. Using the Medicare Advantage (MA) CAHPS® Instrument and Star System
D. Regulatory Flexibility Act
E. Unfunded Mandates Reform Act
F. Federalism
G. Congressional Review Act
VIII. Regulations Text

Abbreviations

Affordable Care Act—The collective term for the Patient Protection and Affordable Care Act (Pub. L. 111–148) and the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152)
AV—Actuarial Value
CAHPS®—Consumer Assessment of Healthcare Providers and Systems
CFR—Code of Federal Regulations
CMP—Civil Money Penalty
CMS—Centers for Medicare & Medicaid Services
CSR—Cost-Sharing Reductions
EHB—Essential Health Benefits
ERISA—Employee Retirement Income Security Act of 1974 (Pub. L. 93–406)
ESS—Enrollee Satisfaction Survey
FFE—Federally-facilitated Exchange
FF–SHOP—Federally-facilitated Small Business Health Options Program
HCC—Hierarchical Condition Category
HHS—United States Department of Health and Human Services
HIPAA—Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104–191)
IRS—Internal Revenue Service
MLR—Medical Loss Ratio
NAIC—National Association of Insurance Commissioners
OMB—United States Office of Management and Budget
OPM—United States Office of Personnel Management
PHS—Act Public Health Service Act
PRA—Paperwork Reduction Act of 1995
QHP—Qualified health plan
QRS—Quality Rating System
SHOP—Small Business Health Options Program
The Code—Internal Revenue Code of 1986

I. Executive Summary

Since January 1, 2014, qualified individuals and small employers have been able to obtain private health insurance through Affordable Insurance Exchanges, or ''Exchanges'' (also known as Health Insurance Marketplaces, or ''Marketplaces'').[1] The Exchanges

[1] The word ''Exchanges'' refers to both State Exchanges, also called State-based Exchanges, and Federally-facilitated Exchanges (FFEs). In this final rule, we use the terms ''State Exchange'' or ''FFE'' when we are referring to a particular type of Exchange. When we refer to ''FFEs,'' we are also

Continued

provide competitive marketplaces where individuals and small employers can compare available private health insurance options on the basis of price, quality, and other factors. The Exchanges help enhance competition in the health insurance market, improve choice of affordable health insurance, and give small businesses the same purchasing power as large businesses.

Individuals who enroll in QHPs through individual market Exchanges may be eligible to receive premium tax credits to make health insurance purchased through an Exchange more affordable and cost-sharing reductions (CSRs) that lower out-of-pocket expenses for health care services. The premium tax credits, combined with the new insurance reforms, have significantly increased the number of individuals with health insurance coverage. The premium stabilization programs—risk adjustment, reinsurance, and risk corridors—protect against adverse selection in the newly enrolled population. These programs, in combination with the MLR program and market reforms extending guaranteed availability (also known as guaranteed issue) protections, prohibiting the use of factors such as health status, medical history, gender, and industry of employment to set premium rates, will help to ensure that every American has access to high quality, affordable health insurance.

This final rule addresses various requirements applicable to health insurance issuers, Exchanges, Navigators, non-Navigator assistance personnel, and other entities under the Affordable Care Act. Specifically, the rule establishes standards related to product discontinuation and renewal, quality reporting, non-discrimination standards, minimum certification standards and responsibilities of QHP issuers, the Small Business Health Options Program (SHOP), and enforcement remedies in Federally-facilitated Exchanges (FFEs). It also finalizes: A modification of HHS's allocation of reinsurance collections if those collections do not meet our projections; certain changes to allowable administrative expenses in the risk corridors calculation; modifications to the way we calculate the annual limit on cost sharing so that we round this parameter down to the nearest $50 increment; an approach to indexing the required contribution used to determine eligibility for an exemption from the shared responsibility payment under section 5000A of the Internal Revenue Code; grounds for imposing CMPs on persons who provide false or fraudulent information to the Exchange and on persons who improperly use or disclose information; updated standards for Exchange consumer assistance programs; standards related to the opt-out provisions for self-funded, non-Federal governmental plans and related to the individual market provisions under the Health Insurance Portability and Accountability Act of 1996 (HIPAA); amendments to Exchange appeals standards and coverage enrollment and termination standards; and time-limited adjustments to the standards relating to the MLR program.

Product Discontinuance and Uniform Modification of Coverage Exceptions to Guaranteed Renewability Requirements: Under sections 2702 and 2703 of the Public Health Service Act (PHS Act), as added by the Affordable Care Act, health insurance issuers in the group and individual markets must guarantee the availability and renewability of coverage unless an exception applies. In this final rule, we establish criteria for determining when modifications made by an issuer to the health insurance coverage for a product would and would not constitute the discontinuation of an existing product and the creation of a new product. The same criteria would apply to determine whether the rate filing is subject to submission and review under 45 CFR part 154. We also direct that issuers use standard consumer notices in a format designated by the Secretary when discontinuing or renewing a product in the group or individual market. Additionally, we clarify that the guaranteed availability and renewability requirements should not be construed to supersede other provisions of Federal law in certain circumstances.

Conforming Changes to Individual Market Provisions: Sections 2741 through 2744 of the PHS Act were added by HIPAA to improve the portability and continuity of coverage in the individual health insurance market. These provisions are implemented through regulations in 45 CFR part 148. In this final rule, we amend the individual market provisions in Part 148 to reflect the amendments made by the Affordable Care Act. These amendments are for clarity only.

Fixed Indemnity Insurance in the Individual Market: Consistent with previously released guidance, we amend the criteria for fixed indemnity insurance to be treated as an excepted benefit in the individual health insurance market.[2] The amendments eliminate the requirement that individual fixed indemnity insurance must pay on a per-period basis (as opposed to a per-service basis), and require on a prospective basis, among other things, that it be sold only to individuals who have other health coverage that is minimum essential coverage to be considered an excepted benefit.

HIPAA Opt-Out for Self-Funded, Non-Federal Governmental Plans: Prior to enactment of the Affordable Care Act, sponsors of self-funded, non-Federal governmental plans were permitted to elect to exempt those plans from (''opt out of'') certain provisions of title XXVII of the PHS Act. Consistent with previously released guidance, we finalize amendments to the non-Federal governmental plan regulations (45 CFR 146.180) to reflect the amendments made by the Affordable Care Act to these provisions, with clarifications specifying that, in the case of a plan sponsor submitting opt-out elections for more than one collectively bargained health plan, each such plan must be listed in the opt-out election, and in the case of a plan sponsor submitting opt-out elections for group health plans that are not subject to a collective bargaining agreement, the sponsor must submit separate election documents for each such plan.[3]

Essential Health Benefits (EHB) Prescription Drug Coverage: Under 45 CFR 156.122(c), a plan providing EHB must have procedures in place that allow an enrollee to request and gain access to a clinically appropriate drug not covered by the plan. In this final rule, we are revising paragraph (c) to require that the plan's procedures include an expedited process for exigent circumstances that requires the health plan to make its coverage determination within no more than 24 hours after it receives the request and that requires the health plan to provide the drug for the duration of the exigency.

Premium Stabilization Programs: The Affordable Care Act establishes three premium stabilization programs—risk adjustment, reinsurance, and risk

referring to State Partnership Exchanges, which are a form of FFEs.

[2] FAQs about Affordable Care Act Implementation (Part XVIII) and Mental Health Parity Implementation, Q11 (January 9, 2014). Available at: *http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/AffordableCareAct_implementation_faqs18.html* and *http://www.dol.gov/ebsa/faqs/faq-AffordableCareAct18.html.*

[3] Amendments to the HIPAA opt-out provision (formerly section 2721(b)(2) of the Public Health Service Act) made by the Affordable Care Act (September 21, 2010). Available at: *http://www.cms.gov/CCIIO/Resources/Files/Downloads/opt_out_memo.pdf.*

corridors—to protect against adverse selection. The Affordable Care Act directs that a permanent risk adjustment program be established in each State to mitigate the impacts of possible adverse selection and stabilize premiums in the individual and small group markets as and after insurance market reforms are implemented. The Affordable Care Act also directs that a transitional reinsurance program be established in each State to help stabilize premiums by helping to pay the cost of treating high-cost enrollees in the individual market from 2014 through 2016. The Affordable Care Act directs the Secretary to establish and administer a temporary risk corridors program. In this final rule, we modify and finalize our proposal to allocate contributions collected under that program in the event of a shortfall in collections. In that event, we will allocate reinsurance contributions first to the reinsurance payment pool, and second to administrative expenses and the U.S. Treasury. We also finalize the proposal, unchanged, to increase the ceiling on allowable administrative costs and the floor on profits by 2 percent in the risk corridors calculation to account for uncertainty and changes in the market prior to and during benefit year 2015.

Exchange Establishment and QHP Issuer Standards: The rule amends oversight standards regarding QHP decertification and CMPs. It also directs that QHP issuers provide enrollees with an annual notice of coverage changes. This rule creates a process for survey vendors to appeal an HHS decision not to approve its application to become an enrollee satisfaction survey (ESS) vendor, as well as standards for revoking HHS-approval of ESS vendors. Finally, it establishes standards for the ESS and quality rating system (QRS) related to the display of such information by Exchanges and the submission of validated data by QHP issuers.

We align the start of employer election periods in FF–SHOPs for plan years beginning in 2015 with the start of open enrollment in the corresponding individual market Exchange for the 2015 benefit year and, in all SHOPs, eliminate the 30-day minimum time frames for the employer and employee annual election periods. We also allow State Insurance Commissioners the opportunity to recommend that, in 2015, a SHOP not provide employers with the option of selecting a level of coverage as described in section 1302(d)(1) of the Affordable Care Act and making all QHPs at that level of coverage available to their employees if the commissioner can adequately explain that it is his or her expert judgment, based on a documented assessment of the full landscape of the small group market in his or her State, that not implementing employee choice would be in the best interest of small employers and their employees and dependents, given the likelihood that implementing employee choice would cause issuers to price products and plans higher in 2015 due to the issuers' beliefs about adverse selection. We allow the opportunity for a person appealing a determination of SHOP eligibility to withdraw an appeal by telephone, if the appeals entity is capable of accepting telephonic signatures.

Civil Money Penalties for False Information or Improper Use of Information: The final rule specifies the grounds for imposing CMPs on persons who provide false or fraudulent information to the Exchange and on persons who use or disclose information in violation of section 1411(g) of the Affordable Care Act. The grounds for imposing a penalty include: Negligent failure to provide correct information, knowing and willful provision of false or fraudulent information, and knowing and willful use or disclosure of information in violation of section 1411(g). This section specifies the factors used to determine the amount of the CMP to be imposed against a person. The section also provides for the requirements for notices which must be provided to a person if HHS proposes to impose a CMP, and the processes a person may follow should the person wish to challenge HHS' determination that a CMP should be imposed, including a process pursuant to which a person may request a hearing before an administrative law judge. We also amend current privacy and security regulations at 45 CFR 155.260 to reference the new CMP provisions associated with knowingly and willfully using or disclosing information in violation of section 1411(g) of the Affordable Care Act.

Civil Money Penalties for Consumer Assistance Entities: The final rule provides that HHS may impose CMPs against Navigators, non-Navigator assistance personnel, certified application counselor designated organizations, and certified application counselors in FFEs, if these entities and/or individuals violate Federal requirements applicable to their activities.

Navigator, Non-Navigator Assistance Personnel, and Certified Application Counselor Program Standards: In this final rule, we specify certain types of State laws applicable to Navigators, non-Navigator assistance personnel, and certified application counselors that HHS considers to prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act. We also make several changes to update the standards applicable to these consumer assistance entities and individuals, such as prohibiting them from specified marketing or solicitation activities. We require Navigators and non-Navigator assistance personnel to obtain authorization before accessing a consumer's personally identifiable information and to prohibit them from charging consumers for their services. We also require that certified application counselors be recertified on at least an annual basis, and prohibit certified application counselors and certified application counselor designated organizations from receiving consideration, directly or indirectly, from health insurance issuers or stop loss insurance issuers in connection with the enrollment of consumers in QHPs or non-QHPs. We further provide that, in specific circumstances, certified application counselor designated organizations can serve targeted populations without violating the broad non-discrimination requirement related to Exchange functions.

Indexing of Cost-Sharing Requirements: Under §§ 156.130(a) and 156.130(b), the annual limitation on cost sharing and the annual limitation on deductibles in the small group market for years after 2014 are to be indexed by the premium adjustment percentage. We established our methodology for calculating the premium adjustment percentage in the 2015 Payment Notice. In this final rule, we provide for the annual limitation on cost sharing to be updated based on the premium adjustment percentage by rounding down to the nearest $50 increment. We are eliminating the annual limit on deductibles for small group plans, consistent with the Protecting Access to Medicare Act of 2014 (Pub. L. 113–93), which was signed into law on April 1, 2014.

Required Contribution Percentage: Under section 5000A of the Code, an applicable individual must maintain minimum essential coverage for each month, qualify for an exemption, or make a shared responsibility payment. An individual may qualify for an exemption from the shared responsibility payment if the amount that he or she would be required to pay towards minimum essential coverage (required contribution) exceeds a particular percentage (the required

contribution percentage) of his or her household income. Under section 5000A of the Code, the required contribution percentage for 2014 is 8 percent, and for each plan year beginning in a calendar year after 2014, the percentage, as determined by the Secretary of Health and Human Services (the Secretary), that reflects the excess of the rate of premium growth between the preceding calendar year and 2013 over the rate of income growth for the same period. In the preamble to this final rule, we establish a methodology for determining the percentage reflecting the excess of the rate of premium growth over the rate of income growth for plan years after 2014. We also establish a required contribution percentage for 2015 of 8.05 percent. For calendar years after 2015, the required contribution percentage will be published in the annual HHS notice of benefit and payment parameters.

Eligibility Appeals: The rule amends standards related to eligibility appeals provisions in subparts F and H of Part 155. To facilitate the efficient conclusion of an appeal at the request of the appellant, we amend the withdrawal procedure to permit withdrawals made via telephonic signature.

Minimum Essential Coverage: We clarify that entities other than plan sponsors (for example, issuers) can apply for their coverage to be recognized as minimum essential coverage, pursuant to the process outlined in 45 CFR 156.604 and guidance thereunder.

Medical Loss Ratio: The MLR program created pursuant to the Affordable Care Act generally requires issuers to rebate a portion of premiums if their MLR fails to meet the applicable MLR standard in a State and market for the applicable reporting year. An issuer's MLR is the ratio of claims plus quality improvement activities to premium revenue, with the premium adjusted by the amounts paid for taxes, licensing and regulatory fees, and the premium stabilization programs. On December 1, 2010, we published an interim final rule entitled ''Health Insurance Issuers Implementing Medical Loss Ratio (MLR) Requirements under the Patient Protection and Affordable Care Act'' (75 FR 74864), which established standards for the MLR program. Since then, we have made several revisions and technical corrections to those rules. In this final rule, we modify the timeframe for which issuers can include their ICD–10 conversion costs in their MLR calculation. We also modify the regulation to clarify how issuers would calculate MLRs and rebates in States that require the individual and small group markets to be merged. We note that the standards for ICD–10 conversion costs and merged markets also apply to the risk corridors program. Further, we modify the regulation to account for the special circumstances of the issuers affected by the HHS transitional policy and the issuers impacted by systems challenges during the implementation of the Exchanges.

II. Background

A. Legislative Overview

The Patient Protection and Affordable Care Act (Pub. L. 111–148) was enacted on March 23, 2010. The Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152), which amended and revised several provisions of the Patient Protection and Affordable Care Act, was enacted on March 30, 2010. In this final rule, we refer to the two statutes collectively as the ''Affordable Care Act.''

The Affordable Care Act reorganizes, amends, and adds to the provisions of title XXVII of the PHS Act relating to group health plans and health insurance issuers in the group and individual markets.

Section 1201 of the Affordable Care Act added sections 2702 and 2703 of the PHS Act. Section 2702 of the PHS Act generally requires an issuer that offers health insurance coverage in the individual or group market in a State to offer coverage to and accept every individual or employer in the State that applies for such coverage. Section 2703 of the PHS Act generally requires an issuer to renew or continue in force coverage in the group or individual market at the option of the plan sponsor or the individual.

Prior to enactment of the Affordable Care Act, HIPAA amended the PHS Act to improve access to individual health insurance coverage for certain eligible individuals who previously had group coverage, and to guarantee the renewability of all coverage in the individual market. These reforms were added as sections 2741 through 2744 of the PHS Act.

HIPAA also added PHS Act provisions permitting sponsors of self-funded, non-Federal governmental plans to elect to exempt those plans from (''opt out of'') certain provisions of title XXVII of the PHS Act. This election was authorized under section 2721(b)(2) of the PHS Act, which is now designated as section 2722(a)(2) of the PHS Act by the Affordable Care Act.

Section 2718 of the PHS Act, as added by the Affordable Care Act, generally requires health insurance issuers to submit an annual MLR report to HHS and provide rebates to consumers if they do not achieve specified MLRs.

Sections 2722 and 2763 of the PHS Act, as implemented in 45 CFR 146.145(b) and 148.220, provide that the requirements of parts A and B of title XXVII of the PHS Act shall not apply to any individual coverage or any group health plan (or group health insurance coverage) in relation to its provision of excepted benefits. Excepted benefits are described in section 2791(c) of the PHS Act. One category of excepted benefits, called ''noncoordinated excepted benefits,'' includes coverage for only a specified disease or illness, and hospital indemnity or other fixed indemnity insurance. Benefits in this category are excepted only if they meet certain conditions specified in the statute and regulations.

Section 1302(b) requires the Secretary to define EHB, including prescription drugs.

Section 1302(c) of the Affordable Care Act establishes an annual limitation on cost sharing for 2014, and provides that this limitation is to be increased for each year after 2014 by the percentage by which the average per capita premium for health insurance coverage in the United States for the preceding year exceeds the average per capita premium for 2013. Under section 1302(c), this limitation is to be rounded to the next lowest multiple of $50.

Section 1311(b) of the Affordable Care Act provides that each State has the opportunity to establish an Exchange that: (1) Facilitates the purchase of insurance coverage by qualified individuals through QHPs; (2) provides for the establishment of a SHOP designed to assist qualified employers in the enrollment of their qualified employees in QHPs; and (3) meets other requirements specified in the Affordable Care Act.

Section 1311(c)(3) of the Affordable Care Act requires the Secretary to develop a rating system to rate QHPs offered through an Exchange on the basis of quality and price. Section 1311(c)(4) of the Affordable Care Act directs the Secretary to establish an ESS system that would evaluate the level of enrollee satisfaction of members in QHPs offered through an Exchange, for each QHP with more than 500 enrollees in the previous year. Sections 1311(c)(3) and 1311(c)(4) of the Affordable Care Act further require an Exchange to provide information to individuals and employers from the rating and ESS systems on the Exchange's Web site. We have already promulgated regulations in 45 CFR 155.200(d) that direct Exchanges to oversee implementation of ESSs and ratings of health care quality and

outcomes, and 45 CFR 156.200(b)(5)[4] that directs QHP issuers that participate in Exchanges to report health care quality and outcomes information and to implement an ESS consistent with the Affordable Care Act.

Sections 1311(d)(4)(K) and 1311(i) of the Affordable Care Act direct all Exchanges to establish a Navigator program.

Section 1312(a)(2) of the Affordable Care Act provides that a qualified employer may provide support for coverage of employees under a QHP by selecting any level of coverage under section 1302(d) to be made available to employees through a SHOP. Section 1312(a)(2) further provides that employees of an employer who makes such an election may choose to enroll in a QHP that offers coverage at that level.

Section 1321(a) of the Affordable Care Act provides authority for the Secretary to establish standards and regulations to implement the statutory requirements related to Exchanges, QHPs and other components of title I of the Affordable Care Act. Section 1321(a)(1) directs the Secretary to issue regulations that set standards for meeting the requirements of title I of the Affordable Care Act with respect to, among other things, the establishment and operation of Exchanges. Section 1321(a)(2) requires the Secretary to engage in consultation to ensure balanced representation among interested parties.

Section 1321 of the Affordable Care Act provides for State flexibility in the operation and enforcement of Exchanges and related requirements. Section 1321(d) provides that nothing in title I of the Affordable Care Act shall be construed to preempt any State law that does not prevent the application of title I of the Affordable Care Act. Section 1311(k) specifies that Exchanges may not establish rules that conflict with or prevent the application of regulations promulgated by the Secretary.

Section 1321(c)(1) requires the Secretary of HHS (referred to throughout this rule as the Secretary) to establish and operate an FFE within States that either: (1) Did not elect to establish an Exchange; or (2) as determined by the Secretary, did not have any required Exchange operational by January 1, 2014.

Section 1321(c)(2) of the Affordable Care Act provides that the provisions of section 2723(b) of the PHS Act[5] shall apply to the enforcement under section 1321(c)(1) of requirements of section 1321(a)(1), without regard to any limitation on the application of those provisions to group health plans. Section 2723(b) of the PHS Act authorizes the Secretary to impose CMPs as a means of enforcing the individual and group market reforms contained in Part A of title XXVII of the PHS Act when, in the Secretary's determination, a State fails to substantially enforce these provisions.

Section 1341 of the Affordable Care Act requires the establishment of a transitional reinsurance program in each State to help pay the cost of treating high-cost enrollees in the individual market from 2014 through 2016. Section 1342 of the Affordable Care Act directs the Secretary to establish a temporary risk corridors program that provides for the sharing in gains or losses resulting from inaccurate rate setting from 2014 through 2016 between the Federal government and certain participating health plans. Section 1343 of the Affordable Care Act establishes a permanent risk adjustment program that provides for payments to health insurance issuers that attract higher-risk populations, such as those with chronic conditions, and charges issuers that attract lower-risk populations thereby reducing incentives for issuers to avoid higher-risk enrollees.

Section 1411(f)(1) of the Affordable Care Act provides that the Secretary, in consultation with the Secretary of the Treasury, the Secretary of Homeland Security, and the Commissioner of Social Security, shall establish procedures by which the Secretary or one of such other Federal officers hears and makes decisions with respect to appeals of any determination under subsection (e) and redetermines eligibility on a periodic basis in appropriate circumstances. Section 1411(f)(2) of the Affordable Care Act provides that the Secretary shall establish a separate appeals process for employers who are notified under section 1411(e)(4)(C) of the Affordable Care Act that the employer may be liable for a tax imposed by section 4980H of the Internal Revenue Code of 1986 (the Code) with respect to an employee because of a determination that the employer does not provide minimum essential coverage through an employer-sponsored plan or that the employer does provide that coverage but it is not affordable coverage with respect to an employee.

Section 1411(h) of the Affordable Care Act sets forth CMPs to which any person may be subject if that person provides inaccurate information as part of an Exchange application or improperly uses or discloses an applicant's information.

Section 1501(b) of the Affordable Care Act added section 5000A to the Code. That section, as amended by the TRICARE Affirmation Act of 2010 (Pub. L. 111–159, 124 Stat. 1123) and Public Law 111–173 (124 Stat. 1215), requires nonexempt individuals to either maintain minimum essential coverage or make a shared responsibility payment for each month beginning in 2014. It also describes categories of individuals who may qualify for an exemption from the individual shared responsibility payment. Section 1311(d)(4)(H) of the Affordable Care Act specifies that the Exchange will, subject to section 1411 of the Affordable Care Act, grant certifications of exemption from the individual shared responsibility payment specified in section 5000A of the Code. Standards relating to these provisions were established in IRS regulations titled, ''Shared Responsibility Payment for Not Maintaining Minimum Essential Coverage Final Rule,'' published in the August 30, 2013 **Federal Register** (78 FR 53646) and HHS regulations titled, ''Exchange Functions: Eligibility for Exemptions; Miscellaneous Minimum Essential Coverage Provisions Final Rule,'' published in the July 1, 2013 **Federal Register** (78 FR 39494).

B. Stakeholder Consultation and Input

HHS has consulted with stakeholders on policies related to the operation of Exchanges, including the SHOP and the premium stabilization programs. HHS has held a number of listening sessions with consumers, providers, employers, health plans, the actuarial community, and State representatives to gather public input. HHS consulted with stakeholders through regular meetings with the National Association of Insurance Commissioners (NAIC), regular contact with States through the Exchange Establishment grant and Exchange Blueprint approval processes, technical health care quality measurement experts, health care survey development experts, and meetings with Tribal leaders and representatives, health insurance issuers, trade groups, consumer advocates, employers, and other interested parties. In addition, HHS received public comment on various notices published in the **Federal**

[4] Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers; Final Rule, 77 FR 18310 (Mar. 27, 2012) (to be codified at 45 CFR parts 155, 156, & 157).

[5] Section 1321(c) of the Affordable Care Act erroneously cites to section 2736(b) of the PHS Act instead of 2723(b) of the PHS Act. This was clearly a typographical error, and we have interpreted section 1321(c) of the Affordable Care Act to incorporate section 2723(b) of the PHS Act.

Register relating to health care quality in the Exchanges,[6] enrollee experience measures and domains,[7] and the QRS, which provided valuable feedback on quality reporting and quality rating requirements.[8] We considered all of the public input as we developed the policies in this final rule.

C. Structure of Final Rule

The regulations outlined in this final rule will be codified in 45 CFR parts 144, 146, 147, 148, 153, 154, 155, 156, and 158. Part 144 outlines requirements relating to health insurance coverage. Part 146 outlines the group health insurance market requirements of the PHS Act added by HIPAA and other statutes, including opt-out provisions for sponsors of self-funded, non-Federal governmental plans. Part 147 outlines health insurance reform requirements for the group and individual markets added by the Affordable Care Act, including standards related to guaranteed availability and guaranteed renewability of coverage. Part 148 outlines the individual health insurance market requirements of the PHS Act added by HIPAA and other statutes, including standards related to guaranteed availability with respect to certain eligible individuals and guaranteed renewability for all individuals. Part 153 outlines standards related to the reinsurance and risk corridors programs. Part 154 outlines standards related to the disclosure and review of rate increases. Part 155 outlines standards related to the operations and functions of an Exchange, including standards related to non-discrimination, accessibility, and enforcement remedies; standards applicable to the consumer assistance functions performed by Navigators, non-Navigator assistance personnel, and certified application counselors; standards related to eligibility appeals; standards related to exemptions; standards related to quality reporting; and standards related to SHOP. Part 156 outlines health insurance issuer responsibilities, including EHB prescription drug standards; the methodology for calculating the annual limit on cost-sharing for years after 2014; minimum certification standards; standards for recognition of certain types of coverage as minimum essential coverage; quality standards for QHPs; and other QHP issuer responsibilities. Part 158 outlines standards related to the MLR program, including standards related to treatment of ICD–10 conversion costs, standards related to adjustments for issuers affected by the HHS transitional policy and issuers that incurred costs due to the technical issues during the implementation of the Exchanges, and standards related to MLR reporting and rebate calculations in States with merged individual and small group markets.

III. Provisions of the Proposed Regulations and Analysis and Responses to Public Comments

The proposed rule titled, ''Patient Protection and Affordable Care Act; Exchange and Insurance Market Standards for 2015 and Beyond,'' was published in the **Federal Register** on March 21, 2014 (79 FR 15808), with comment period ending April 21, 2014 (referred to in this preamble as the ''proposed rule''). In total, we received approximately 220 comments on the proposed rule. Comments represented a wide variety of stakeholders, including but not limited to States, tribes, tribal organizations, health plans, consumer groups, employer groups, healthcare providers, industry experts, and members of the public.

Some comments were general public comments on the Affordable Care Act and the government's role in health care, but not specific to the proposed rule. We have not addressed such comments, and others that are not directly related to the proposed rule, because they are outside the scope of this final rule.

In this final rule, we provide a summary of each proposed provision, a summary of and responses to the public comments received, and the provisions we are finalizing.

Comment: Some commenters were concerned that the 30-day comment period did not provided sufficient opportunity for public review and comment on the proposed rule. One commenter stated that the proposed rule included many distinct policy issues, each of which should be addressed in separate rulemaking.

Response: HHS provided a 30-day comment period, which is consistent with the Administrative Procedure Act and the policy established by the Assistant Secretary for Administration (ASA) and the Office of Management and Budget (OMB). Additionally, HHS discussed nearly all of the proposed policies in the preamble to the HHS Notice of Benefit and Payment Parameters for 2015 final rule published on March 11, 2014 (79 FR 13744).[9] HHS believes that interested stakeholders had adequate opportunity to provide comment on the policies established in this final rule.

A. Part 144—Requirements Relating to Health Insurance Coverage

Definitions of Product and Plan (§ 144.103)

See the discussion in section III.C.1.b, ''Product Discontinuance and Uniform Modification of Coverage Exceptions to Guaranteed Renewability Requirements.''

B. Part 146—Requirements for the Group Health Insurance Market

1. HIPAA Opt-Out Provisions for Plan Sponsors of Self-Funded, Non-Federal Governmental Plans (§ 146.180)

We proposed to codify the requirement that self-funded, non-Federal governmental plans may no longer elect to be exempt from (''opt out of'') requirements of title XXVII of the PHS Act related to limitations on preexisting condition exclusion periods; requirements for special enrollment periods; and prohibitions on health status discrimination. Self-funded, non-Federal governmental plans may, however, continue to opt-out of requirements related to benefits for newborns and mothers; parity in mental health and substance use disorder benefits; required coverage for reconstructive surgery following mastectomies; and coverage of dependent students on a medically necessary leave of absence.

We also proposed to streamline the submission process by requiring that opt-out elections be submitted electronically in a format specified by the Secretary in guidance. We solicited comment on these proposals, including ways to improve the electronic submission process.

The proposed rule provided a special effective date for self-funded, non-Federal governmental plans maintained pursuant to a collective bargaining agreement ratified before March 23, 2010 (the date of enactment of the Affordable Care Act) that had opted out of the requirement categories which are no longer available for exemption. These collectively bargained plans may continue to be exempt from the

[6] Request for Information Regarding Health Care Quality for Exchanges: *http://www.gpo.gov/fdsys/pkg/FR-2012-11-27/pdf/2012-28473.pdf.*

[7] Request for Domains, Instruments, and Measures for Development of a Standardized Instrument for Use in Public Reporting of Enrollee Satisfaction With Their Qualified Health Plan and Exchange: *http://www.gpo.gov/fdsys/pkg/FR-2012-06-21/html/2012-15162.htm.*

[8] Patient Protection and Affordable Care Act; Exchanges and Qualified Health Plans, Quality Rating System (QRS) Framework, Measures and Methodology; Notice with Comment, 78 FR 69418 (Nov. 19, 2013).

[9] Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2015, 79 FR 13744 (March 11, 2014).

requirements until the first plan year following the expiration of such agreement.

The effect of the Affordable Care Act amendments on the HIPAA opt-out provisions was discussed in previous CMS guidance released on September 21, 2010.[10]

We noted that under the current regulations, plan sponsors of collectively bargained plans may submit one opt-out election for all group health plans subject to the same collective bargaining agreement. We solicited comment on whether the plan sponsor in such circumstances should be required to list all plans subject to the agreement. We also solicited comment on whether a single opt-out submission should be permitted in the case of multiple group health plans not subject to collective bargaining.

Comment: One commenter supported a requirement that plan sponsors of collectively bargained plans must list in their opt-out election all group health plans subject to the collective bargaining agreement.

Response: We establish this requirement in new paragraph (b)(1)(ix) of § 146.180. Sponsors of group health plans not subject to collective bargaining will continue to be required to file a separate election for each group health plan.

We solicited comments on whether the regulation should be modified to allow plan sponsors of multiple group health plans not subject to collective bargaining to submit one election for all of its group health plans. We did not receive any comments on this issue; accordingly, we are adding regulation text to clarify the current requirement that a separate election must be filed for each group health plan not subject to collective bargaining.

We will continue to accept opt-out elections via U.S. Mail or facsimile until December 31, 2014. During this time, opt-out elections will continue to be accepted by mail to: Centers for Medicare & Medicaid Services (CMS), Center for Consumer Information and Insurance Oversight (CCIIO), Attn: HIPAA Opt-Out, 200 Independence Avenue SW., Room 733H–02, Washington, DC 20201. Elections may also continue to be submitted via facsimile at 301–492–4462. For elections submitted via U.S. mail, CMS will continue to use the postmark on the envelope in which the election is submitted to determine that the election is timely filed. If the latest filing date falls on a Saturday, Sunday, or a State or Federal holiday, CMS accepts a postmark or a fax on the next business day. Questions regarding the opt-out process can be submitted to CMS at *HIPAAOptOut@cms.hhs.gov*. CMS's Center for Consumer Information and Insurance Oversight makes publicly available on its Web site a list of self-funded, non-Federal governmental plans that have submitted an opt-out election and the PHS Act provisions subject to the election.[11]

Summary of Regulatory Changes

We are finalizing the revisions proposed in § 146.180 of the proposed rule, with the following modifications. In paragraph (b), we add paragraph (b)(1)(ix) to state that, in the case of plan sponsor submitting one opt-out election for multiple group health plans subject to the same collective bargaining agreement, the opt-out election must list each group health plan subject to the agreement. Also in paragraph (b), we add paragraph (b)(1)(x) to state that, in the case of a plan sponsor submitting more than one opt-out election for plans that are not collectively bargained, a separate opt-out election must be submitted for each such plan. In paragraph (c)(3), we delete the special rule for timely filing with respect to opt out elections submitted by U.S. mail, and instead specify a special rule for timely filing that applies to electronic filings. The special rule indicates that, if the latest filing date falls on a Saturday, Sunday, or a State or Federal holiday, CMS accepts filings submitted the next business day.

C. Part 147—Health Insurance Reform Requirements for the Group and Individual Health Insurance Markets

Guaranteed Availability and Guaranteed Renewability of Coverage (§§ 147.104 and 147.106)

a. No Effect on Other Laws

We proposed that nothing in the guaranteed availability requirements should be construed to require an issuer to offer coverage where other Federal laws operate to prohibit the issuance of such coverage. Similarly, we proposed that nothing in the guaranteed renewability requirements should be construed to require an issuer to renew or continue in force coverage for which continued eligibility would otherwise be prohibited under applicable Federal law. We offered several examples of statutory exceptions to the guaranteed availability and renewability requirements in the preamble to the proposed rule (78 FR 15815–6), and noted that only Federal law, not State law, can create such exceptions. We solicited comment on these clarifications, as well as other clarifications that may be helpful.

Additionally, we proposed a technical correction in § 147.104(b)(1)(i) to delete duplicate regulatory text added in earlier rulemaking.[12] We also proposed other minor regulatory revisions in paragraph (b)(1)(i) for clarity.

Comment: Some commenters recommended the final rule enumerate all current Federal prohibitions on the sale of health insurance coverage that would create exceptions to the guaranteed availability and renewability requirements.

Response: We believe it is neither appropriate nor practical to outline every specific exception to the guaranteed availability and renewability requirements and that a general rule of construction provides sufficient guidance to stakeholders.

Comment: One commenter sought clarification on situations where issuers offering coverage through an Exchange can sell coverage to individuals who are enrolled in Medicare and recommended that HHS add additional questions within the eligibility application to prevent individuals from receiving advance payments of the premium tax credit (APTC) who are also enrolled in Medicare.

Response: Section 1882(d)(3) of the Social Security Act (the ''Medicare anti-duplication provision'') prohibits the sale of an individual market insurance policy that duplicates Medicare benefits to anyone known to be entitled to benefits under Part A (receiving free Part A) or enrolled in Part B or Premium Part A. This prohibition applies to individual health insurance coverage sold both through and outside an Exchange. This final rule clarifies that this prohibition creates an exception to the guaranteed availability provision where the prohibition would be violated by a sale.

While the Medicare anti-duplication provision prohibits the sale or issuance of a policy, it does not provide for discontinuance or non-renewal of a policy already issued, such as when an individual covered by an individual market policy becomes covered by

[10] Amendments to the HIPAA opt-out provision (formerly section 2721(b)(2) of the Public Health Service Act) made by the Affordable Care Act (September 21, 2010). Available at: *http://www.cms.gov/CCIIO/Resources/Files/Downloads/opt_out_memo.pdf.*

[11] *See* List of HIPAA Opt-Out Elections for Self-Funded Non-Federal Governmental Plans. Available at: *http://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/hipaa-optout-nfgp-list-05-06-2014.pdf.*

[12] Patient Protection and Affordable Care Act; Maximizing January 1, 2014 Coverage Opportunities, 78 FR 76212 (December 17, 2013).

Medicare. As stated in the individual market regulations at 45 CFR 148.122(b)(2), implementing the HIPAA guaranteed renewability provision, Medicare eligibility or entitlement is not a basis for non-renewal or termination of individual health insurance coverage. For ease of reference we are adding § 147.106(g)(2) of this final rule, which repeats the regulatory language in § 148.122(b)(2). We note, however, that nothing in the Medicare anti-duplication provision or the guaranteed availability or renewability regulations prohibits an issuer from coordinating benefits under an individual health insurance policy with Medicare benefits in the case of a beneficiary. HHS will consider including questions in the FFE enrollment application to address this issue.

Summary of Regulatory Changes

We are finalizing the proposed provisions with the following modification. We add § 147.106(g)(2) to restate the standard under the HIPAA guaranteed renewability regulations at § 148.122(b)(2) that Medicare eligibility or entitlement is not a basis for non-renewal or termination of an individual's health insurance coverage in the individual market.

b. Product Discontinuance and Uniform Modification of Coverage Exceptions to Guaranteed Renewability Requirements

We proposed standards to define whether certain modifications to coverage constitute ''uniform modifications'' within the meaning of the PHS Act. These provisions were proposed in the guaranteed renewability regulations at 45 CFR 146.152, 147.106, and 148.122. Under the proposed rule, they would apply to issuers offering health insurance coverage in the group and individual markets, including both grandfathered and non-grandfathered health plans.

Specifically, we proposed that a modification made by an issuer solely pursuant to applicable Federal or State law would be considered a modification of the same product, and offered several examples of changes in response to Federal law that would constitute a modification of coverage.

We further proposed that if an issuer makes changes to the health insurance coverage for a product that are not pursuant to applicable Federal or State law, the modifications would also be considered a uniform modification of coverage if the resulting product meets all of the following criteria:

- The product is offered by the same health insurance issuer (within the meaning of section 2791(b)(2) of the PHS Act);
- The product is offered as the same product type (for example, preferred provider organization (PPO) or health maintenance organization (HMO));
- The product covers a majority of the same counties in its service area;
- The product has the same cost-sharing structure, except for variation in cost sharing solely related to changes in cost and utilization of medical care, or to maintain the same level of coverage described in sections 1302(d) and (e) of the Affordable Care Act (for example, bronze, silver, gold, platinum or catastrophic); and
- The product provides the same covered benefits, except for changes in benefits that cumulatively impact the rate for the product by no more than 2 percent (not including changes required by applicable Federal or State law).

These proposed criteria were intended to provide flexibility for issuers to make reasonable adjustments to coverage, while ensuring predictability and continuity for consumers and minimizing unnecessary terminations of coverage.

We proposed that States have flexibility to apply additional criteria that broaden the scope of what is considered a uniform modification, but that narrower State standards would be preempted.

We also proposed to add a provision in § 147.106(e)(1) to restate the uniform modification of coverage provision for individual health insurance coverage under § 148.122(g). This was proposed for ease of reference and to facilitate issuer compliance.

To provide clear information to consumers and help ensure they understand the changes and choices available to them in the individual and group markets, we proposed that issuers provide standard notices in a form and manner prescribed by the Secretary when discontinuing or renewing coverage. Contemporaneously with the proposed rule, we released draft standard notices that issuers would be required to use in each of these situations, and requested public comment.[13] In the standard notices guidance, we noted that States would have the option of developing State-required notices for issuers to use in place of the Federal notices, if approved by CMS. State notices approved for use could not be modified in any way by the issuer.

Finally, we stated that HHS or the applicable State will review rate increases for existing products that an issuer withdrew and attempted to re-file within a 12-month period as new products in order to avoid rate review as if they were simply renewed, if the changes to the discontinued product do not differ from the uniform modification criteria outlined above. We indicated that the same criteria set forth under the guaranteed renewability standards will be used to determine whether the re-filed product is considered to be the same ''product'' for purposes of determining whether the rate filing is subject to submission and review under 45 CFR Part 154. We requested comment on whether this clarification, or a reference to the uniform modification criteria, should be incorporated into the rate review regulations.

Comment: Some commenters recommended the proposed uniform modification of coverage provisions and standard notice requirements not apply in the large group market. They noted that large employers are sophisticated purchasers that typically negotiate customized products for their employees and that will receive little value from these protections. One commenter recommended the requirements not apply to grandfathered health plans, noting that grandfathered plans are already, as part of the requirements related to maintaining grandfathered status, subject to restrictions on benefit changes that make the proposed provisions unnecessary.

Response: We recognize that purchasers in the large group market have greater leverage than those in the individual and small group markets. The guaranteed renewability statute contemplates these market differences by placing the requirement that modifications must be ''consistent with State law and effective on a uniform basis'' only on products in the individual and small group markets, but not on products in the large group market.[14] For these reasons, we do not believe that the same interpretation, providing additional protection of renewability, is necessary in the large

[13] Standard Notices When Discontinuing or Renewing a Particular Product in the Group or Individual Market (March 14, 2014). Available at: *http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/draft-discontinuance-renewal-notices-03-14-14.pdf.*

[14] The PHS Act guaranteed renewability sections enacted under HIPAA, section 2712 for the group market and 2742 for the individual market, both include exceptions for uniform modifications of coverage. We recognize that PHS Act section 2703 excludes reference in some paragraphs to the individual market. However, we note that the provisions of PHS Act section 2742 still apply, and we believe that the uniform modification exception is still applicable in the individual market.

group market and are finalizing the regulation to apply only to coverage in the individual and small group markets.

We also note that, based on the statutory language requiring the changes to be ''effective on a uniform basis,'' we are adding regulation text explicitly stating that the interpretation of uniform modification provided for in this rule also requires that the modifications be made uniformly.

Because the guaranteed renewability statutes applicable to grandfathered individual market policies and group health insurance plans, PHS Act sections 2742 and 2712, respectively, use the same terms as the statute enacted under the Affordable Care Act at PHS Act section 2703, we decline to interpret the requirements differently for grandfathered plans. We note that in proposing to amend § 146.152, we unintentionally proposed to replace paragraph (g) with the new paragraph regarding notice of renewal of coverage, rather than adding a new paragraph (h). In this final rule, we correctly add the new paragraph as paragraph (h). Similarly, we note that in proposing to amend § 148.122, we unintentionally proposed to replace paragraph (h) with the new paragraph regarding notice of renewal of coverage, rather than adding a new paragraph (i). In this final rule, we correctly add the new paragraph as paragraph (i).

Comment: The proposed rule provided that coverage modifications made ''solely pursuant to applicable Federal or State law'' would be considered a uniform modification of coverage. Some commenters requested clarification that references to Federal or State law also include Federal or State regulations or guidance. Another commenter urged HHS to allow issuers to increase out-of-pocket maximums based on annual index adjustments to the annual limitation on cost sharing without triggering a product discontinuance.

Response: The regulation text of the proposed rule specified that modifications made ''solely pursuant to applicable Federal or State law'' would be considered uniform modifications of coverage. We did not intend the word ''law'' to limit the scope of this provision to statutory requirements. Therefore, we are modifying the regulation text to explicitly state that, for coverage modifications to meet this standard, they must be made ''solely pursuant to applicable Federal or State requirements.'' Such requirements could be based on statutes, rules, regulations and any other applicable authority imposing binding requirements on issuers.

In response to the comment addressing the example we provided in the proposed rule of what would be considered ''solely pursuant to applicable Federal or State law,'' we also are adding language providing more detail on what constitutes a modification ''made solely pursuant to applicable Federal and State requirements.'' Specifically, the modification must be made within a reasonable time period after a Federal or State requirement is imposed or modified, and it must also be directly related to the imposition or modification of a Federal or State requirement. For example, if State legislation newly requires a minimum level of benefits (for example, imposing a new minimum visit limit on specific benefits) reducing covered benefits to meet the minimum requirement would not be directly related to the new requirement because the lesser coverage of the benefit coverage was previously permissible, and the modification did not have to be made in order for the issuer to comply with the State law. Accordingly, the modification would not be considered to have been ''made solely pursuant to'' the new requirement. Such a modification would have to meet the other criteria in the final rule to be considered a uniform modification of coverage.

Comment: We received comments that requested clarification about whether and how the guaranteed renewability provisions apply to stand-alone dental plans (SADPs).

Response: Pursuant to § 146.145(b)(3) and § 148.220(b)(1), if an SADP is provided under a separate policy, certificate, or contract of insurance or is otherwise not an integral part of a group health plan, it would constitute excepted benefits and, therefore, generally would not be subject to the requirements of the PHS Act, including the guaranteed renewability requirements.

However, in the 2015 Letter to Issuers in the Federally-facilitated Marketplaces (2015 Letter to Issuers),[15] we indicated that we will apply the guaranteed renewability standards to determine whether a plan offered in 2014 is the same plan for purposes of recertifying the plan for sale in 2015 through the Federally-facilitated Exchange, and that this standard would also apply to the determination of whether SADPs are being renewed for purposes of recertification. This does not in any way change the status of SADPs as excepted benefits. We are merely using the uniform modification standard for the purpose of identifying SADPs that can be recertified and renewed, rather than certified as different plans from those that were Exchange-certified in 2014.

In the 2015 Payment Notice, we established the national annual limit on cost sharing for the pediatric dental EHB when offered through an SADP of $350 for one covered child and $700 for two or more covered children. We acknowledge that, given the change to the annual limit on cost sharing, SADP issuers may need to modify the cost sharing of their currently certified plans in order to meet the annual limit established for implementation in 2015.

We interpret any uniform cost-sharing changes made to conform to the new national annual limit on cost sharing as meeting the uniform modification standard, because these modifications would meet the requirements under § 147.106(e)(2) of this final rule, which provides that, ''modifications made uniformly and solely pursuant to applicable Federal or State requirements are considered a uniform modification of coverage.'' We further note that the general applicability of the annual limitation on cost sharing, if applied to all plans, would affect all consumers.

Therefore, we would consider an SADP that is uniformly modified to reduce its annual limitation on cost sharing pursuant to the change in regulations to meet the standards in paragraph (e)(2) as being a renewal with a uniform modification of the same plan for the purposes of recertification.

Comment: Several commenters urged HHS to more clearly distinguish whether the proposed uniform modification provisions would be applied to ''products'' or ''plans.'' Commenters explained that if our proposed rule were interpreted to apply to modifications made at the plan level, issuers would be forced to discontinue all plans associated with a product in order to make any plan-level changes (such as creating identical new plans to reflect network pricing)—causing significant market disruption and many unnecessary terminations of coverage for existing enrollees.

Response: We interpret the guaranteed renewability provisions of section 2703 of the PHS Act to apply at the product-level. This statute, which closely resembles the guaranteed renewability statutes enacted under HIPAA, uses the terms ''health insurance coverage,'' which, as defined at section 2791 of the PHS Act, means ''benefits consisting of medical care (provided directly, through insurance or

[15] 2015 Letter to Issuers in the Federally-facilitated Marketplaces (March 14, 2014), available at: *http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2015-final-issuer-letter-3-14-2014.pdf.*

reimbursement, or otherwise and including items and services paid for as medical care) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization contract offered by a health insurance issuer.'' We interpret the references to ''health insurance coverage'' throughout section 2703 of the PHS Act to mean what is referred to in the commercial health insurance context as a health insurance ''product.''

To clarify the application of these provisions in response to the above comments, we are codifying definitions of ''product'' and ''plan'' for purposes of this rule. Because similar language and concepts apply in the guaranteed availability statutes and regulations, we will apply these definitions to those regulations as well, by codifying the definitions at § 144.103. These definitions are adopted largely from the Web portal and the rate review regulations.

Under this final rule, for purposes of guaranteed availability and guaranteed renewability, the term ''product'' means a discrete package of health insurance coverage benefits that a health insurance issuer offers using a particular product network type (for example, health maintenance organization (HMO), preferred provider organization (PPO), exclusive provider organization (EPO), point of service (POS), or indemnity) within a service area. This term generally reflects the definition of ''health insurance coverage'' in the PHS Act, which primarily refers to a specific contract of covered benefits, rather than a specific level of cost-sharing imposed.[16]

For purposes of guaranteed availability and guaranteed renewability, the term ''plan'' means, with respect to an issuer and a product, the pairing of the health insurance coverage benefits under the product with a particular level of coverage (as described in sections 1302(d) and (e) of the Affordable Care Act) and service area. The combination of all plans within a product constitutes the total product that must be made available under guaranteed availability and renewed under guaranteed renewability to anyone in the service area of the plan in question, while the combined service areas of all plans constitute the service area of the product. If a product, or a plan under a product, does not have a defined service area, then the service area is the entire State in which the product is offered. To avoid any confusion, we also will change the reference to 'termination of plan'' to ''termination of product'' at § 146.152.(b)(4), § 147.106(b)(4), and § 148.122(c)(3), and make a technical grammatical correction to § 146.152.(b)(4) and § 148.122(c)(3). This technical correction changes an ''and'' to an ''or,'' because an issuer is only required to comply with one and not both of the referenced paragraphs.

Under these definitions, an issuer must guarantee availability and guarantee renewability at the option of the plan sponsor or individual of the particular product that they purchased in the group or individual market, including each of the plans available in the sponsor or individuals service area that are part of all the plans that comprise the product at the time of renewal. The product discontinuance and uniform modification exceptions to guaranteed renewability also apply at the product level. An issuer may discontinue offering a particular product in a market only if the issuer uniformly withdraws the product from that market. Similarly, an issuer may modify the health insurance coverage for a product if the issuer ensures the modification is effective uniformly for all plans within that product. Issuers have flexibility, however, to make modifications at the plan level or to discontinue plans within a product consistent with the provisions of (e)(2) or (3).

As further described in subsequent responses to comments in this section, we are clarifying how three of the proposed criteria—related to cost-sharing, benefits, and service area—apply primarily at the plan level rather than the product level.

Comment: A few commenters sought clarification about the changes that could be made under the criterion related to product type. Two commenters raised particular questions about changes with respect to combined product arrangements, such as adding a point of service (POS) option to a health maintenance organization (HMO) product or removing an exclusive provider organization (EPO) benefit from a preferred provider organization (PPO) product. One commenter recommended that restrictions on product type be limited to situations when a product transitions to or from an HMO.

Response: While an issuer may offer particular benefits within a product using various network options, HHS believes most products generally are based on a single primary network type. For example, an HMO product with a POS option is nonetheless an HMO product, and a PPO product with an EPO benefit is nonetheless a PPO product. Accordingly, a product will not cease to be offered as the same product type solely because it adds or removes certain secondary network options. We believe referring to ''product network type'' more accurately conveys the intent of this requirement and make that revision in the final rule. We also provide the examples of HMO, PPO, EPO, POS and indemnity as product network types in the definition of ''product'' in § 144.103 of this final rule.

Comment: Regarding the proposed service area criterion, a number of commenters recommended focusing only on service area reductions, rather than expansions. One commenter expressed concern about discriminatory service areas and suggested HHS establish standards to prevent issuers from dropping coverage in areas that are expected to have higher health risk. Two commenters noted that, in many States, product service areas are not filed with the State insurance department, presenting challenges for State regulators to administer requirements related to service areas.

Response: Under the proposed rule, for modifications to be considered uniform modifications of coverage, a product must continue to cover a majority of the same counties in its service area. This standard prevents significant reductions in a product's service area; however, service area expansions of any degree would satisfy this standard, provided that a majority of the original product service area remains covered. We acknowledge the concerns but believe the standard established in this final rule balances consumers' interest in coverage stability and issuers' interest in flexibility to appropriately manage their provider networks. We note that, since 1996, the HIPAA guaranteed renewability provisions (sections 2712(b)(5) and 2742(b)(4) of the PHS Act, as codified prior to enactment of the Affordable Care Act) have allowed issuers to non-renew or discontinue coverage under a network plan if there is no longer any enrollee in connection with the plan who lives, resides, or works within the service area of issuer (or in the area for which the issuer is authorized to do business).

In response to these comments, we are finalizing the rule so that the provision now requires that, ''The product continues to cover a majority of the same service area'' to be considered a uniform modification of coverage. We are making this change in recognition that a service area can be based on units other than counties, consistent with § 147.102(b)(3), which indicates that

[16] See PHS Act section 2791(b)(1).

geographical rating areas can be based on counties, zip codes, or metropolitan statistical areas.

Comment: Many commenters requested clarification about the extent of changes that could be made to a plan's cost-sharing structure. Some commenters interpreted the provision as limiting changes in the type of cost-sharing used (for example, a co-payment versus coinsurance) and recommended that issuers be allowed to revise specific cost-sharing amounts (for example, based on historical or anticipated utilization of a particular benefit). Other commenters requested flexibility to modify cost sharing as long as the plan maintains the same metal level, meaning the same actuarial value metal tier (or catastrophic coverage).

Response: As stated above, we interpret the guaranteed renewability provisions of section 2703 of the PHS Act to apply at the product-level. But, in accordance with our definitions of ''product'' and ''plan,'' we note that cost-sharing applies at the plan level. Similar to the proposed rule, this final rule provides that, for a modification to be considered a uniform modification of coverage, each plan within the product must continue to have the same cost-sharing structure as before the modification, except for any variation in cost sharing solely related to changes in cost and utilization of medical care (medical inflation or demand for services based on inflationary increases in the cost of medical care), or to the extent that changes are necessary to maintain the same level of coverage (that is, bronze, silver, gold, platinum, or catastrophic). This provision is intended to establish basic parameters around cost sharing modifications to protect consumers from extreme changes in deductibles, copayments, coinsurance, while preserving issuer flexibility to make reasonable and customary adjustments from year to year. Further, States have flexibility to permit broader changes to cost sharing within the uniform modification provisions, as discussed below. We do not adopt the suggestion to allow all types of changes to cost sharing within a metal level, since this could be subject to manipulation and potential abuse. HHS will monitor compliance with this provision and may issue future guidance if necessary.

Comment: The proposed rule provided that one of the criteria for uniform modification is that the product provides the same covered benefits, except for changes in benefits that cumulatively impact the rate for the product by no more than 2 percent (not including changes required by applicable Federal or State law). Some commenters sought clarification that benefit changes could either increase or decrease the rate by 2 percentage points without exceeding the 2 percent rate variation threshold. One commenter asked whether issuers could adjust for medical inflation when making this assessment. Other commenters requested clarification whether the provision includes both benefit enhancements and reductions. Some commenters requested clarification that benefit changes in response to Federal or State requirements, such as the addition of the pediatric dental benefit and State-mandated benefits, are excluded from the 2 percent rate variation threshold. One commenter recommended applying a separate rate change threshold to each EHB category and providing States and Exchanges the discretion to override benefit modifications that have the potential to substantially harm the consumer.

Response: While benefit changes occur at the product level, consumers are affected by plan-adjusted index rates based on those changes. We believe that benefit changes that affect the rate for any plan within a product by more than 2 percent, regardless of whether they increase or decrease the rate, are significant to the consumer and should therefore constitute a new product offering. Therefore, in accordance with our definitions of ''product'' and ''plan'' for purposes of this rule and in response to these comments, we are finalizing the rule to state that, to be a uniform modification under this part of the rule, changes that cumulatively impact the plan-adjusted index rate for any plan within the product must be within an allowable variation of +/−2 percentage points. This provision applies only to changes in covered benefits, not cost sharing. It includes changes both to EHB and non-EHB benefits covered under the plan, as well as increases or decreases in covered benefits. However, rate changes that are directly attributable to compliance with applicable Federal or State legal requirements concerning covered benefits (such as those related to the requirement to provide EHB) are excluded for purposes of determining the cumulative rate impact.

Comment: Several commenters favored auto-enrollment of individuals whose product is discontinued, where issuers would ''map'' enrollees to another product offered by that issuer that most closely resembles the individuals' previous product. The commenters indicated this practice is common in the commercial market and Medicare Advantage and promotes continuity of coverage.

Response: Nothing in this final rule prevents an issuer from auto-enrolling individuals whose product is being discontinued into another available product offered by that issuer, as long as the issuer meets all of the requirements for product discontinuance under the guaranteed renewability regulations. This includes providing at least 90 days' notice of the discontinuation in writing and offering each individual the option to purchase, on a guaranteed availability basis, any other coverage offered by the issuer.

There are some instances in which an individual may lose coverage under his or her particular plan but not under the product. For example, an issuer may decide to no longer offer a particular plan within a product or to modify a plan's service area within a product such that the plan no longer covers certain individuals. If these plan-level changes do not give rise to a product-level discontinuance under this final rule, the product remains guaranteed renewable at the option of the plan sponsor or individual, as long other plans within that product cover their service area. Again, nothing in this rule prevents an issuer from re-enrolling individuals into another plan that covers their service area under the same product in which the individuals are enrolled. HHS expects that issuers would re-enroll individuals in a new plan providing the same metal level of coverage as their previous plan within the same product. If a plan at that metal level is not available, HHS expects that issuers will re-enroll individuals in a plan that is most similar in metal level to the individual's previous plan under the same product for that service area.

We note that this does not address the operations of an Exchange, which may specify additional standards and processes for product termination, termination of enrollment, and re-enrollment in QHPs through an Exchange.

Comment: Several commenters expressed support for using the uniform modification standards to determine whether a rate filing for a product that is discontinued and another product re-filed the following year is subject to submission and review under 45 CFR Part 154, noting that this is an important protection to prevent gaming of the rate review requirements. Some commenters specifically recommended the clarification be incorporated into the rate review regulations.

Response: In response to comments, we have amended the definition of ''product'' in § 154.102 to provide that the term includes any product that is discontinued and newly filed within a

12-month period in a market within a State that meets the standards of § 147.106(e)(2) or (3) (relating to uniform modification of coverage).

Comment: Many commenters supported the flexibility in the proposed rule for States to broaden, but not narrow, the scope of what is considered a uniform modification of coverage. Some commenters sought clarification about the meaning of ''broaden'' in this context. Other commenters recommended that State laws that prevent issuers from discontinuing or uniformly modifying coverage be expressly preempted by the Federal standards.

Response: After further consideration of this issue, we have determined not to finalize the ability of States to apply additional criteria that broaden the scope of what would be considered a uniform modification in connection with some of the criteria provided for in this rule, because the characteristics of a product defined in those criteria are so integral to the product that they cannot be altered without fundamentally changing the health insurance coverage for that product. These include the criteria that a product must continue to offered by the same issuer (paragraph (c)(3)(i)), maintain the same product network type (paragraph (c)(3)(ii)), and provide, subject to specific exceptions, the same covered benefits (paragraph (c)(3)(v)). Modifications that result in a product that does not meet these criteria will not constitute a uniform modification under this final rule. This final rule does, however, continue to provide States flexibility to broaden the definition of uniform modification of coverage based on the criteria related to service area and cost-sharing structure. Thus, States could designate a lower threshold for meeting the service area standard than the requirement to continue to cover at least a majority of the same service area standard established in this final rule for which a product must maintain the same service area, or permit greater changes to a plan's cost-sharing structure, and still permit the changes to be considered a uniform modification under this final rule. We reiterate our statement from the preamble to the final rule published on February 27, 2013 under section 2703 of the PHS Act (78 FR 13419) that a State standard or requirement that prohibits an issuer from uniformly modifying coverage in accordance with this final rule would prevent the application of a Federal requirement and therefore be preempted.

Comment: Some commenters supported the proposal to require standard consumer notices when issuers discontinue or renew coverage. Other commenters felt the notices were overly prescriptive and advocated for issuer flexibility to modify the notices. For example, commenters suggested HHS provide model notice language or specify minimum content requirements. Many commenters requested issuers have the ability to customize the notices in order to provide specific information to help consumers make informed purchase decisions, such as information about premiums, a description of benefit changes, and the policy year and enrollment deadlines. Some commenters recommended eliminating the renewal notice requirement altogether. Other commenters argued that States are in the best position to regulate on product discontinuance and renewal and suggested that notice requirements be left to the States.

Response: While we acknowledge the advantages of tailored consumer communications, and recognize the importance of State involvement, the final rule adopts the proposed language that notices be provided in a form and manner specified by the Secretary. We plan to address the notices in future guidance and intend to address the use of State-specific notices at that point in time.

Comment: Several commenters recommended that notices be sent only to the group or individual market policyholder, arguing that it would be administratively burdensome for issuers and confusing for employees and dependents to receive information about product renewal and discontinuation when they are not the primary decision makers.

Response: The final rule maintains the requirement that discontinuation notices must be provided to all enrollees under the plan or coverage. Section 2703(c)(1) of the PHS Act requires an issuer that elects to discontinue offering a particular product to provide at least 90 days' notice of the discontinuation in writing to each plan sponsor or individual provided that particular product and to ''all participants and beneficiaries covered under such coverage.'' We note that an issuer may satisfy this requirement by providing the notice only to the subscriber.

By contrast, renewal notices are not required to be provided to participants, beneficiaries, or enrollees. Both the proposed rule and this final rule make clear that notices of renewal must only be provided to the plan sponsor (for example, employer) in the small group market or the individual market policyholder in the individual market.

Comment: Several commenters recommended that renewal notices be sent prior to the beginning of the open enrollment period, rather than 90 days before the end of the plan or policy year, to better align with the options and schedule of the Exchange.

Response: The statute and regulations establish a 90-day notice requirement only for product discontinuation. In the final rule, we have added in § 148.122(i) a requirement that renewal notices be delivered at least 60 calendar days before the date of renewal of the coverage for grandfathered products in the individual market and, in § 147.106(f)(2) and § 146.152(h), for all products in the small group market. For non-grandfathered products in the individual market, in response to the commenters' request to coordinate the notices with enrollment in the Exchange, we are requiring in § 147.106(f)(1) the renewal notices be delivered before the first day of the annual open enrollment period. We believe this provides sufficient advance notice for consumers in non-grandfathered individual policies to review other options for coverage. Since the small group market has continuous year-round open enrollment, the 60 day advanced notice of renewal provides sufficient notice to employers. Many grandfathered policies in the individual market have non-calendar policy years that do not line up with the annual open enrollment period in the individual market. Accordingly, the 60 day advanced notice requirement is more appropriate for these policies.

Comment: Some commenters noted that the Federal notices will duplicate renewal notices developed by issuers, States, and Exchanges, and emphasized the need for coordination to prevent consumer confusion.

Response: We agree and encourage issuers, States, and Exchanges to coordinate enrollee communications to the extent possible.

Summary of Regulatory Changes

We are finalizing the uniform modification provisions proposed in § 147.106 of the proposed rule with the following modifications and made corresponding changes in § 146.152 and § 148.122. We are adding regulation text explicitly stating that the interpretation of uniform modification provided for in this rule also requires that the modifications be made uniformly. We add language amending and clarifying the term ''pursuant to applicable Federal and State law''; replace ''product type'' with ''product network type''; and to specify that the product must continue to cover at least a majority of the same service area, and delete the reference to ''counties.'' We

only finalize the ability of States to apply additional criteria that broaden the scope of what would be considered a uniform modification in connection with the criteria involving service area and cost-sharing structure. We clarify that the criteria related to cost-sharing and covered benefits apply at the plan-level. We do not finalize the interpretation of uniform modification or the corresponding renewal notice requirements with respect to issuers in the large group market, only with respect to issuers offering coverage in the individual and small group markets.

We also are adding definitions of ''product'' and ''plan'' at § 144.103; changing the reference to ''termination of plan'' to ''termination of product'' at § 146.152(b)(4), § 147.106(b)(4), and § 148.122(c)(3); and are amending the definition of ''product'' in the rate review regulations to reflect the interpretation of uniform modification, as applied in the rate review context.

D. Part 148—Requirements for the Individual Health Insurance Market

1. Conforming Changes to Individual Market Regulations (§§ 148.101 through 148.128)

We proposed conforming revisions to the individual market provisions contained in 45 CFR Part 148 to remove provisions that are superseded by the prohibition on preexisting condition exclusions under new section 2704 of the PHS Act, added by the Affordable Care Act.[17] We proposed these amendments generally apply when the final rule becomes effective. Under our proposal, however, the requirement to issue certificates of creditable coverage would continue to apply until December 31, 2014. This would allow individuals to continue to offset a preexisting condition exclusion that could potentially be imposed by a group health plan with a plan year from December 31, 2013 to December 30, 2014. We indicated that these amendments were for clarity only and that they were consistent with amendments to the group market provisions and with previous CMS guidance.[18] We solicited comment on these proposals.

Comment: Two commenters stated that certificates of creditable coverage might continue to be needed in limited circumstances after 2014, such as when a dependent is added to a grandfathered individual health insurance plan, which is not subject to the prohibition on preexisting condition exclusions. The commenters recommended that certificates be required to be provided upon request after December 31, 2014.

Response: While certain plans in the individual market, such as grandfathered health plans that are individual health insurance coverage and transitional individual market plans, may impose preexisting condition exclusions after 2014, such plans are not required to give credit for prior coverage against a preexisting condition exclusion period. Accordingly, there are no circumstances in which a certificate of creditable coverage will be relevant after December 30, 2014.

Summary of Regulatory Changes

We are finalizing the amendments proposed in §§ 148.101 through 148.128 of the proposed rule without change.

2. Fixed Indemnity Insurance in the Individual Health Insurance Market (§ 148.220)

As indicated in previous CMS guidance, which described our intended approach, we proposed to amend the criteria for fixed indemnity insurance to be treated as an excepted benefit in the individual health insurance market. Excepted benefits are exempt from many of the requirements of title XXVII of the PHS Act.

Specifically, under the proposed rule, individual fixed indemnity policies would be considered an excepted benefit if the benefits are provided under a separate policy, certificate, or contract of insurance and all of the following criteria are met: (1) The benefits are provided only to individuals who have other health coverage that is minimum essential coverage within the meaning of section 5000A(f) of the Code; (2) there is no coordination between the provision of benefits and an exclusion of benefits under any other health coverage; (3) the benefits are paid in a fixed dollar amount per day of hospitalization or illness or per service (for example, $100/day or $50/visit) regardless of the amount of expenses incurred and without regard to the amount of benefits provided with respect to the event or service under any other health coverage; and (4) a notice is displayed prominently in the plan materials in at least 14-point type that has the following language: ''THIS IS A SUPPLEMENT TO HEALTH INSURANCE AND IS NOT A SUBSTITUTE FOR MAJOR MEDICAL COVERAGE. LACK OF MAJOR MEDICAL COVERAGE (OR OTHER MINIMUM ESSENTIAL COVERAGE) MAY RESULT IN AN ADDITIONAL PAYMENT WITH YOUR TAXES.''

This proposal was intended to prevent disruption and address stakeholder concerns that many fixed indemnity insurance policies marketed today in the individual market do not qualify as excepted under the regulations at § 148.220(b)(3) and, as further described in a frequently asked question (FAQ) published on January 24, 2013, because they pay on a per-service rather than a per-period basis.[19] We solicited comment on this approach, including comments on the proposed notice language.

We explained that, to meet the standard that fixed indemnity insurance must be sold only to individuals who have other health coverage that is minimum essential coverage, the issuer would have to be ''reasonably assured'' that an individual purchasing a fixed indemnity policy has minimum essential coverage. We sought comment on the extent of verification issuers may need for reasonable assurance, including the possibility of consumer self-attestation. We also sought comment on whether the ''other health coverage that is minimum essential coverage'' standard was sufficient protection or if another standard may be appropriate (for example, requiring that fixed indemnity insurance be sold to individuals with other health coverage that meets the EHB requirements).

We noted that under a safe harbor approach established by the Departments of HHS, Labor, and the Treasury (the Departments) for supplemental health insurance coverage to be considered an excepted benefit, the supplemental coverage must be issued by an entity that does not

[17] The Affordable Care Act adds section 715(a)(1) of ERISA and section 9815(a)(1) of the Code to incorporate the provisions of part A of title XXVII of the PHS Act, including section 2704 of the PHS Act, into ERISA and the Code, and to make them applicable to group health plans and health insurance issuers providing health insurance coverage in connection with group health plans. PHS Act section 2704 applies to grandfathered and non-grandfathered group health plans and group health insurance coverage, and non-grandfathered individual health insurance coverage. It does not apply to grandfathered individual health insurance coverage. For more information on grandfathered health plans, *see* section 1251 of the Affordable Care Act and its implementing regulations at 26 CFR 54.9815–1251T, 29 CFR 2590.715–1251, and 45 CFR 147.140.

[18] *See* Ninety-Day Waiting Period Limitation and Technical Amendments to Certain Health Coverage Requirements Under the Affordable Care Act, 78 FR 10296 (February 24, 2014). *See* also Questions and Answers Related to Health Insurance Market Rules, Q2. Available at: *http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/qa_hmr.html.*

[19] *See* FAQs about Affordable Care Act Implementation (Part XI), Q7, available at *http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Affordable Care Act_implementation_faqs11.html* and *http://www.dol.gov/ebsa/faqs/faq-Affordable Care Act11.html.*

provide the primary coverage under the plan.[20] We indicated that were considering adopting a similar standard for individual fixed indemnity insurance to qualify as excepted and sought comment.

Finally, we indicated that, in our view, most fixed indemnity products offered in the individual market today would largely satisfy these proposed criteria. We solicited comment, nonetheless, on how the proposal might affect existing market arrangements. We also solicited comment on whether applying the provisions for policy years beginning on or after January 1, 2015 would provide a sufficient transition period, and whether keeping the current regulatory criteria in place on a permanent or temporary basis could help to alleviate any potential market disruption.

Comment: Several commenters questioned HHS's legal authority to impose the requirement that fixed indemnity insurance must be sold as supplement to minimum essential coverage in order to be an excepted benefit. They noted that Congress created another category of excepted benefits for supplemental coverage. Some commenters indicated that imposing the supplemental requirement was an encroachment of States' regulatory authority since States have the primary authority to regulate excepted benefits. One commenter stated that the proposal contravenes the holding of the Supreme Court that the government cannot compel individuals to engage in economic activity. One commenter stated that the requirement that fixed indemnity insurance be sold only as supplemental coverage to minimum essential coverage should be removed, and that Federal and State regulators, along with consumer and carrier representatives, should work together to develop requirements that will protect consumers and also retain coverage options.

Response: We do not agree with these comments. As with all excepted benefits, what the coverage provides, rather than how it is labelled, is determinative of whether it is treated as excepted benefits. Accordingly, we have developed standards for when coverage would be considered exempt from the requirements of the Affordable Care Act and other provisions in Title XXVII of the PHS Act. In so doing, we have not encroached on State's regulatory authority to regulate excepted benefits. Under this final rule, States will continue to have primary enforcement authority over such benefits, using the Federal definition as a floor, consistent with the overall framework for implementing Title XXVII of the PHS Act. We note that the statutory category which includes fixed indemnity coverage as an excepted benefit conditions its status on the coverage being ''independent, noncoordinated'' benefits, presuming the existence of other coverage. For purposes of the individual market, we are clarifying that there must be such other coverage, and that the other coverage in question must be minimum essential coverage. Additionally, requiring that fixed indemnity insurance in the individual market must be sold as supplemental to minimum essential coverage in order to be an excepted benefit does not compel any individual to purchase minimum essential coverage or otherwise engage in any economic activity. We will continue to work in partnership with States, along with consumer and issuer representatives, as we always have, to develop and fine-tune approaches to all Affordable Care Act provisions, including revisiting any aspect of these fixed indemnity provisions, as appropriate and necessary.

Comment: One commenter made the general assertion that the purpose of the excepted benefits provisions in the Affordable Care Act was not to indicate that the types of coverage listed as excepted benefits are excepted from the provisions of the Affordable Care Act, but to allow a health plan to include such categories of coverage under a health plan without having to conform this coverage (that is, the excepted benefits) to the provisions of the Affordable Care Act that apply to the health plan.

Response: Section 2722 of the PHS Act (42 U.S.C. 300gg–21) reads in relevant part in subparagraph (c)(2): ''The requirements of subparts 1 and 2 shall not apply to any individual coverage or any group health plan (or group health insurance coverage) in relation to its provision of excepted benefits described in section 2791(c)(3) of this title.'' We believe this statutory language is clear that the excepted benefits provisions apply to any individual coverage that meets the definition of any of the excepted benefits listed in section 2791(c)(3), including, but not limited to, hospital and other fixed indemnity policies. (We also believe that subparagraphs 2722(b), (c)(1), and (c)(3) are similarly clear that the excepted benefits provisions apply to any individual coverage in relation to its provision of any of the excepted benefits listed therein. In this final rule, we are making a relatively minor change to the introductory text (changing ''individual health insurance coverage'' to ''individual coverage''), to bring it into conformance with the wording of the statute.

Comment: One commenter asserted that, because coverage provided as an excepted benefit can only be provided in relation to a health plan, proposed section 148.220(b)(4)(i), which states that fixed indemnity insurance is an excepted benefit only if, among other criteria, the individual has minimum essential coverage, is superfluous.

Response: We disagree that the statute and current regulations already provided that fixed indemnity coverage (or any other excepted benefit listed in the statute) is only an excepted benefit if provided in relation to another health plan (although as noted above, this is implicit).

Comment: While one commenter agreed with the inclusion of § 148.220(b)(4)(ii) and (iii) as requirements in order for fixed-indemnity policies to qualify as excepted benefits, several commenters believed it would be beneficial to add in subparagraph (b)(4)(ii), a requirement that benefits may not be reduced on account of funds received from any other source. The commenter asserted that, in order to qualify as excepted benefits, a fixed indemnity policy should pay without regard to *any* other sources of payment.

Response: We do not believe such a requirement would be necessary. Subparagraph (b)(4)(ii) is intended to address the statutory provision in the PHS Act at section 2791(c)(3) that hospital indemnity or other fixed indemnity insurance is an excepted benefit if the benefits are offered as independent, noncoordinated benefits. In this context, we interpret ''noncoordinated'' as meaning noncoordinated with other coverage, as opposed to noncoordinated with other sources of financial support, such as friends or family members.

Comment: One commenter questioned whether it is the intent of HHS to regulate, and through such regulation prohibit, the sale of fixed indemnity policies on a stand-alone basis.

Response: It is not the intent of HHS to regulate or prohibit the sale of fixed-indemnity policies on a stand-alone basis. Rather, the fixed indemnity insurance provisions set forth the circumstances under which such a

[20] *See* CMS Insurance Standards Bulletin 08–01 (available at *http://www.cms.gov/CCIIO/Resources/Files/Downloads/hipaa_08_01_508.pdf*); the Department of Labor's Employee Benefits Security Administration's Field Assistance Bulletin No. 2007–04 (available at *http://www.dol.gov/ebsa/pdf/fab2007-4.pdf*); and Internal Revenue Service Notice 2008–23 (available at *http://www.irs.gov/irb/2008-7_IRB/ar09.html*).

policy would or would not qualify as excepted benefits. In the preamble to the proposed regulation, we mentioned that this proposal for determining whether fixed indemnity policies are excepted benefits is consistent with previously released guidance describing our intended approach.

Comment: One commenter argued that it would not make sense to require purchasers of fixed-indemnity coverage to have minimum essential coverage in order for the fixed indemnity coverage to be an excepted benefit, when there is no such requirement for other types of coverage to be an excepted benefit.

Response: As noted in the preamble to the proposed regulation, we proposed that fixed indemnity policies in the individual market be permitted to pay on a per-medical-service basis, to accommodate the concerns of several stakeholders. In order to accommodate those concerns in a reasonable way, we are requiring that individuals who purchase fixed-indemnity policies in the individual market have other minimum essential coverage in order for the fixed indemnity policy to be an excepted benefit. Because we are not expanding the definition of any other type of excepted benefit as we are here, we do not believe it is necessary to impose new conditions on other categories of excepted benefits that the purchaser have other minimum essential coverage.

Comment: The majority of commenters supported the disclosure requirement in order to inform consumers of the nature and extent of fixed indemnity insurance coverage. One commenter recommended that the notice requirement be expanded to indicate that the consumer has been advised on the difference between major medical coverage and fixed indemnity insurance and has been informed on how to acquire major medical coverage from the carrier. Another commenter stated that the last line of the HHS proposed disclosure notice could easily mislead consumers and cause them to think supplemental coverage is somehow tied to the tax provisions of the individual shared responsibility payment, and recommended that it be replaced with this line: ''This policy does not provide the minimum essential coverage that individuals may be required to have under the Affordable Care Act.'' One commenter requested clarification that the requirement that the notice be displayed in plan materials does not specifically require the notice be inserted in the filed contract forms. Several commenters recommended that the disclosure language be consumer tested. One commenter objected to a Federal prescription of specific wording.

Response: We believe the proposed content of the notice is sufficient to meet its objectives. To ensure that the objectives are met, we believe the standardized language is necessary. With respect to where the notice is displayed, we believe, for policies issued after January 1, 2015, the most appropriate place is in the application for coverage, as this is the most likely document in which a purchaser of fixed indemnity coverage would actually see the notice. Therefore, in this final rule, we are requiring that the notice be displayed in the application. As described below, policies issued before January 1, 2015 are not required to come into compliance with the notice requirements until the first renewal on or after January 1, 2015. For policies issued before January 1, 2015, we believe it would be appropriate for the notice to be delivered shortly before the first renewal date occurring on or after January 1, 2015, but we defer to State law on the timing. In an effort to minimize industry burden, we are not requiring that fixed indemnity insurers, in order for the coverage to be an excepted benefit, insert the notice in filed contract forms or into any other specific document.

Comment: Many commenters opined that an attestation would be sufficient but others suggested that issuers be required to request documentation from the consumer verifying that they have minimum essential coverage. One commenter requested that the attestation be required upon renewal of the fixed indemnity coverage, noting that individuals could lose their minimum essential coverage after the initial attestation. Another commenter recommended that the attestation be expanded to have the consumer attest that the difference between major medical coverage and fixed indemnity insurance had been explained to them and had been informed on how to purchase major medical coverage.

Response: Although methods in addition to attestation might help ensure that individuals have and maintain minimum essential coverage, we seek to balance this objective against the burden of verification. Therefore, this final rule requires that the purchaser of fixed indemnity coverage attest that he or she has minimum essential coverage, but does not require any further documentation. In this final rule, this is a one-time attestation upon issuance of the policy that does not have to be re-performed upon renewal of the policy or any other time. For policies issued before January 1, 2015, we believe it would be appropriate for the one-time attestation to be collected from the policyholder shortly before the first renewal occurring on or after October 1, 2016, but we defer to State law on the timing. We do not believe it is necessary that the attestation be expanded to have consumers attest that the difference between major medical coverage and fixed indemnity insurance had been explained to them and they had been notified about how to purchase major medical coverage.

Comment: We proposed that individuals must have minimum essential coverage in order to be sold fixed indemnity insurance coverage but solicited comments on whether that was sufficient protection. As an alternative standard, we sought comment on whether individuals could be required to have a policy that provided all of the EHB. Many commenters opined that the requirement to have minimum essential coverage is sufficient protection. One commenter noted that minimum essential coverage is a defined term in the Affordable Care Act and can be applied nationally. Other commenters felt that the protection should be expanded to require individuals to have coverage that complied with the EHB requirement in order to be sold fixed indemnity insurance.

Response: We believe it is appropriate and sufficient to require that fixed indemnity insurance be sold as supplemental to minimum essential coverage, in order to be an excepted benefit. As having minimum essential coverage is generally the standard for determining whether an individual complies with the shared responsibility provision, we believe it is also the appropriate standard for this purpose.

Comment: One commenter requested clarification that fixed indemnity insurance can pay in a combination of per day *and* per service amounts, in addition to being able to pay per day *or* per service amounts.

Response: We believe such a clarification would be helpful, and have changed ''or'' to ''and/or'' in this final rule. As part of this clarification, we are revising the phrase ''per day of hospitalization or illness'' so it reads ''per period of hospitalization or illness.'' This clarification makes this provision of the individual market rule, consistent with the corresponding provision in the group market rule on hospital and fixed indemnity policies.

Comment: One commenter indicated that it should be clear that the fixed indemnity insurance provisions apply to individual products as defined in the PHS Act regardless of whether the products are filed as group products

under State law. The commenter noted that there can be conflicting definitions of group and individual products under State and Federal law.

Response: The PHS Act defines individual market in terms of health insurance (that is, not in terms of excepted benefits), and defines individual health insurance coverage. Nonetheless, our intention is that § 148.220 applies to excepted benefits sold in the ''individual market'' as that term is defined in § 144.103, absent the reference to ''health insurance.'' This would preempt any State law that classifies an individual product as a ''group'' product (for example, individual products sold through associations).

Comment: Several commenters stated that fixed indemnity insurers should be permitted to sell policies to certain categories of individuals other than those who have minimum essential coverage, such as healthy and young or middle aged individuals with moderate income who cannot afford high-deductible coverage under the Affordable Care Act, but can afford a limited indemnity plan, those who qualify for a hardship exemption from the individual shared responsibility payment, and those who feel they cannot afford the price of minimum essential coverage offered to their dependents through an employer's health plan. These commenters asserted that eliminating a valid and possibly affordable option to provide these individuals with a source of assistance during a medical emergency is of concern. Several commenters believe the requirement to have minimum essential coverage will cause negative consequences for individuals living in States where the Medicaid expansion was not adopted, and who earn too much money to qualify for Medicaid but not enough to qualify for exchange subsidies, and to undocumented residents who are neither eligible for subsidies nor eligible to access the exchanges to acquire minimum essential coverage. Finally, one commenter observed that, according to the code at 26 U.S.C. 5000(A)(f)(4), residents of U.S. territories shall be ''treated as having minimum essential coverage.'' Therefore, the commenter asked that we clarify in the final rule that fixed indemnity insurance sold to residents of the U.S. territories are treated as having minimum essential coverage, for purposes of the requirement that fixed indemnity insurance must be sold to individuals who have minimum essential coverage in order for the fixed indemnity coverage to be an excepted benefit.

Response: While we do not agree that fixed indemnity insurers should be permitted to sell policies to every category of individuals who do not have minimum essential coverage, we accept the commenter's suggestion that those who are treated as having minimum essential coverage due to their status as residents of U.S. territories should be able to purchase fixed indemnity insurance without actually having minimum essential coverage. We believe it is consistent with the nature of Code section 5000A(f)(4)(B), to treat such individuals similarly to individuals who actually have minimum essential coverage, for purposes of whether a fixed indemnity insurer may sell them a policy without losing excepted benefits status. Therefore, we have incorporated this provision into this final rule. We believe that expanding this principle any further to other populations would erode the objective of attempting to ensure that as many individuals as possible enroll in minimum essential coverage. We also note that individuals who have hardship exemptions to the shared responsibility payment are permitted under Federal law to purchase a catastrophic plan, which typically provides economical health insurance benefits.

Comment: Several commenters stated that as an alternative to the proposed requirement that fixed indemnity coverage be sold only to individuals who have minimum essential coverage in order for the fixed indemnity coverage to be an excepted benefit, fixed indemnity insurance should be considered excepted benefits if offered, marketed, and sold as supplemental insurance.

Response: We do not believe that merely offering, marketing, and selling fixed indemnity policies as supplemental benefits, will effectively address the confusion about these policies that many consumers have, or will effectively contribute to the Affordable Care Act's goal of maximizing the number of individuals who have comprehensive, major medical coverage.

Comment: One commenter was concerned that ''transitional policies,'' that is, policies that do not conform with certain Affordable Care Act requirements first applicable in 2014, but continue to be renewed for policy years ending on or before October 1, 2016 as a result of CMS' March 5, 2014 bulletin on Extension of Transitional Policy through October 1, 2016, might not constitute minimum essential coverage.

Response: Such transitional policies are small employer or individual market policies that constitute minimum essential coverage.

Comment: We sought comment on whether to add a requirement that a fixed indemnity policy must be issued by a different issuer than minimum essential coverage, in order for the fixed indemnity insurance to be an excepted benefit. Several commenters supported adding such a requirement, stating that doing so would be an appropriate interpretation of the requirement that fixed indemnity insurance be independent. Other commenters did not agree that this requirement be added. One such commenter did not believe that the problem of an issuer of major medical coverage carving out benefits for the purpose of selling an enrollee a fixed indemnity plan, exists in the commenter's local area, while others stated that, under the Affordable Care Act requirements, issuers offering major medical coverage in the individual and small group markets must include essential health benefits in their major medical coverage.

Response: We agree with the commenters that such a requirement might harm consumers by limiting their choice of fixed indemnity issuers. Thus, we are not including such a requirement in this final rule. However, we remind commenters that section 2791(c)(3) of the Public Health Service Act, which prohibits fixed indemnity polices from coordinating with other coverage, would still apply.

Comment: One commenter did not object to the proposed provisions taking effect for policy years beginning on or after January 1, 2015. Several commenters stated that the proposed provisions should apply to coverage issued on or after July 1, 2015, rather than coverage issued on or after January 1, 2015. One commenter stated that the provisions should apply to policies issued after December 31, 2015. One commenter noted that a January 1, 2015 date is unrealistic in light of the time needed for filing new products and applications, as well as the workload on State Insurance Departments in the coming months as they review filings and rates for insurance products to be sold in 2015.

Response: In order to provide sufficient time for such insurers to prepare to meet the new minimum essential coverage and notice requirements, these two new requirements will apply to policies first issued on or after January 1, 2015. The notice requirement will also apply to existing policies starting with policy years beginning on or after January 1,

2015. Prior to that date, upon the final rule taking effect, the other criteria in section 148.220 will replace the existing regulatory criteria (as interpreted in our January 24, 2013 FAQ) for fixed indemnity insurance to be an excepted benefit.

Summary of Regulatory Changes

We are finalizing the provisions proposed in § 148.220 of the proposed rule with the following modifications. In the introductory text, we clarify that the requirements of parts 146 and 147 do not apply to ''any individual coverage'' (as opposed to individual health insurance coverage) that meet the relevant requirements of that section, consistent with statutory language. In paragraph (b)(4)(i), we indicate that the fixed indemnity benefits must be provided only to individuals who attest, in their application, that they have other health coverage that is minimum essential coverage, or that they are treated as having minimum essential coverage based on their status as a bona fide resident of any possession of the United States pursuant to Code section 5000A(f)(4)(B). In paragraph (b)(4)(iii), we clarify that the fixed indemnity benefit must be paid in a fixed dollar amount per period of hospitalization or illness ''and/or'' per service. In § 148.220(b)(4)(iv), we clarify that the notice to fixed indemnity policyholders must be displayed in the application. In new paragraph (b)(4)(v), we state that the requirement of paragraph (b)(4) (iv) applies to all hospital or other fixed indemnity insurance policy years beginning on or after January 1, 2015 and the requirement of paragraph (b)(4)(i) applies to hospital or other fixed indemnity insurance policies issued on or after January 1, 2015, and to hospital or other fixed indemnity policies issued before that date, upon their first renewal occurring on or after October 1, 2016.

E. Part 153—Standards Related to Reinsurance, Risk Corridors, and Risk Adjustment Under the Affordable Care Act

As noted in the proposed rule, both the reinsurance and risk adjustment programs are subject to the fiscal year 2015 sequestration. The risk adjustment and reinsurance programs will be sequestered at a rate of 7.3 percent in fiscal year 2015. The Federal government's 2015 fiscal year begins on October 1, 2014. HHS, in coordination with the OMB, has determined that, pursuant to section 256(k)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 as amended, and the underlying authority for these programs, funds that are sequestered in fiscal year 2015 from the reinsurance and risk adjustment programs will become available for payment to issuers in fiscal year 2016 without further Congressional action. Should Congress fail to enact deficit reduction that replaces the Joint Committee reductions, these programs would be sequestered in future fiscal years, and any sequestered funding would become available in the fiscal year following that in which it was sequestered.

Comment: Several commenters asked that HHS clarify the details regarding the payment of sequestered funds, particularly for risk adjustment. One commenter suggested that reinsurance payments that might have otherwise been sequestered be made by prioritizing collections for reinsurance payments over collections for the U.S. Treasury. One commenter noted that a short delay in risk adjustment and reinsurance payments would not pose major problems for issuers.

Response: As we stated in the proposed rule, we aim to make payments of sequestered fiscal year 2015 funds for the reinsurance and risk adjustment programs as soon as practicable in fiscal year 2016, which begins on October 1, 2015. We note that we cannot sequester amounts from reinsurance collections for the U.S. Treasury because the U.S. Treasury collections are not budgetary resources. Therefore, they are not subject to sequestration and do not affect HHS's required reductions under the sequestration law. We will provide further clarification regarding how the amount of sequestered funds will be calculated and paid in future guidance.

1. Provisions and Parameters for the Permanent Risk Adjustment Program

We have received input from commenters suggesting that the coefficients in our risk adjustment models may not fully capture the relative actuarial risk of certain hierarchical condition categories (HCCs), in part because those conditions may be subject to changing therapies and higher trends in medical inflation. Although some inaccuracy in our coefficients is inevitable due to lags in the data, we believe that we will be able to mitigate this problem if we recalculate, on an annual basis, the weights assigned to the various HCCs and demographic factors in our risk adjustment models using the most recent data available, even in the years where we do not fully recalibrate the models. We intend to propose such a reweighting in the HHS notice of benefit and payment parameters for 2016, and we will consider having those updated coefficients apply also for the 2015 benefit year. These adjusted models would be subject to public notice and comment.

2. Provisions and Parameters for the Transitional Reinsurance Program

The Affordable Care Act directs that a transitional reinsurance program be established in each State to help stabilize premiums for coverage in the individual market from 2014 through 2016. In the 2014 Payment Notice and the 2015 Payment Notice, we expanded on the standards set forth in subparts C and E of the Premium Stabilization Rule, and established the reinsurance payment parameters and uniform reinsurance contribution rate for the 2014 and 2015 benefit years. In this final rule, we finalize our allocation proposal, with one modification, so that, in the event of a shortfall in our collections, reinsurance contributions will first be allocated to the reinsurance payment pool, and second to administrative expenses and the U.S. Treasury.

In the 2014 Payment Notice and the 2015 Payment Notice, we provided that, if total contributions collected for 2014 and 2015 exceed $12.02 billion and $8.025 billion, respectively, we would allocate $2 billion to the U.S. Treasury, $20.3 or $25.4 million, as applicable, to administrative expenses, and all remaining contributions for reinsurance payments, thus prioritizing excess contributions towards reinsurance payments. Due to the uncertainty in our estimates of reinsurance contributions to be collected, and to help assure that the reinsurance payment pool is sufficient to provide the premium stabilization benefits intended by the statute, we proposed to adopt a similar prioritization in the event that reinsurance collections fall short of our estimates. Specifically, we proposed that, if collections fall short of our estimates for a particular benefit year, we would allocate contributions that are collected first to the reinsurance payment pool and administrative expenses, until our targets for reinsurance payments and administrative expenses are met. Once those targets are met, the remaining contributions collected for that benefit year would be allocated toward the U.S. Treasury.

We sought comment on this proposal, including our legal authority to implement a prioritization of reinsurance contributions to reinsurance payments over payments to the U.S. Treasury.

Comment: Several commenters supported our allocation proposal with respect to reinsurance collections if they fell short of our estimates for a particular benefit year. The commenters stated that the proposed allocation would further the premium stabilization effects of the program and provide more certainty that reinsurance payments will be fully funded. One commenter stated that section 1341 of the Affordable Care Act provides HHS with the discretion to allocate reinsurance contributions as HHS determines appropriate to carry out the goals of the statute and that the use of contributions first for reinsurance payments furthers the program's goal of stabilizing premiums. This commenter noted that section 1341 of the Affordable Care Act imposes few requirements on the expenditure of reinsurance contributions, stating that the statute does not specify that payments must be made to issuers and to the U.S. Treasury simultaneously, or that the U.S. Treasury must receive its full funding before reinsurance pool payments are made. Additionally, the commenter stated that section 1341 is silent on how reinsurance contributions are to be distributed if there are insufficient collections to satisfy the statutory obligations, providing HHS with flexibility to interpret and implement the statute and to decide the priority, method, and timing of the allocation of contributions. One commenter asked that we allocate contributions first to reinsurance payments and administrative expenses, and then roll over any excess funds for the subsequent benefit year, postponing the allocation of any contributions to the U.S. Treasury until the end of the reinsurance program. Some commenters suggested that under the revised allocation policy administrative expenses should have the same priority as payments to U.S. Treasury.

Response: Section 1341 of the Affordable Care Act directs that a transitional reinsurance program be established in each State for a three-year period to reduce premiums and to ensure market stability for enrollees in the individual market as the new consumer protections and market reforms are implemented in 2014. The statute does not, however, prescribe how HHS should approach the distribution of reinsurance contributions if insufficient amounts are collected to fully fund all three components of the program (that is, reinsurance payments, administrative expenses, and payments to the U.S. Treasury). We agree that HHS has discretion to implement the program to determine the priority, method, and timing for the allocation of reinsurance contributions collected. Section 1341(b)(3)(B)(iii) uses mandatory language with respect to the collection of amounts for the reinsurance payment pool and states that the total contribution amounts ''shall . . . equal $10,000,000,000'' for 2014 and specific, lesser amounts for 2015 and 2016. Thus, the statute explicitly directs the Secretary to collect these amounts for the reinsurance payment pool (based on the best estimates of the NAIC). On the other hand, the statute uses more permissive language in sections 1341(b)(3)(B)(ii) and (iv) with respect to the collection of amounts for administrative expenses and payments for the U.S. Treasury (that is, ''can'' and ''reflects'', respectively). We believe that this language, as well as language directing that amounts collected pursuant to section 1341(b)(3)(B)(iv) be collected ''in addition to the aggregate contribution amounts under clause (iii),'' as well as the general authority granted to the Secretary under section 1341(b)(3)(A) to design the method for determining the contribution amount toward reinsurance payments, gives the Secretary discretion to prioritize the collections for the reinsurance program. We also believe that it is significant that prioritizing the allocation of reinsurance contributions to the reinsurance payment pool furthers the statutory goals for this program by bringing more certainty to the individual market and helping moderate future premium increases.

We are therefore finalizing our proposal, with one modification—we will not allocate reinsurance collections to administrative expenses or the U.S. Treasury until the reinsurance payment pool for a benefit year is funded. Thus, if our reinsurance collections fall short of our estimates for a particular benefit year, we will allocate reinsurance contributions collected first to the reinsurance payment pool, with any remaining amounts being then allocated to administrative expenses and the U.S. Treasury, on a pro rata basis. For example, as described in Table 1, for the 2014 benefit year, reinsurance contributions will go first to the reinsurance payment pool, up to $10 billion, and any additional contributions collected will be allocated to administrative expenses and the U.S. Treasury, on a pro rata basis, up to the total $12.02 billion.

TABLE 1—PROPORTION OF REINSURANCE CONTRIBUTIONS COLLECTED UNDER THE UNIFORM REINSURANCE CONTRIBUTION RATE FOR THE 2014 BENEFIT YEAR FOR REINSURANCE PAYMENTS, PAYMENTS TO THE U.S. TREASURY, AND ADMINISTRATIVE EXPENSES

Proportion or amount for:	If total contribution collections under the 2014 uniform reinsurance contribution rate are less than or equal to $10 billion	If total contribution collections under the 2014 uniform reinsurance contribution rate are more than $10 billion, but less than or equal to $12.02 billion	If total contribution collections under the 2014 uniform reinsurance contribution rate are more than $12.02 billion
Reinsurance payments	Total collections	$10 billion	Total collections less $2.02 billion (U.S. Treasury and administrative expenses).
Payments to the U.S. Treasury	$0	99.0 percent of the total collections less $10 billion ($2 billion/$2.02 billion).	$2 billion.
Administrative expenses	$0	1.0 percent of the total collections less $10 billion ($20.3 million/$2.02 billion).	$20.3 million.

Similarly, for the 2015 benefit year, in the event of a shortfall in our collections, reinsurance contributions will go first to the reinsurance payment pool, up to $6 billion, and any additional contributions collected will

be allocated to administrative expenses	and the U.S. Treasury on a pro rata basis, up to the total $8.025 billion.

TABLE 2—PROPORTION OF REINSURANCE CONTRIBUTIONS COLLECTED UNDER THE UNIFORM REINSURANCE CONTRIBUTION RATE FOR THE 2015 BENEFIT YEAR FOR REINSURANCE PAYMENTS, PAYMENTS TO THE U.S. TREASURY, AND ADMINISTRATIVE EXPENSES

Proportion or amount for:	If total contribution collections under the 2015 uniform reinsurance contribution rate are less than or equal to $6 billion	If total contribution collections under the 2015 uniform reinsurance contribution rate are more than $6 billion, but less than or equal to $8.025 billion	If total contribution collections under the 2015 uniform reinsurance contribution rate are more than $8.025 billion
Reinsurance payments	Total collections	$6 billion	Total collections less $2.025 billion (U.S. Treasury and administrative expenses).
Payments to the U.S. Treasury	$0	98.8 percent of the total collections less $6 billion($2 billion/$2.025 billion).	$2 billion.
Administrative expenses	$0	1.2 percent of the total collections less $6 billion($25.4 million/$2.025 billion).	$25.4 million.

We note that, in the 2015 Payment Notice, we amended 45 CFR 153.405(c) to provide a bifurcated contribution collection schedule, under which contributing entities will submit reinsurance contributions via two payments. The first payment would have covered the contribution amount allocated to reinsurance payments and administrative expenses; the second payment would have covered the contribution amount allocated to payments to the U.S. Treasury for the applicable benefit year. In light of our revised allocation policy, contributions collected in the second collection will now be allocated for reinsurance payments to the extent the first collection does not fully fund the reinsurance payment pool. Therefore, for example, for the 2014 benefit year, if the first collection resulted in a total collection of $9 billion, contributions collected via the second collection up to $1 billion would be allocated for reinsurance payments. As we noted in the 2014 Payment Notice (78 FR 15460), we have considered comments about deferring payments to the U.S. Treasury, but concluded that we have no authority to defer the collection of reinsurance contributions for those payments to the end of the program.

Comment: In the 2015 Payment Notice, we established the reinsurance payment parameters for 2015. For 2015, we established an attachment point of $70,000, a reinsurance cap of $250,000, and a target coinsurance rate of 50 percent. Several commenters on this rule urged us to increase the premium stabilization effects of reinsurance by lowering the 2015 attachment point.

Response: We intend to propose changes to the reinsurance parameters for 2015 generally consistent with these recommendations. Specifically, in the proposed 2016 Payment Notice, we intend to propose to lower the 2015 attachment point from $70,000 to $45,000. We may also propose to modify the target 2015 coinsurance rate based on estimates of roll-over of funding from 2014 and estimates of collections and payments for 2015. These proposals will be subject to notice and comment rulemaking.

Summary of Regulatory Changes

We are finalizing this provision as proposed, with one modification: if reinsurance collections fall short of our estimates for a particular benefit year, we will allocate the reinsurance collections for that benefit year first to the reinsurance payment pool, and second to administrative expenses and payments to the U.S. Treasury on a pro rata basis.

3. Provisions for the Temporary Risk Corridors Program (§ 153.500)

In the 2015 Payment Notice, we indicated that we would consider additional adjustments to the risk corridors program for benefit year 2015. We did so recognizing that issuers of QHPs could face administrative costs and risk pool uncertainties from a number of sources in 2015. We believe those QHP issuers will face pricing uncertainties related to:

- Uncertainties in the number of renewals of plans that do not comply with 2014 market reforms and rating rules—States continue to weigh whether to permit transitional plans or whether to extend the transitional policy, and in States where those decisions have been publicized, the willingness of issuers in those States to continue to offer transitional plans remains unclear;
- The effects on the risk pool of the phase-out of high risk pools—this phase-out leads to uncertainty in the estimate of likely claims costs from these individuals;
- The greater difficulty and additional time it will take to fully assess the risk profile of 2014 enrollees given the six-month initial open enrollment period—issuers will have a shorter 2014 claims history on which to base modeling; and
- Uncertainty estimating the number of individuals in reinsurance-eligible plans, and the number of covered lives for which reinsurance contributions will be paid.

As we discussed in the proposed rule, because relevant data will be difficult to obtain in the near term, we believe these uncertainties will continue through the summer of 2014, while issuers are in the process of setting their rates for the 2015 benefit year.

We also recognized in the proposed rule that issuers of QHPs may face additional administrative costs in order to complete the transition into compliance with the 2014 market rules. In particular, issuers continue to face unanticipated infrastructure requirements around Exchanges in all States, including the distributed data collection methodology for risk adjustment and reinsurance.

Therefore, in the proposed rule, we proposed to implement a national adjustment to the risk corridors formula set forth in subpart F of part 153 for each of the individual and small group markets by increasing the ceiling on allowable administrative costs (currently set at 20 percent, plus the

adjustment percentage, of after-tax premiums) by 2 percentage points. We also proposed to increase the profit margin floor in the risk corridors formula (currently set at 3 percent, plus the adjustment percentage, of after-tax premiums) by 2 percentage points. These increases to the profit floor and administrative cost ceiling in the risk corridors formula would increase a QHP issuer's risk corridors ratio if claims costs are unexpectedly high, thereby increasing risk corridors payments or decreasing risk corridors charges.

We proposed these increases for 2015 for QHP issuers in every State because we believed that many of these additional administrative costs and risk pool uncertainties will be faced by issuers in all States, not just States adopting the transitional policy. Finally, under our authority under section 2718(c) of the PHS Act, we proposed that the MLR formula not take into account any additional risk corridors payments resulting from this adjustment. We requested comment on all aspects of this proposal.

Comment: Several commenters supported our proposal to implement the proposed adjustment on a nationwide basis so that it would apply equally to QHP issuers in all States. No commenters suggested a regional or State-level approach.

Response: We are finalizing the adjustment as proposed, and will apply the adjustment on a nationwide basis.

Comment: One commenter stated its support of the proposed adjustment to raise the ceiling on administrative costs, but questioned the necessity of the proposed adjustment to profits.

Response: We believe that an upward adjustment to the profit floor is necessary to account for unanticipated risk pool effects related to State decisions to adopt the transitional policy, the phase-out of high risk pools, and the six-month initial enrollment period, which would not be reflected in an issuer's administrative costs.

Comment: A few commenters urged HHS to increase the magnitude of the proposed adjustment, and to extend the duration of the adjustment so that it would apply beyond the 2015 benefit year. One commenter believed that issuers could face significant operations and risk pool challenges for the 2015 benefit year, and recommended that HHS raise the ceiling on allowable administrative costs by 5 percentage points, instead of 2 percentage points, as proposed in the proposed rule. The commenters did not specifically indicate or estimate any additional or greater administrative costs or pricing uncertainties that would necessitate an increase beyond the proposed 2 percentage point increase. Several other commenters supported our proposal, stating that the 2 percentage point increase is reasonable to address additional administrative costs and operational uncertainties in the 2015 benefit year. One commenter noted that the proposed adjustment would suitably help smaller issuers forced to amortize fixed additional administrative costs over a smaller operational base.

Response: We are finalizing the proposed 2 percentage point increase to the risk corridors allowable administrative cost ceiling and profit floor for benefit year 2015. Based on our internal estimates and the methodology used to determine the administrative cost adjustment to the MLR formula discussed elsewhere in this final rule, we believe that this 2 percentage point increase will suitably account for additional administrative costs and pricing uncertainties that QHP issuers will experience in benefit year 2015.

Comment: One commenter requested that we modify the risk corridors formula so that reinsurance payments are not deducted from allowable costs, in order to enhance the protections of the risk corridors program.

Response: Section 1342(c)(1)(B) of the Affordable Care Act states that allowable costs in the risk corridors calculation are to be reduced by risk adjustment and reinsurance payments received under sections 1341 and 1343. Therefore, we are maintaining the current definition of ''allowable costs'' for the risk corridors program.

Comment: A number of commenters expressed concern with HHS's intention to implement the risk corridors program in a budget neutral manner, as described in the preamble to the proposed rule. These commenters were concerned that an approach that makes risk corridors payments only when sufficient risk corridors charges are received could result in reduced risk corridors payments to issuers. The commenters questioned how much the payment formula specified in the final rules for 2014 and 2015 may be relied upon in setting premiums, if payments might be reduced. Several commenters believed that an approach implementing the risk corridors program in a budget neutral manner was counter to the intent of Section 1342 of the Affordable Care Act, which states that the Secretary of HHS will establish a risk corridors program that is similar to the Medicare Part D risk corridors program, which is not budget neutral. One commenter believed that implementing the risk corridors program in a budget neutral manner would result in issuers sharing in the gains and losses of other issuers, would unintentionally affect market dynamics, and could result in solvency problems for some issuers if risk corridors receipts are insufficient to fully fund risk corridors payments.

Response: We recognize the commenters' concerns. To provide greater clarity on how 2014 and 2015 payments will be made, we issued a bulletin on April 11, 2014, titled ''Risk Corridors and Budget Neutrality,'' describing how we intend to administer risk corridors in a budget neutral way over the three-year life of the program, rather than annually. Specifically, if risk corridors collections in the first or second year are insufficient to make risk corridors payments as prescribed by the regulations, risk corridors collections received for the next year will first be used to pay off the payment reductions issuers experienced in the previous year in a proportional manner, up to the point where issuers are reimbursed in full for the previous year, and remaining funds will then be used to fund current year payments. If any risk corridors funds remain after prior and current year payment obligations have been met, they will be held to offset potential insufficiencies in risk corridors collections in the next year.

As we stated in the bulletin, we anticipate that risk corridors collections will be sufficient to pay for all risk corridors payments. That said, we appreciate that some commenters believe that there are uncertainties associated with rate setting, given their concerns that risk corridors collections may not be sufficient to fully fund risk corridors payments. In the unlikely event of a shortfall for the 2015 program year, HHS recognizes that the Affordable Care Act requires the Secretary to make full payments to issuers. In that event, HHS will use other sources of funding for the risk corridors payments, subject to the availability of appropriations.

Comment: One commenter asked that HHS apply this adjustment to all States for benefit year 2014. The commenter believed that this adjustment was necessary for the 2014 benefit year because of changes in the composition of the risk pools that were not anticipated when rates for the 2014 benefit year were developed.

Response: In the 2015 Payment Notice, we implemented an adjustment to the risk corridors formula for the 2014 benefit year that would help to further mitigate any unexpected losses for issuers of plans subject to risk corridors attributable to the effects of the transitional policy. In States that adopt the transitional policy, this

adjustment would increase a QHP issuer's risk corridors ratio and its risk corridors payment amount to help offset losses that might occur under the transitional policy as a result of increased claims costs and unanticipated changes in the risk pool that were not accounted for when setting 2014 premiums. For the reasons discussed in the 2015 Payment Notice, we believe that this adjustment will suitably offset any losses that QHP issuers may incur as a result of the transitional policy, and that no further risk corridors adjustments are necessary for the 2014 benefit year.

Comment: One commenter requested that HHS allow non-QHPs to participate in the risk corridors program, so that plans that comply with requirements of the Affordable Care Act could receive risk corridors protections that would help to ameliorate changes in the risk pool resulting from the transitional policy.

Response: We believe the risk corridors program is intended to share risk and stabilize premiums for QHPs (and certain substantially similar off-Exchange plans). Therefore, we decline to expand the participation criteria for this risk corridors adjustment. Data from all individual and small group market plans that comply with the Affordable Care Act market reforms will be included in a QHP issuer's risk corridors calculation as described in 45 CFR part 153, subpart F. However, consistent with our existing regulations set forth in subpart F of part 153, any risk corridors payment or charge amount, including any adjusted payment or charge amount resulting from the adjustment implemented in this final rule or the 2015 Payment Notice, will be calculated for a QHP issuer in proportion to the premium revenue that the issuer receives from its QHPs, as defined in § 153.500.

Comment: One commenter requested clarification about whether HHS intends to implement risk corridors budget neutrality on a national or a State level. The commenter believed that budget neutrality should be applied on an individual State level, because applying budget neutrality on a national level would add uncertainty to the rate setting process.

Response: The risk corridors program is a Federally administered program that applies uniformly to all States.

Summary of Regulatory Changes

We are finalizing our policy to increase the administrative cost ceiling and the profit margin floor by 2 percentage points, as proposed.

F. Part 154—Health Insurance Issuer Rate Increases: Disclosure and Review Requirements

Definition of Product (§ 154.102)

See the discussion in section III.C.1.b, ''Product Discontinuance and Uniform Modification of Coverage Exceptions to Guaranteed Renewability Requirements.''

G. Part 155—Exchange Establishment Standards and Other Related Standards Under the Affordable Care Act

1. Subpart B—General Standards Related to the Establishment of the Exchange Non-Interference With Federal Law and Non-Discrimination Standards (§ 155.120)

Under 45 CFR 155.120(c), States and Exchanges, when carrying out the requirements of Part 155, must comply with any applicable non-discrimination statutes, and must not discriminate on the basis of race, color, national origin, disability, age, sex, gender identity or sexual orientation. The non-discrimination provisions of § 155.120(c) apply not just to the Exchanges themselves, but to Exchange contractors and all Exchange activities (including but not limited to marketing, outreach and enrollment), Navigators, non-Navigator assistance personnel, certified application counselors, and organizations designated to certify their staff and volunteers as certified application counselors (78 FR 42829). Under 45 CFR 155.105(f) this non-discrimination requirement applies to the FFEs.

In the proposed rule, we proposed creating a limited exception to these non-discrimination requirements for an organization receiving Federal funds to provide services to a defined population under the terms of Federal legal authorities (for example, a Ryan White HIV/AIDS Program or an Indian health provider) that participates in the certified application counselor program under 45 CFR 155.225, to permit that organization to limit its provision of certified application counselor services to the same defined population without violating the non-discrimination provisions in existing § 155.120(c). The intent of this proposal was to allow such organizations to provide certified application counselor services and assist their defined populations in enrolling in health coverage offered through the Exchanges consistent with the Federal legal authorities under which such organizations operate.

To the extent that one of these organizations decides to take advantage of this exception, but is approached for certified application counselor services by an individual who is not included in the defined population that the organization serves, we proposed that the organization must refer the individual to other Exchange-approved resources, such as the toll-free Exchange call center, a Navigator, non-Navigator assistance personnel, or another designated certified application counselor organization, that is able to provide assistance to the individual. However, to the extent that one of these organizations decides that it will not take advantage of this proposed exception, we proposed that the non-discrimination provisions in existing § 155.120(c) would apply. Therefore, if an organization decides that it will provide certified application counselor services to individuals that are not included in the defined population that it serves, it must provide those services to all individuals consistent with the non-discrimination provisions in existing § 155.120(c).

We also proposed to make a number of technical changes to existing § 155.120(c) to accommodate this new limited exception.

Comment: Commenters generally supported the proposed exception to the non-discrimination standards to allow an organization receiving Federal funds to limit their provision of assister services to that population. Several commenters requested that HHS clarify that these organizations are prohibited from discriminating against individuals who are within their defined population that the organization serves under the terms of Federal legal authorities.

Response: With respect to the clarification requested from commenters, we are revising paragraph (c)(2) of § 155.120 to clarify that organizations that limit their provision of certified application counselor services to a defined population under this exception must still comply with the non-discrimination provisions in paragraph (c)(1) with respect to the provision of these services to that defined population. For example, a Ryan White organization that participates in the certified application counselor program and limits its provision of certified application services to its target population under Federal legal authorities cannot discriminate among members of that target population on the basis of race, color, national origin, disability, age, sex, or any of the other prohibited factor in 45 CFR 155.120(c) when providing those certified application counselor services.

We are also making technical revisions to § 155.120(c) to clarify here

that paragraph (1)(i) is included to highlight to organizations their obligations under other laws. Each organization needs to determine what other non-discrimination laws, which may be Federal or State laws, apply to them. We note that the reference to statutes incorporates regulatory requirements issued pursuant to statute. Paragraph (1)(ii), on the other hand, references the non-discrimination obligations that exist under this Rule.

Consistent with this technical revision, we have made a change to the text of § 155.120(c) to clarify that the exception to the non-discrimination requirement at § 155.120(c)(2) only applies in regard to the non-discrimination provisions created under this Rule. We cannot create exceptions in regard to requirements that exist under other laws.

Comment: One commenter recommended extending the exception to organizations that provide services to defined populations that speak languages other than English, regardless of receipt of Federal funds to provide services to these populations.

Response: We understand the desire for organizations interested in targeting specific populations to have flexibility to limit their provision of certified application counselor services to these populations. However, we believe it is appropriate to limit the exception to organizations that receive Federal funds to provide services to a defined population under Federal legal authorities because their beneficiaries are generally defined under Federal law. Although other organizations may choose to target the services they generally provide to specific populations, we do not believe it is appropriate to extend the exception in § 155.120(c)(2) to these organizations. If all organizations were allowed to target certified application counselor services to specific, defined populations, the situation could arise where a consumer may not be able to readily access certified application counselor services because the consumer is not a part of a target population being serviced through the organizations in their area.

Summary of Regulatory Changes

We are finalizing our proposals to make technical changes to § 155.120(c) and add a new limited exception to the non-discriminations provision in § 155.120(c). We are also further revising new § 155.120(c)(2) to clarify that organizations that limit their provision of certified application counselor services to a defined population under this exception must still comply with the non-discrimination provisions in paragraph (c)(1)(ii) with respect to the provision of these services to that defined population.

2. Subpart C—General Functions of an Exchange

a. Civil Money Penalties for Violations of Applicable Exchange Standards by Consumer Assistance Entities in Federally-Facilitated Exchanges (§ 155.206)

In § 155.206, as part of HHS's enforcement authority under section 1321(c)(2) of the Affordable Care Act, we proposed to provide for the imposition of CMPs on Navigators, non-Navigator assistance personnel, and certified application counselors and certified application counselor designated organizations in FFEs, including State Partnership Exchanges, that do not comply with applicable Federal requirements. We explained that this proposal was designed to deter these entities and individuals from failing to comply with the Federal requirements that apply to them, and to ensure that consumers interacting with the Exchange receive high-quality assistance and robust consumer protection. We noted that as a general principle, while HHS intends to assess CMPs when appropriate, consistent with this final rule, we also intend to continue to work collaboratively with consumer assistance entities and personnel to prevent noncompliance issues and address any that arise before they reach the level where CMPs might be assessed.

The Secretary, under the authority of sections 1311(i) and 1321(a)(1) of the Affordable Care Act, has previously established a range of consumer assistance programs to help consumers apply for and enroll in QHPs and insurance affordability programs through the Exchange. These consumer assistance programs include the Navigator program described at section 1311(i) of the Affordable Care Act and 45 CFR 155.210; the consumer assistance, outreach, and education functions authorized by section 1321(a)(1) of the Affordable Care Act and established at 45 CFR 155.205(d) and (e), which can include a non-Navigator assistance personnel program; and the certified application counselor program authorized by section 1321(a)(1) of the Affordable Care Act and set forth at 45 CFR 155.225. Under these authorities and the authority granted to the Secretary by section 1321(c)(1) of the Affordable Care Act, the FFE has implemented a Navigator and certified application counselor program in all States that did not elect to establish an Exchange, and has implemented a non-Navigator assistance program in some of those States through an enrollment assistance contract.

Under section 1321(c)(2) of the Affordable Care Act, the provisions of section 2723(b) of the PHS Act [21] apply to the Secretary's enforcement, under section 1321(c)(1) of the Affordable Care Act, of the standards established by the Secretary under section 1321(a)(1) of the Affordable Care Act for meeting the requirements under title I of the Affordable Care Act, including the establishment and operation of Exchanges, without regard to any limitation on the application of the provisions of section 2723(b) of the PHS Act to group health plans. Section 2723(b) of the PHS Act provides the Secretary with authority to assess CMPs against health insurance issuers that fail to meet certain Federal requirements set forth in the PHS Act that apply to group health plans, in circumstances where, in the Secretary's determination, the State that regulates the issuer has failed to ''substantially enforce'' those requirements. We interpret the cross-reference to section 2723(b) of the PHS Act in section 1321(c)(2) of the Affordable Care Act as providing the Secretary with authority to assess CMPs to enforce requirements established under section 1321(a)(1) of the Affordable Care Act against any entity subject to those requirements, under circumstances where the Secretary is exercising her authority under section 1321(c)(1) of the Affordable Care Act. For purposes of this final rule, we would consider that any State that has not elected to establish an Exchange, and in which the Secretary has therefore had to establish and operate an Exchange under section 1321(c)(1), is not ''substantially enforcing'' the requirements related to Exchanges that the Secretary has established under section 1321(a)(1).

Accordingly, HHS has the authority under section 1321(c)(2) of the Affordable Care Act to assess CMPs against Navigators, non-Navigator assistance personnel, and certified application counselors and certified application counselor designated organizations in FFEs, including State Partnership Exchanges, for violations of the requirements of the Navigator, non-Navigator, and certified application counselor programs that the Secretary

[21] Section 1321(c)(2) of the Affordable Care Act erroneously cites to section 2736(b) of the PHS Act instead of 2723(b) of the PHS Act. This was clearly a typographical error, and we have therefore interpreted section 1321(c)(2) of the Affordable Care Act to incorporate section 2723(b) of the PHS Act.

established under section 1321(a)(1) of the Affordable Care Act. This rule sets forth the circumstances under which the Secretary would exercise this authority, and is based on the enforcement scheme laid out in section 2723(b) of the PHS Act, and the implementing regulations at 45 CFR 150.301 *et seq.*

In § 155.206(a), we proposed to establish the scope and purpose of the CMP provisions and explained when and against whom HHS would assess a CMP under this rule. At § 155.206(a)(2), we proposed that HHS could permit an entity or individual to whom it has issued a notice of assessment of CMP to enter into a corrective action plan instead of paying the CMP. We specified that permitting an entity to enter into a corrective action plan would not limit HHS's authority to require payment of the assessed CMP if the corrective action plan is not followed. We explained that this approach would allow us not only to penalize violations if necessary, but also to prioritize working collaboratively with consumer assistance entities to ensure that improvements are made and future violations are prevented. We also explained that this approach would be consistent with the limitation on imposing CMPs that is set forth at PHS Act section 2723(b)(2)(C)(iii)(II).

We requested comments on whether we should provide for an expedited process through which HHS may assess and impose CMPs, if extenuating circumstances exist or if necessary to protect the public. We also considered implementing an approach that would give the HHS Office of Inspector General (OIG) concurrent authority with CMS to enforce violations under this section, and we requested comments on such an approach and how it might be structured.

In § 155.206(b), we proposed that the individuals and entities who would be subject to HHS' enforcement authority under this proposal would include the following entities in FFEs, including in State Partnership Exchanges: Navigators, non-Navigator assistance personnel (also referred to as in-person assistance personnel) authorized under § 155.205(d) and (e), and certified application counselors and organizations designated as certified application counselor organizations. We explained that we refer to these individuals and entities as ''consumer assistance entities,'' but these CMPs could be assessed against both entities and individuals. We requested comment on whether all of the individuals and entities listed in proposed § 155.205(b) should be subject to CMPs, and on whether other entities and individuals should be added to that list.

In § 155.206(c), we proposed the grounds on which HHS could assess CMPs on the entities and individuals specified in § 155.206(b). Section 1321(c)(2) of the Affordable Care Act authorizes the Secretary to enforce the requirements of section 1321(a)(1) of the Affordable Care Act, which include the requirements established by the Secretary regarding Exchange consumer assistance functions. This statutory provision authorizes HHS to assess a CMP or, in lieu of a CMP, a corrective action plan against Navigators, non-Navigator assistance personnel, certified application counselors, and certified application counselor organizations in FFEs if HHS determines that these individuals or entities are not in compliance with the Exchange standards applicable to them. We proposed that these Exchange standards would include any applicable regulations implemented under title I of the Affordable Care Act, as interpreted through applicable HHS guidance, such as the regulations governing consumer assistance tools and programs of an Exchange at § 155.205; those governing Navigators at § 155.210 and Navigators in FFEs at § 155.215; those governing certified application counselors at § 155.225; and those under § 155.215 governing non-Navigator assistance personnel in FFEs; as well as any applicable HHS guidance interpreting an existing regulatory or statutory provision.

We note that § 155.285 of this final rule extends CMPs to consumer assistance entities who misuse or impermissibly disclose personally identifiable information in violation of section 1411 of the Affordable Care Act. Therefore, we have not addressed penalties for those actions here. That section also extends CMPs to anyone providing false or fraudulent information on an Exchange application. Consequently, some conduct by consumer assistance entities may warrant CMPs under either § 155.285 or § 155.206, and in such cases we believe HHS has discretion to determine whether to assess a CMP under this regulation or under § 155.285 of this subpart. However, we proposed in § 155.206(c) that HHS would not assess a CMP under this section if a CMP has already been assessed for the same conduct under § 155.285.

In § 155.206(d), we proposed the basis for initiating an investigation of a potential violation. We proposed that HHS could initiate an investigation based on any information it receives indicating that a consumer assistance entity might be in noncompliance with applicable Exchange standards.

In § 155.206(e), (f) and (g), we proposed the process that HHS would follow to investigate potential violations in order to determine whether the consumer assistance entity has engaged in noncompliance of applicable Exchange standards. Under § 155.206(e), we proposed that if HHS learns of a potential violation through the means described in paragraph (d) in this section and determines that further investigation is warranted, HHS would provide written notice of its investigation to the consumer assistance entity. Such notice would describe the potential violation, provide 30 days from the date of the notice for the consumer assistance entity to respond and provide HHS with information and documents, including information and documents to refute an alleged violation, and would state that a CMP might be assessed if the consumer assistance entity fails to refute the allegations in HHS' determination.

In § 155.206(f), we proposed a process for a consumer assistance entity to request an extension from HHS when the entity cannot prepare a response to HHS's notice of investigation within the 30 days provided in the notice. We proposed that if HHS granted the extension, the responsible entity would be required to respond to the notice of investigation within the time frame specified in HHS's letter granting the extension of time, and failure to respond within 30 days, or within the extended time frame, could result in HHS's imposition of the CMP that would apply based upon HHS's initial determination of a potential violation as set forth in the notice of investigation under § 155.206(e).

In § 155.206(g), we proposed that HHS could review and consider documents or information received or collected in accordance with paragraph (d)(1) of this section or provided by the consumer assistance entity in response to receiving a notice in accordance with paragraph (e)(2) of this section. We also proposed that HHS may conduct an independent investigation into the alleged violation, which may include site visits and interviews, if applicable, and may consider the results of this investigation in its determination.

In § 155.206(h), we proposed the factors that HHS would use to determine the appropriate CMP amount, and to determine whether it would be appropriate to offer the entity or individual an opportunity to enter into a corrective action plan in place of the CMP. These proposed factors included HHS's assessment of the consumer

assistance entity's previous or ongoing record of compliance; the gravity of the violation, as determined in part by the frequency of the violation and the financial harm incurred by a consumer; and the culpability of the consumer assistance entity, as determined, in part, by whether the entity received payment for committing the violation.

Section 2723(b)(2)(C)(i) of the PHS Act limits the amount of CMPs authorized under section 1321(c)(2) of the Affordable Care Act to $100 for each day for each individual directly affected. Therefore in § 155.206(i), we proposed that the maximum daily amount of penalty assessed for each violation would be $100 for each day, for each consumer assistance entity, for each individual directly affected by the entity's non-compliance. We also proposed that, consistent with the approach under existing rules at 45 CFR 156.805(c), where HHS cannot determine the number of individuals directly affected, HHS may reasonably estimate this number based on available information, such as data from an FFE Navigator grantee's quarterly or weekly report concerning the number of consumers assisted. We requested comment on whether we should implement a cap on the total penalty that could be assessed by HHS.

In proposed § 155.206(j), we proposed that nothing in this section would limit HHS's authority to settle any issue or case described in the notice furnished in accordance with paragraph (e), or to compromise on any CMP provided for in this section.

Section 2723(b)(2)(C)(iii) of the PHS Act places certain limitations on CMPs authorized under section 1321(c)(2) of the Affordable Care Act, including the limitation that HHS will not assess a CMP where the entity did not know, or exercising reasonable diligence would not have known, of the violation. We proposed to implement these limitations in § 155.206(k). We also proposed, based on the HIPAA enforcement structure at 45 CFR 150.341, that the burden is on the consumer assistance entity to establish that the circumstances triggering these limitations existed.

In § 155.206(l), we proposed standards for notifying consumer assistance entities of the intent to assess a CMP, which notice would include an explanation of the entity's right to an appeal pursuant to the process set forth at 45 CFR Part 150, Subpart D, as provided in proposed § 155.206(m). We sought comment on whether all aspects of that process should be applicable to appeals of these CMPs. Finally, in § 155.205(n), we proposed that HHS may require payment of the proposed CMP if the consumer assistance entity does not timely request a hearing.

We also requested comment on whether other provisions of 45 CFR Part 150 should be adopted and made applicable to the proposed enforcement scheme, and whether a specific limitations period should apply, and if so, what limitations period would be appropriate for violations of applicable Exchange standards by consumer assistance entities in FFEs.

Comment: We received many comments in support of the proposed CMP provisions under § 155.206. Some commenters expressed appreciation that the proposed rule struck a balance between holding consumer assistance entities accountable and protecting the public from wrongdoing, on the one hand, while not being overly punitive, on the other. A few commenters were concerned that the threat of CMPs might discourage participation in the Navigator, non-Navigator assistance personnel, or certified application counselor programs. Some commenters expressed concern that CMPs for violations of consumer assistance entity requirements would be an extreme response to such noncompliance, and one commenter expressed the view that the imposition of financial responsibility on consumer assistance entities muddies the distinction between these entities and agents and brokers.

Response: We do not see similarities between these penalties and the licensing, errors and omissions coverage, or other financial responsibility requirements that States may impose on agents and brokers as a prerequisite to performing the duties of an agent or broker. Consumer assistance entities will have no required fees or payments under this section unless they violate the Federal requirements that apply to them as described in § 155.206(c). On the other hand, States may require agents and brokers to pay licensing, errors and omissions coverage, or other financial responsibilities up front before acting as a licensed agent or broker. Any CMPs assessed under this provision would be penalties for noncompliance, aimed at discouraging and rectifying violations of Federal requirements by consumer assistance entities in the FFEs, rather than financial conditions of participation in the Navigator, non-Navigator assistance personnel, or certified application counselor programs for the FFEs. Additionally, we believe that many aspects of the final rule help ensure that individuals and entities are not deterred from performing consumer assistance functions in good faith, while also serving to protect members of the public from potential wrongdoing by consumer assistance entities. For example, the rule requires HHS to make individualized inquiries into the nature and consequences of each violation, and provides consumer assistance entities being investigated with the opportunity to explain the reasons behind their conduct. Further, the rule provides HHS with the opportunity to work collaboratively with entities by entering into a corrective action plan in lieu of paying a CMP, and HHS will continue to assist entities with avoiding and informally resolving any violations.

Comment: A number of commenters recommended that HHS extend the CMP provisions to cover consumer assistance entities operating in State Exchanges, work in conjunction with State Exchanges when implementing this section, or require State Exchanges to implement similar provisions. Some commenters appeared to suggest that HHS should have the ability to assess CMPs against consumer assistance entities in State Exchanges where the State fails to substantially enforce the Federal standards applicable to consumer assistance entities.

Response: Given the nature of the relationship between HHS and consumer assistance entities in FFEs, including the existence of formal agreements or grants between HHS and the FFE consumer assistance entities subject to these CMPs, and HHS's responsibility for providing training, technical assistance, and support to consumer assistance entities in FFEs, we believe that HHS is in the best position to exercise primary enforcement authority for Federal requirements that apply to consumer assistance entities in FFEs, including State Partnership Exchanges. At this time, we are not extending the CMP provisions under § 155.206 to apply to consumer assistance entities working in State Exchanges. We will instead look to each State Exchange to exercise its authority to enforce any Federal requirements applicable to these assistance programs in the State Exchange. We may take additional action in the future.

Comment: Some commenters believed that the proposed grounds for assessing CMPs in proposed § 155.206(c) would not permit CMPs for violations of State Partnership Exchange rules where those rules differ from FFE rules.

Response: The CMP provisions under § 155.206 are directed at consumer assistance entities that violate Federal requirements for assisters in FFEs, including assisters in State Partnership Exchanges. Under current

§ 155.210(c)(1)(iii), as well as provisions finalized in this rulemaking at § 155.215(f) and § 155.225(d)(8), the consumer assistance entities subject to those regulations must meet any State licensing, certification, or other standards prescribed by the State, if applicable, so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act. Although HHS has authority under these provisions to enforce State requirements applicable to consumer assistance entities because the State requirements are incorporated into the entities' Federal regulatory requirements, at this time we do not intend to enforce State requirements using § 155.206. We believe that States are in the best position to enforce their own requirements.

Comment: We requested comment on whether CMS should have concurrent enforcement authority under the provisions of § 155.206 with the HHS Office of the Inspector General (OIG), and if so, what process OIG would follow in enforcing these CMPs. The vast majority of commenters who responded to this request recommended against concurrent enforcement authority and believed that CMS is better situated than OIG to enforce CMPs for noncompliant consumer assistance entities. These commenters reasoned that because of CMS's expertise and familiarity with the outreach and enrollment process, as well as CMS's working relationships with consumer assistance entities, CMS would be the most effective enforcement authority and is in a better position to effectively collaborate with consumer assistance entities and pursue corrective action, when appropriate, to resolve issues that may arise. Only one commenter expressed a preference for including concurrent enforcement authority in § 155.206 so that the OIG could exercise enforcement authority under appropriate circumstances.

Response: We agree with the commenters who recommended against concurrent enforcement authority that, at least initially, CMS should have sole responsibility for CMP enforcement against noncompliant consumer assistance entities under this section. CMPs assessed under this section would be penalties for programmatic violations, and we agree that CMS is in the best position to investigate and enforce its own program standards. Additionally, consumer assistance entities who provide false or fraudulent information in an Exchange application on a consumer's behalf, or who improperly use or disclose a consumer's personally identifiable information, might be in violation of another CMP provision finalized in this rule, 45 CFR 155.285, which provides concurrent enforcement authority for CMS and OIG. Therefore, certain consumer assistance entity violations might fall under OIG jurisdiction, when appropriate. Additionally, as we indicated in the preamble to the proposed rule, we intend to continue to work collaboratively with consumer assistance entities to address noncompliance issues before they reach the level where a CMP might be assessed. Consequently, we do not anticipate that CMS will assess a large volume of CMPs against consumer assistance entities for noncompliance with Federal requirements. However, we note that we are not foreclosing the possibility that we would pursue the addition of OIG concurrent enforcement authority for these provisions at some point in the future.

Comment: We also requested comments on whether we should implement an expedited process through which HHS might assess and impose CMPs if extenuating circumstances exist or if necessary to protect the public. One commenter did not believe an expedited process was necessary because the regulation as proposed contained sufficient mechanisms to prevent or address abuse by consumer assistance entities. Another commenter suggested that an expedited process should only be implemented at the request of the entity being investigated to ensure that no entity was denied adequate time to gather evidence and respond to the investigation.

Response: We agree with the commenters' concerns. To ensure that consumer assistance entities are afforded adequate due process, we have not provided for an expedited investigative process in finalizing these provisions. Where exceptional circumstances exist, or if necessary to protect the public, HHS has the option to take swift action to address consumer assistance entity noncompliance by using remedies available pursuant to its agreements with these entities, such as the terms and conditions of Federal Navigator grants, agreements with Enrollment Assistance Program entities that provide non-Navigator in-person assistance, or agreements between HHS and certified application counselor designated organizations. If the circumstances warrant, we also will consider referring cases to appropriate law enforcement officials. Additionally, as we noted in the preamble to the proposed rule, we intend to continue to work collaboratively with consumer assistance individuals and entities to prevent noncompliance issues and address any problems that arise before they reach the level where CMPs might be assessed.

Comment: Many commenters supported HHS's intention to prioritize the use of alternative remedies over assessment of CMPs. A large number of commenters strongly supported giving consumer assistance entities the opportunity to enter into a corrective action plan to correct the violation instead of paying a CMP. Some recommended that HHS require these entities to participate in a corrective action plan before assessing a CMP.

Response: We agree that alternative remedies should be used where appropriate, and we have crafted this provision to include flexibility for HHS to help prevent and resolve noncompliance issues in lieu of collecting a CMP. However, we do not believe that requiring corrective action plans from consumer assistance entities will be a suitable response to every instance of noncompliance. For example, if a consumer assistance entity's conduct is so egregious that in order to protect the public we have terminated our relationship with the entity pursuant to our agreement or contract with the entity, a corrective action plan may not be appropriate. Therefore, we are finalizing § 155.206(a) as proposed.

Comment: We requested comment on whether all of the consumer assistance individuals and entities listed in proposed § 155.206(b) should be subject to CMPs, and on whether other entities and individuals should be added to that list. Many commenters supported the inclusion of Navigator individuals and organizations, non-Navigator assistance personnel and entities, and certified application counselor designated organizations and individual certified application counselors operating in an FFE, as proposed. Several commenters recommended that volunteers serving as Navigators, non-Navigator assistance personnel, or certified application counselors should be exempt from CMPs under this section. One commenter argued that the Volunteer Protection Act protects volunteer certified application counselors from liability under this section. Another commenter suggested that Exchange employees should also be subject to CMPs.

Response: We believe that the consumer protection interests that are served by the CMP provisions under § 155.206 are equally important whether they apply to volunteer or paid staff providing application assistance. The

application of the Volunteer Protection Act of 1997 to CMPs assessed against volunteers of Navigator, non-Navigator assistance, or certified application counselor organizations would be examined by courts or other reviewing entities on a case-by-case basis. We further clarify that no Navigators, non-Navigator assistance personnel, or certified application counselors in the FFEs would be volunteers for the Federal government because the consumer assistance entities with which they are affiliated provide services to the public, not to the Federal government.

While we will monitor the activities of FFE employees carefully and reserve the right to add them to this rule in the future, we do not believe it is necessary to extend these penalties to FFE employees at this time, because in our view, the range of employment-based remedies available to the FFE provides adequate enforcement authority in the event of employee misconduct. In addition, FFE employees might be subject to CMPs under § 155.285 if they provide false or fraudulent information in an Exchange application or misuse consumers' personally identifiable information. We are finalizing § 155.206(b) as proposed.

Comment: Many commenters addressed our proposed grounds for assessing CMPs at § 155.206(c). Some commenters worried that the proposed grounds for assessing penalties were stated too broadly, and did not provide adequate notice to consumer assistance entities and personnel regarding the specific requirements and standards that would apply when a determination is made as to whether a CMP should be assessed for noncompliance. These commenters recommended that we specify the statutory and regulatory requirements with which consumer assistance entities and personnel must comply to avoid potential CMPs, and various commenters suggested that these might include the regulatory requirements specific to consumer assistance entities at 45 CFR 155.205, 155.210, 155.215, and 155.225; statutory and regulatory nondiscrimination requirements at 42 U.S.C. 18116, 45 CFR 155.105(f), and 155.120(c); and the Affordable Care Act requirements on health insurance consumer information at 42 U.S.C. 300gg–93, and affordable choices of health benefit plans at 42 U.S.C. 18031.

Response: We agree that more specificity regarding the FFE requirements and standards that, if violated, might trigger CMPs under this section would help provide adequate notice to consumer assistance entities and help prevent inadvertent violations of those standards. Therefore, we have modified § 155.206(c) to make more clear that the requirements and standards applicable to consumer assistance entities under this section refer to the Federal regulatory requirements applicable to consumer assistance entities that have been promulgated by the Secretary pursuant to section 1321(a)(1) of the Affordable Care Act, as well as the terms of any agreements, contracts, and grant terms and conditions between the consumer assistance entity and HHS, to the extent that these documents interpret those Federal regulatory requirements or set forth procedures for compliance with them. We note that HHS has authority to assess CMPs under section 1321(c)(2) of the Affordable Care Act only to enforce requirements that the Secretary establishes under section 1321(a)(1) of the Affordable Care Act. Therefore, Federal requirements that have not been established pursuant to section 1321(a)(1) of the Affordable Care Act could not be enforced pursuant to this section.

We have not included in the final rule a more specific list of the requirements that could be enforced under this section because we anticipate that these may change over time. However, we anticipate that any list of such requirements would include, but not be limited to, the requirements specific to consumer assistance entities at 45 CFR 155.205(c)–(e), 155.210, 155.215, and 155.225; the Exchange nondiscrimination requirements at 45 CFR 155.105(f) and 155.120(c); and the Exchange privacy and security requirements implemented pursuant to 45 CFR 155.260. Consumer assistance entities would also be required to comply with other future requirements when any such requirements go into effect.

Comment: Some commenters were concerned that consumer assistance entities might be penalized for inadvertent, technical, or administrative errors, or misunderstandings, and wanted to ensure that consumer assistance personnel would not be responsible for errors due to system issues, complex and changing systems, policies, workarounds, as well as lack of information from issuers. Other commenters expressed concern about being found in noncompliance on the basis of subregulatory guidance or frequently answered questions (FAQs) that they may not have seen or known about. Some commenters suggested that HHS develop a publicly available, searchable database or warehouse of rules and processes. Additional commenters requested that we provide clarity regarding the level of violation that might trigger investigation, and asked that we limit the use of CMPs to cases of egregious behavior, such as when the violation was a result of willful neglect or results in significant harm to a consumer.

Response: We expect that the changes we have made to proposed § 155.206(c) in this final rule will help provide clarity regarding the standards consumers assistance entities must meet in order to avoid any potential CMPs under this section. We also understand commenters' concerns about changes in best practices and FAQs. As we explained above, HHS's enforcement authority under this section extends only to requirements that are established under section 1321(a)(1) of the Affordable Care Act. From time to time, we have issued and will continue to issue best practices, FAQs, and other subregulatory guidance interpreting these requirements. We further note that we offer anyone being investigated under this section an opportunity to respond under § 155.206(e) and (g), and consumer assistance entities may use this opportunity to discuss any barriers they may have encountered to fulfilling their duties as required, including confusion regarding requirements as interpreted through subregulatory guidance. Finally, pursuant to section 2723(b)(2)(C)(iii) of the PHS Act, we have provided in § 155.206(k) that no penalties will be assessed for any period of time during which a consumer assistance entity neither knew nor exercising reasonable diligence should have known of the violation, or any time afterwards if the violation was corrected within 30 days and due to reasonable cause and not wilful neglect.

Comment: Some commenters asked us to further define ''reasonably determined,'' the standard in § 155.206(c) for HHS's finding that a consumer assistance entity has failed to comply with applicable Federal regulatory requirements.

Response: In § 155.206(c), we proposed that a reasonable determination would be ''based on the outcome of the investigative process outlined in paragraphs (d) through (i) of this section.'' This standard is meant to capture the fact that a CMP would not immediately be imposed, but instead imposed only after HHS provides a process involving notice, consideration of any additional information or documentation submitted by the consumer assistance entity pursuant to § 155.206(e), consideration of the factors outlined in § 155.206(h), and the consumer assistance entity's right to a

hearing pursuant to § 155.206(m). If HHS identifies circumstances that meet the standard set in § 155.206(c), it will send a notice informing the consumer assistance entity of the assessment of a CMP under § 155.206(l). The consumer assistance entity then has the right to request a hearing in front of an Administrative Law Judge in accordance with § 155.206(m) before the CMP is levied.

Comment: Several commenters advocated against the duplication of penalties in instances where certain types of violations may already subject them to other types of penalties. A few commenters noted that the Health Insurance Portability and Accountability Act already governs certain critical aspects of compliance related to protected health information.

Response: We understand commenters' concern about the potential for a violation to be punished twice under different enforcement schemes, and we have amended § 155.206(h) to include a factor allowing HHS to take into consideration whether other remedies or penalties have been assessed and/or imposed for the same conduct or occurrence. It would be the responsibility of the consumer assistance entity to bring such information to HHS's attention.

Comment: Several commenters emphasized the need for consumer assistance training about CMP implementation, and more robust training regarding any rules whose violation might trigger a CMP investigation, including circumstances in which consumers' personally identifiable information (PII) can be collected, and appropriate uses and storage of PII. A few commenters were concerned that the restrictions on retaining consumer PII might prevent consumer assistance entities from keeping sufficient information to refute allegations of misconduct.

Response: We believe that the protection of consumer information is one of the most critical duties of consumer assistance entities. Section 155.215(b)(2)(xi) requires all Navigators in FFEs, including State Partnership Exchanges, as well as all non-Navigator assistance personnel to which § 155.215 applies, to receive training on the privacy and security standards applicable under § 155.260 for handling and safeguarding consumers' personally identifiable information. Section 155.215(b)(1)(iii) requires that all Navigators in FFEs, including State Partnership Exchanges, and all non-Navigator assistance personnel to which § 155.215 applies, complete and achieve a passing score on all approved certification examinations prior to carrying out any consumer assistance functions under § 155.205(d) and (e) or § 155.210. And § 155.225(d)(3) requires certified application counselors to comply with the Exchange's privacy and security standards adopted consistent with § 155.260, and applicable authentication and data security standards. To implement these requirements, HHS has included detailed privacy and security requirements in its agreements, contracts, and grant terms and conditions with the consumer assistance entities that are carrying out functions in States with an FFE, including a State Partnership Exchange. We recognize that these strong consumer protections restrict the personal consumer information that consumer assistance entities are able to retain and therefore limit the information available to them in preparing a response to a notice of investigation in § 155.206(e). If any consumer assistance entity feels limited in their ability to respond to a notice of investigation, we encourage them to explain any rules and policies that prevented them from retaining information they believe would have been exculpatory. HHS may take such explanations into account under the factors outlined in § 155.206(h).

Comment: We received a number of comments on our proposed bases for initiating an investigation of a potential violation in § 155.206(d). Commenters supported explicitly allowing any entity, individual, or individual's authorized representative to file a complaint with HHS alleging that a consumer assistance entity has violated the FFE rules applicable to them. Some commenters asked HHS to clarify the process for filing complaints, including whether complaints filed at other HHS offices for other enforcement purposes would, if applicable, be shared with the office responsible for initiating investigations under § 155.206 and trigger investigations under this section. Other commenters asked that we require consumer assistance entities to post information about the complaint process to ensure that consumers understand their rights about how to file a complaint.

Response: We anticipate providing further guidance regarding how and where individuals and entities may file complaints against consumer assistance entities or individuals. To ensure that the basis for initiating an investigation is sufficiently broad, we have modified proposed § 155.206(d)(1) to clarify that all information received or learned by HHS, whether through communications from sources outside HHS or not, could trigger an investigation into consumer assistance entity noncompliance. For example, if HHS discovers possible noncompliance by reviewing data or information already available to it through its own monitoring efforts, rather than by reviewing new information given to it by external, non-HHS sources, under final § 155.206(d)(1) that information could serve as the basis for initiating an investigation. We have also modified proposed § 155.206(d)(1)(iii) to align it with language in § 155.206(d)(1) and § 155.206(d)(2) indicating that HHS may consider information ''that a consumer assistance entity may have engaged or may be engaging'' in noncompliance as described in § 155.206(c). We are finalizing the rest of § 155.206(d) as proposed.

Comment: A few commenters asked for clarification regarding the standards HHS will use to determine whether an investigation is warranted. As proposed, § 155.206(e) required HHS to provide consumer assistance entities notice of an investigation and 30 days to respond with evidence, each time HHS learns of a potential violation. Instead, commenters requested that HHS make a preliminary assessment of complaints to determine their credibility before initiating a formal investigation under § 155.206(e), to avoid imposing unnecessary administrative burdens on consumer assistance entities, and to prevent individuals and organizations from submitting complaints with the purpose of disrupting Exchange operations.

Response: We agree with commenters that HHS should not issue notice to a consumer assistance entity, with the accompanying 30 days to respond to the allegation, until HHS has determined that a formal investigation is warranted. We have amended § 155.206(e) to specify that HHS will provide a written notice to the consumer assistance entity when HHS performs a formal investigation, rather than each time it learns of a potential violation.

Comment: One commenter agreed that the CMP process, as proposed, provides a reasonable time frame to close out investigations. Another commenter asked that the time frame for consumer assistance entities to respond to the notice of investigation be increased from 30 days to 60 days.

Response: We believe 30 days to respond to HHS's notice of investigation in § 155.206(e) is a reasonable amount of time, particularly because the consumer assistance entity may request an extension of another 30 days under § 155.206(f) if the entity cannot prepare a response within the initial 30-day

period. Therefore, we are finalizing the 30-day response period in § 155.206(e) as proposed.

Comment: Commenters generally supported the proposed factors in § 155.206(h) for determining noncompliance and the amount of any CMPs assessed. Several commenters appreciated the case-by-case nature of this process, and agreed that the determination should take into account factors like the consumer assistance entity's previous or ongoing record of compliance, the gravity and frequency of the violation, and any financial harm incurred by the consumer. One commenter suggested that HHS should assess penalties only if the violation is intentional and causes harm, and another asked that CMPs be suspended if the entity was acting in good faith on behalf of the individual assisted. One commenter recommended that we move the factor regarding the degree of culpability of the consumer assistance entity, proposed at § 155.206(h)(2)(i), from the list of factors that HHS *may* consider under § 155.206(h)(2), to the list of factors that HHS *must* consider under § 155.206(h)(1).

Response: We believe that the factors as proposed in § 155.206(h) are responsive to commenters concerns. For example, HHS is required to take into account the harm caused by a violation under § 155.206(h)(1)(ii), which provides that HHS must take into account the gravity of the violation, which may be determined in part by whether the violation caused, or could reasonably be expected to cause, adverse impacts, and the magnitude of those impacts. We based these factors on a longstanding interpretation of what ''gravity of the violation'' means and what it may include under the HIPAA enforcement scheme at 45 CFR 150.317. HHS may also take into account the degree of culpability of the consumer assistance entity under § 155.206(h)(2)(i). We believe this factor will generally play an important role in HHS's determination of whether CMPs should be assessed, but we are finalizing this factor as proposed because the mandatory factors in § 155.206(h)(1) track the requirements of section 2723(b)(2)(C)(ii) of the PHS Act, while the permissive factors in § 155.206(h)(2) are not statutory requirements. Additionally, we believe that the limitations on CMPs described in § 155.206(k) provide sufficient protections for consumer assistance entities acting in good faith on behalf of consumers. Therefore, we are finalizing the other factors listed in § 155.206(h) as proposed, with the addition, as discussed above, of a factor regarding whether other remedies or penalties have been assessed and/or imposed for the same conduct or occurrence.

Comment: One commenter requested clarity regarding whether HHS could assess a lesser amount per day than the maximum of $100, and recommended against the assessment of a lesser amount. One commenter suggested that when the number of individuals directly affected by the violation cannot be determined, there should be a maximum placed on the estimate calculated by HHS, based on the size of the consumer population previously assisted by the entity. One commenter requested that HHS exclude from the time frame for which a penalty is assessed any time during which the investigation is being conducted, provided the entity or individual stops the behavior at issue during that period.

Response: The maximum penalty provided in § 155.206(i) is the per-day limit on the amount of any CMP that may be assessed. HHS may determine that a lesser amount is appropriate, based on an analysis of the relevant factors in § 155.206(h). We believe that a reasonable estimate of individuals directly affected, as we explained in the preamble to the proposed rule, would be based on available information, such as the data from a Federal Navigator grantee's quarterly or weekly report concerning the number of consumers assisted. Therefore, we do not think it is necessary to place a maximum on such an estimate based on the size of the population assisted by the entity. In addition, we have not included a requirement that would toll the maximum penalty from accruing while HHS conducts its investigation because of the possibility that consumers may continue to be affected by previous misconduct during this period, even if the entity has stopped the behavior at issue. However, under § 155.206(k)(1)(ii), HHS cannot assess penalties for any period of time after a consumer assistance entity knew, or exercising reasonable diligence would have known, of the failure, if the violation was due to reasonable cause and not due to willful neglect and the violation was corrected within 30 days of the first day that any of the consumer assistance entities against whom the penalty would be imposed knew, or exercising reasonable diligence would have known, that the violation existed. Additionally, HHS may consider a consumer assistance entity's cessation of misconduct when determining whether penalties should be assessed and in what amount, under § 155.206(h)(2)(ii). Taken together, we believe these factors strike the right balance to ensure that any CMPs assessed by HHS are reasonable and appropriate.

Comment: We requested comment on whether we should provide a cap on the total penalty that could be assessed by HHS in addition to the maximum per day penalty. The majority of commenters who responded to this request recommended that we implement such an aggregate cap. These commenters were concerned that the lack of such a cap might chill participation, particularly for those organizations with fewer resources, and might unduly penalize consumer assistance entities for mistakes made due to lack of sophistication or confusion during the initial open enrollment period. A few commenters recommended against implementing an aggregate penalty cap because the cost-benefit of CMPs for certain violations might not serve as an adequate deterrent. One commenter recommended a tiered system of caps based on the time frame of the violation.

Response: We agree with commenters that if we were to set an aggregate cap for CMPs assessed against a consumer assistance entity, CMPs might not serve as a sufficient deterrent for certain types of misconduct or noncompliance. Therefore, we are finalizing § 155.206(i) as proposed. However, we have modified the text of § 155.206(h) to make clear that, as was discussed in the preamble to the proposed rule, the factors listed are to be used not just to determine whether CMPs are warranted under the circumstances surrounding the violation, but also to determine the amount of any CMPs assessed. We believe this change will help HHS ensure that the amount of any penalty assessed is in proportion to the consumer assistance entity's violation.

Comment: One commenter suggested that the CMPs collected by HHS related to consumer harm should be distributed to consumers as restitution.

Response: Section 2723(b)(2)(G) of the PHS Act states that penalties collected under paragraph (b) of that Act must be ''expended for the purpose of enforcing the provisions with respect to which the penalty was imposed.'' HHS does not interpret restitution to consumers to fall within this statutory purpose, and therefore does not interpret the statute to permit restitution to consumers. Accordingly, we do not provide for consumer restitution as an alternative use of CMPs collected under this authority.

Comment: One commenter expressed support for our proposal in § 155.206(j) that HHS retain authority to settle or

compromise on any penalties provided for in this section.

Response: We agree that HHS should have the flexibility to settle or compromise on any penalties that could be collected. We are therefore finalizing § 155.206(j) as proposed.

Comment: Many commenters supported our proposal in § 155.206(k) to implement the limitations that HHS will not assess a CMP where the entity did not know, or exercising reasonable diligence would not have known, of the violation; or for any period of time after a consumer assistance entity knew, or exercising reasonable diligence would have known, of the failure, if the violation was due to reasonable cause and not due to willful neglect and the violation was corrected within 30 days of the first day that any of the consumer assistance entities against whom the penalty would be imposed knew, or exercising reasonable diligence would have known, that the violation existed. Some commenters expressed that these limitations would help encourage a broader group of organizations with varying degrees of experience to participate as consumer assistance entities, and ensure that CMPs are reserved for the most egregious offenses. Several commenters also supported our proposal to place the burden on demonstrating the existence of the factors that trigger these limitations on the consumer assistance entity.

Response: We agree with these comments, and are finalizing § 155.206(k)(1) and (2) as proposed. We believe these limitations will help balance the interests of HHS, the Exchange, and consumers to have consumer assistance entities exercise reasonable diligence in understanding and executing their obligations, while not unnecessarily penalizing consumer assistance entities who are acting in good faith.

Comment: We requested comment on whether a statute of limitations should apply to actions under this section. One commenter responded to this request, suggesting that a statute of limitations period would be appropriate and recommending a period of 5 years.

Response: We agree that a statute of limitations period is appropriate. We believe such a period will help give assurance to consumer assistance entities that any violations will not be actionable indefinitely, particularly since we understand that some commenters are concerned about the potential for these penalties to discourage program participation. Additionally, HHS's goals in issuing this CMP rule are to encourage program compliance, prevent misconduct, and remedy violations promptly. We do not think these goals will be served by prosecuting violations many years after they have occurred.

The regulations finalized elsewhere in this rulemaking at § 155.285 regarding application fraud and misuse of PII have adopted a six-year statute of limitations following the date of the occurrence. We believe that consistency with § 155.285 regarding the statute of limitations period is important because the same conduct by a consumer assistance entity in an FFE might trigger CMPs under either that provision or under § 155.206. Additionally, we believe that six years provides ample time for HHS to discover, investigate, and assess any potential CMP against a consumer assistance entity. We have therefore added a new § 155.206(k)(3) to provide for a six-year statute of limitations period.

Comment: We requested comment on whether all aspects of 45 CFR Part 150, Subpart D should apply to appeals of CMPs assessed under § 155.206. No commenters responded to this request, although one commenter supported the proposed appeals process. One commenter recommended that CMPs should continue to accrue pending an appeal in the event the imposition of CMPs is upheld on appeal and the Exchange participant failed to correct the instance of noncompliance following the imposition.

Response: We are finalizing § 155.206(m)–(n) as proposed. We do not believe it is necessary to provide that CMPs should continue to accrue pending appeal. If HHS receives or learns of any information indicating that a consumer assistance entity may have engaged or may be engaging in noncompliant activity in violation of § 155.206(c), including any violation for the period following an initial assessment, such as the period during which an appeal is pending, HHS could initiate a new investigation and assess new CMPs as appropriate.

Comment: Several commenters agreed with our proposal that where conduct by consumer assistance entities may warrant CMPs under either § 155.285 or § 155.206, HHS has discretion to determine whether to assess a CMP under § 155.285 or under § 155.206. Other commenters recommended that consumer assistance entities be exempt from penalties under § 155.285. A few argued that consumer assistance entities do not actually provide information as part of the process of applying for coverage or an exemption, and therefore it was difficult to see how they could provide false or fraudulent information in violation of section 1411(b) of the Affordable Care Act.

Response: We disagree that consumer assistance entities should be exempt from the provisions of § 155.285. Any Navigator, non-Navigator assistance personnel, or certified application counselor who misuses consumer information in violation of section 1411(g) of the Affordable Care Act, or who knowingly enters false or fraudulent information in a consumer's application with or without the knowledge of the consumer, might be in violation of either § 155.285 or § 155.206. Therefore, we maintain that where conduct by a consumer assistance entity may warrant CMPs under either § 155.285 or § 155.206, HHS should have discretion to determine whether to assess a CMP under § 155.285 or under § 155.206. We have also finalized the portion of § 155.206(c) that indicates that HHS will not assess a CMP under § 155.206 if a CMP has been assessed for the same conduct under § 155.285. If a consumer assistance entity is in a situation where CMPs could be imposed under both § 155.285 and § 155.206, when determining whether to assess CMPs under § 155.285, HHS will take the possibility that it may be penalizing conduct that is being investigated or has already been penalized under § 155.206 into account as a factor under § 155.285(b)(1)(viii).

Summary of Regulatory Changes

We are finalizing the provisions proposed in § 155.206 of the proposed rule, with the following modifications. We modified proposed § 155.206(c) to more clearly explain that HHS could assess a CMP against a consumer assistance entity for failure to comply with the Federal regulatory requirements applicable to the consumer assistance entity that have been implemented pursuant to section 1321(a)(1) of the Affordable Care Act, including provisions of any agreements, contracts, and grant terms and conditions that interpret those Federal regulatory requirements or establish procedures for compliance with them. We added language to final § 155.206(d)(1), to specify that information learned, not just received, by HHS indicating that a consumer assistance entity may have engaged or may be engaging in activity specified in paragraph (c) may warrant an investigation. We modified § 155.206(d)(1)(iii) to align with language elsewhere in this section that HHS may consider information ''that a consumer assistance entity may have engaged or may be engaging'' in noncompliance under § 155.206(c),

rather than information concerning ''potential involvement'' in such activity. We revised § 155.206(e) to specify that HHS must provide a written notice to a consumer assistance entity of its investigation, rather than requiring HHS to provide a written notice to an entity each time HHS learns of a potential violation. We revised § 155.206(h) to clarify that, consistent with the preamble discussion of the proposed rule, the factors listed are to be used not just to determine whether CMPs are warranted, but also to determine the amount of any CMPs assessed. In § 155.206(h)(1)(i), we removed the erroneous reference to corrective action plans ''under section (c) of this section.'' We also included a new factor at § 155.206(h)(2)(iii) that allows HHS to take into consideration whether other remedies or penalties have been assessed and/or imposed for the same conduct or occurrence, and adjusted the numbering of the final factor (''Other such factors as justice may require'') from § 155.206(h)(2)(iii) to § 155.206(h)(2)(iv). In § 155.206(i), we changed ''the Exchange'' to ''HHS'' for consistency with the rest of the section. We added new § 155.206(k)(3) to provide for a six-year statute of limitations period. We corrected some numbering errors throughout § 155.206(l). We also made several minor wording changes throughout final § 155.206, to replace ''Federally-facilitated Exchanges'' with ''a Federally-facilitated Exchange'' and to use the abbreviation ''CMP'' consistently.

b. Navigator, Non-Navigator Assistance Personnel, and Certified Application Counselor Program Standards (§§ 155.210, 155.215, and 155.225)

1. Provisions Related to Non-Federal Requirements for Navigators, Non-Navigator Assistance Personnel, and Certified Application Counselors (§§ 155.210, 155.215, and 155.225)

In the proposed rule, we proposed amending § 155.210(c)(1)(iii) to add new paragraphs (A) through (F) to specify a non-exhaustive list of certain non-Federal requirements that would prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act, with respect to the Navigator program. We also proposed amending § 155.215(f) to make clear that we would consider the same types of non-Federal requirements listed in proposed § 155.210(c)(1)(iii)(A) through (F) (except for 155.210(c)(1)(iii)(D)) to prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act, when applied to non-Navigator assistance personnel subject to § 155.215. Similarly, with respect to the certified application counselor program, we proposed amending § 155.225(d) to add a new paragraph (d)(8) to specify that certified application counselors must meet any licensing, certification or other standards prescribed by the State or Exchange, if applicable, so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act. We further proposed in § 155.225(d)(8) to specify a non-exhaustive list of non-Federal requirements, similar to those listed in proposed § 155.210(c)(1)(iii)(A) through (F) (except for 155.210(c)(1)(iii)(D)), that would prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act, when applied to certified application counselors. We explained that the proposed amendments were intended as a non-exhaustive list of certain non-Federal requirements that prevent the application of the provisions of title I of the Affordable Care Act in one or more of the following three ways: (1) On their face, they prevent Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors or their designated organizations from performing their Federally required duties; (2) on their face, they make it impossible for an Exchange to implement the consumer assistance programs it is authorized or required to operate in a manner consistent with Federal requirements; and (3) they conflict with Federal standards or requirements in specific factual circumstances based on how a non-Federal requirement is applied or implemented. In addition, we recognized that a Federal court may also find other non-Federal requirements that we did not expressly mention in the proposed rule to be preempted within the meaning of section 1321(d) of the Affordable Care Act. We further explained that the proposed provisions would not preclude a State from establishing or implementing State law protections for its consumers, so long as such laws do not prevent the application of Federal requirements for the applicable consumer assistance programs. As an example, we stated that a State may require assisters to undergo fingerprinting or background checks before they can operate in a State, so long as a State's implementation of these additional requirements does not prevent the Exchange from implementing these programs in the State consistent with Federal standards or make it impossible for the assisters to perform their Federally-required duties.

First, in proposed §§ 155.210(c)(1)(iii)(A) and 155.225(d)(8)(i), we proposed to specify that non-Federal requirements which require Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors to refer consumers to other entities not required to provide them with fair, accurate, and impartial information or act in the consumer's best interests, would prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act because such non-Federal requirements would conflict with an assister's duty to provide fair, accurate, and impartial information or to act in the consumer's best interests. Second, we proposed to specify under §§ 155.210(c)(1)(iii)(B) and 155.225(d)(8)(ii) that non-Federal requirements that prevent Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors from providing services to all persons to whom they are required to provide assistance would also prevent the application of the provisions of title I of the Affordable Care Act because assisters are required to provide information and services in a fair and impartial manner and to provide information to employees about the full range of QHP options for which they are eligible, which we have interpreted to mean that assisters must have the ability to help any individual who presents themselves for assistance. With respect to proposed §§ 155.210(c)(1)(iii)(A) and (B), we explained that where a State has elected to establish and operate only a SHOP Exchange pursuant to 45 CFR 155.100(a)(2), and has opted under 45 CFR 155.705(d) to permit Navigator duties at § 155.210(e)(3) and (4) in the State SHOP-only Exchange to be fulfilled through referrals to agents and brokers, we would not consider the State's exercise of this option under § 155.705(d) to prevent the application of the provisions of title I of the Affordable Care Act, since that option is authorized under Federal law. Third, under §§ 155.210(c)(1)(iii)(C) and 155.225(d)(8)(iii), we proposed to specify that non-Federal requirements that prevent Navigators, non-Navigator assistance personnel subject to

§ 155.215, and certified application counselors from providing advice regarding substantive benefits or comparative benefits of different health plans, would also prevent the application of the provisions of title I of the Affordable Care Act because assisters are required to provide information about QHPs, and to facilitate either selection of or enrollment in a QHP, and CMS interprets these requirements to mean that assisters must be prepared to discuss the terms and features of any coverage for which a consumer is or might be eligible, consistent with each consumer's expressed interests and needs. As proposed, these three provisions would apply to Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors (or certified application counselor designated organizations) that are operating in State Exchanges or in FFEs. Fourth, under §§ 155.210(c)(1)(iii)(D), we proposed that a non-Federal requirement that required a Navigator (but not a certified application counselor or non-Navigator assistance personnel) to hold an agent or broker license or to carry errors and omissions coverage (typically held only by licensed professionals such as agents and brokers) would also prevent the application of the provisions of title I of the Affordable Care Act because imposing these requirements on all Navigators in a State would mean that all Navigators would fall under only one type of entity listed in § 155.210(c)(2), specifically, agents and brokers, in violation of the requirement set forth under § 155.210(c)(2)(i) that there be two types of Navigator entities in each Exchange, and that at least one type must be a community and consumer-focused nonprofit group. We explained that we believed that the four provisions listed above should apply in both FFEs and State Exchanges because they address requirements that, in HHS's view, would facially conflict with Federal requirements or standards.

The proposed rule also specified two additional provisions regarding certain non-Federal requirements that would prevent the application of the provisions of title I of the Affordable Care Act with respect to FFEs only. We explained that these two provisions would not apply in State Exchanges since we had observed an enhanced ability for a State Exchange to work with other offices within the State to establish Exchange standards and coordinate the implementation of State law applicable to assisters in a manner that does not conflict with Federal standards or prevent the State Exchange from implementing consumer assistance programs consistent with Federal requirements. Under proposed §§ 155.210(c)(1)(iii)(E) and 155.225(d)(8)(iv), we proposed to specify that non-Federal requirements that impose standards that would prohibit individuals or entities from acting as Navigators, non-Navigator assistance personnel, or certified application counselors or certified application counselor designated organizations, when they would be eligible to participate in these respective capacities under FFE standards, would prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act. We illustrated this provision in two examples. First, we explained that a non-Federal requirement that prohibits consumer assistance entities and individuals from receiving any consideration, directly or indirectly, from a health insurance issuer offering health insurance coverage in or outside of an Exchange, even if not in connection with the enrollment of individuals into a QHP, would not only exceed applicable Federal conflict-of-interest standards but would also render ineligible certain entities, such as hospitals and community health care clinics, that would otherwise be eligible to serve as Navigators, non-Navigator assistance personnel subject to § 155.215, or certified application counselors and organizations. Second, we explained that a non-Federal law that prohibits an individual or entity from serving in an assister program on the basis that the individual or entity does not maintain its principal place of business in that State (which could include an organization that is organized in the State, but maintains its principal place of business outside of the State), would prevent the FFE from implementing consumer assistance programs that it is required or authorized to implement.[22]

Finally, under proposed §§ 155.210(c)(1)(iii)(F) and 155.225(d)(8)(v), we proposed to specify that in an FFE, non-Federal requirements that, as applied or as implemented in the State, prevent the application of Federal standards applicable to Exchanges, Navigators, non-Navigator assistance personnel subject to § 155.215, or certified application counselors and certified application counselor designated organizations, would prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d). For example, with respect to the Navigator program, if a State with an FFE implemented a requirement that prevented the only Navigator entity operating in the State from continuing to perform its Federally-required duties, then such a provision, as applied, would prevent the Exchange from operating a Navigator program as required by section 1311(i)(1) of the Affordable Care Act and § 155.210(a). As a second example, we explained that if a State imposed certain requirements as mandatory conditions for continuing to perform any applicable Federally-required duties, such as additional training or background or fingerprinting checks, which, on their face, we consider as generally permissible, but also set a deadline for compliance that made it impossible for any individual or entity approved by the FFE to comply on a timely basis, despite good faith efforts to comply, then as long as those assisters were prevented from fulfilling any of their Federally-required duties until they could come into compliance with the State requirements, the FFE would be prevented from operating the consumer assistance programs that it is required or authorized to implement consistent with Federal standards.

Comment: A large number of commenters commended HHS for listing specific examples of non-Federal standards that would, in HHS's view, prevent the application of the provisions of title I of the Affordable Care Act, within the meaning of its section 1321(d). The commenters stated that the level of specificity in the proposed provisions and accompanying preamble provided important clarity regarding the types of non-Federal requirements that would prevent Navigators, non-Navigator assistance personnel and certified application counselors from performing their Federally-required duties. In expressing their support, these commenters stated that enrollment into Exchange coverage and insurance affordability programs during the initial open enrollment period was aided in significant part by assistance offered through in-person assistance programs, and that these proposed regulations should be finalized to help facilitate the continued ability of assisters to provide in-person

[22] The preamble discussion to the proposed rule addressed only non-Federal requirements that would interpret ''principal place of business'' to mean that an organization could have only one principal place of business nationwide, similar to the legal concept that may be used in determining corporate citizenship for purposes of establishing diversity jurisdiction in Federal court, as required under 28 U.S.C. 1332(c).

assistance during the 2014 coverage year as well as during the next Exchange open enrollment period in fall 2014 and beyond.

A few commenters objected to the proposed provisions and asserted that they were overly broad, and/or exceed the authority of HHS, in violation of the Tenth Amendment of the U.S. Constitution and the McCarran-Ferguson Act that provides, ''[t]he business of insurance, and every person engaged therein, shall be subject to the laws of the several States which relate to the regulation or taxation of such business.'' (15 U.S.C. 1012(a) (1945)) Citing 15 U.S.C. 1012(b), these commenters asserted that the McCarran-Ferguson Act exempts the business of insurance from most Federal regulation, providing that Federal statutes cannot be construed to invalidate, impair or supersede State insurance law unless they specifically relate to the business of insurance.

Response: We agree that Navigators, non-Navigator assistance personnel, and certified application counselors have played and will continue to play an important role in providing application assistance to consumers, with respect to enrollment in both QHPs and insurance affordability programs. It is therefore important, in the view of HHS, to provide guidance regarding which types of non-Federal laws would, within the meaning of section 1321(d) of the Affordable Care Act, prevent the application of the Federal requirements to which assisters and Exchanges are subject. The finalized provisions are a non-exhaustive list of non-Federal requirements that, in the view of HHS, prevent the application of the provisions of title I of the Affordable Care Act. We are therefore finalizing, with a few modifications, proposed §§ 155.210(c)(1)(iii)(A)–(D) and (F) and 155.225(d)(8)(i)–(iii) and (v).

We are not finalizing proposed §§ 155.210(c)(1)(iii)(E) and 155.225(d)(8)(iv). The concerns raised by commenters about the breadth of these provisions, and the questions raised in comments raised about the interpretations we provided in the preamble to the proposed rule of the substantive Federal requirements whose application would be prevented by certain non-Federal requirements, have instead provided us with an opportunity to further define those substantive Federal requirements, consistent with our preamble discussion in the proposed rule, through the addition of language in §§ 155.210(d)(4) and (e)(7) and §§ 155.225(b)(3) and (g)(2) in the final rule.

With respect to the proposed requirement that Navigators, non-Navigator assistance personnel subject to § 155.215 and certified application counselors maintain a physical presence in the Exchange service area, we are finalizing this requirement under §§ 155.210(e)(7) and 155.215(h) with respect to Navigators and non-Navigator assistance personnel subject to § 155.215, but we are not finalizing this requirement with respect to certified application counselors under proposed § 155.225(b)(1)(iii). We are also modifying the proposed regulation text in §§ 155.210(e)(7), 155.215(h) and are finalizing a new provision at § 155.225(b)(3) to clarify that in an FFE, Navigators, non-Navigator assistance personnel subject to 155.215 and certified application counselors, respectively, are not required to maintain their principal place of business in the Exchange service area, defined as the entire area served by the Exchange. A requirement that these assister entities maintain their principal place of business within the Exchange service area for an FFE would limit the pool of entities which would be eligible to serve in this capacity, and could prevent the FFE from fully implementing the consumer assistance programs that it is required (or authorized) to implement, within the meaning of section 1321(d) of the Affordable Care Act.

With respect to the requirement under existing §§ 155.210(d)(4) and 155.215(a)(2)(i) (which applies § 155.210(d)(4) to non-Navigator assistance personnel subject to § 155.215 by cross-reference), and finalized in this rule at § 155.225(g)(2), that Navigators, non-Navigator assistance personnel subject to § 155.215 and certified application counselors, respectively, are prohibited from receiving any consideration directly or indirectly from a health insurance issuer (or stop-loss insurance issuer) in connection with enrollment of any individuals in a QHP or non-QHP, we are modifying the text in § 155.210(d)(4) and adding text in § 155.225(g)(2) to clarify that in the FFE, this requirement does not mean that a health care provider shall be ineligible to operate in an assister program solely because it receives consideration from a health insurance issuer for health care services provided. We make these clarifications to make it easier for the public to understand the purpose and scope of the applicable Federal standards in the FFE and to identify circumstances in which additional non-Federal requirements would be in conflict with Federal requirements. This places in regulation text previous interpretations of these provisions, in which we have stated that ''the prohibition on receiving direct or indirect consideration from a health insurance or stop loss insurance issuer [applies to] consideration received for enrolling individuals or employees in health insurance plans or stop loss insurance inside or outside the Exchanges; it does not apply to consideration received by a provider to support specific activities, such as the provision of medical services, that are not connected to the enrollment of individuals or employees in QHPs.'' (78 FR 42832) In addition, this prohibition does not apply in situations where an individual or entity that is otherwise eligible to serve as a Navigator, non-Navigator assistance personnel subject to § 155.215, certified application counselor or certified application counselor designated organization, in accordance with applicable Exchange standards, receives consideration from a health insurance or stop loss insurance issuer that is not in connection with the enrollment of any individual(s) in a QHP or non-QHP.

We do not agree that HHS is exceeding its authority in finalizing the proposed provisions. These provisions set forth HHS's interpretation of the preemption standard established by Congress in section 1321(d) of the Affordable Care Act, which provides that State laws that do not prevent the application of the provisions of title I of the Affordable Care Act are not preempted. This preemption standard applies to all of the Federal requirements applicable to Navigators, non-Navigator assistance personnel and certified application counselors, as well as to all of the Federal requirements that Exchanges implementing these programs must follow, as all these standards are authorized and established under title I of the Affordable Care Act. In section 1321(d) of the Affordable Care Act, therefore, in HHS's view, Congress made clear that while States continue to have authority to enact laws that affect programs established under the provisions of title I of the Affordable Care Act, that authority is not unlimited. Rather, States do not have the authority to enact laws that prevent the application of the provisions of title I of the Affordable Care Act, including the provisions that provide authority and establish Federal requirements for the Navigator programs, non-Navigator programs, and certified application counselor programs.

Moreover, in promulgating the provisions in this final rule, HHS is simply interpreting how the preemption standard that Congress established in section 1321(d) of the Affordable Care Act applies to a non-exhaustive list of certain non-Federal requirements for these assister programs. HHS has a unique understanding of the statutes it administers and is responsible for interpreting, and Congress has expressly delegated to HHS, under section 1321(a)(1) of the Affordable Care Act, authority for issuing Federal regulations setting standards for meeting the requirements under the Affordable Care Act with respect to the establishment and operation of Exchanges, including the establishment and operation of the Navigator, non-Navigator, and certified application counselor programs. HHS expects that this final rule will provide valuable guidance to both States and assisters, as well as other stakeholders, by helping to resolve questions about the types of non-Federal laws that, in HHS's view, would prevent the application of the provisions of title I of the Affordable Care Act, within the meaning of section 1321(d) of the Affordable Care Act. We recognize that a Federal court might find that other non-Federal requirements not listed in this rule would prevent the application of Federal requirements within the meaning of section 1321(d).

Comment: Some commenters, while supporting the provisions generally, also expressed concerns that the proposed regulations do not address non-Federal laws that create obstacles to the implementation of the goals of Federal law. Commenters urged us to specifically address requirements that impose unreasonable burdens for assisters in the performance of their Federally-required duties and expressed concern that by not doing so, HHS could be seen as interpreting section 1321(d) of the Affordable Care Act to preempt State law only when it is impossible for an assister or an Exchange to comply with both Federal and non-Federal requirements. Some of these commenters requested that HHS clarify that it does not mean to suggest that a non-Federal requirement that imposes an unreasonable burden on assisters or serves as an obstacle to the implementation of Federal law could not prevent the application of the provisions of title I of the Affordable Care Act, within the meaning of section 1321(d) of the Affordable Care Act.

Response: These provisions contain a non-exhaustive list of circumstances under which HHS would consider a non-Federal requirement applicable to Navigators, non-Navigator assistance personnel, or certified application counselors to prevent the application of provisions of title I of the Affordable Care Act, within the meaning of section 1321(d) of the Affordable Care Act. There may be other types of non-Federal requirements, not specified in these provisions, that would also prevent the application of Federal requirements related to the assister programs. We do not intend to suggest that non-Federal requirements which place unreasonable burdens on assisters and assister entities or that create obstacles to the implementation of Federal law could not also prevent the application of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act.

Comment: Some commenters supported the proposed regulations' acknowledgement of the State's role in imposing State-level registration and other reasonable consumer protections for its residents. However, a few commenters asserted that the proposed provisions would prevent States from establishing additional consumer protections and would therefore conflict with section 1321(d) of the Affordable Care Act.

Response: We clearly expressed in the preamble to the proposed rule, and reiterate here, that we do not intend the provisions regarding non-Federal requirements for assisters to suggest that a State cannot establish or implement additional State law protections for its consumers, such as requiring registration, passing fingerprinting and background checks, or completing State training, provided that its implementation of these additional requirements does not prevent the Exchange from implementing Navigator, non-Navigator and certified application counselor programs in the State consistent with Federal standards or prevent assisters in these programs from meeting Federal requirements. We acknowledge, however, that there is an apparent tension between the general permissibility of additional, non-conflicting State requirements and the language in proposed §§ 155.210(c)(1)(iii)(E) and 155.225(d)(8)(iv), in which we proposed that non-Federal requirements that would render ineligible any assister entities or individuals that would otherwise be eligible to participate in an FFE would prevent the application of Federal requirements for assisters. Because these provisions could have been construed, contrary to our intent, as limiting the States' authority or ability to implement reasonable consumer protection measures in addition to those established by the FFE, we have decided not to finalize them. Instead, as we explain above, we are adding language to other provisions of the regulations governing the Navigator, non-Navigator, and certified application counselor programs to codify our interpretations of those provisions, consistent with our preamble discussion in the proposed rule and in other preambles (see 78 FR 42832), so that our existing policies related to these provisions are clarified.

First, we are adding language to current § 155.210(d)(4), which applies to non-Navigator assistance personnel subject to § 155.215 by cross-reference, as well as to new § 155.225(g)(2) (which is being finalized in this rulemaking) to codify the principle we previously espoused in the preamble to the proposed rule: that a hospital or other health care provider shall not be ineligible to participate in the Navigator, non-Navigator assistance personnel, or certified application counselor program solely because it receives payment for health services from health insurance issuers. Our approach to finalizing this provision reflects the fact that HHS continues to have concerns regarding certain types of non-Federal requirements that were described in the preamble to the proposed rule. Specifically, we continue to have concerns about non-Federal requirements that would prohibit a hospital or other health care provider from participating in an assister program solely because it receives payment for health services from a health insurance issuer, because such non-Federal requirements could prevent the Exchange from operating an assister program that includes individuals and entities that are otherwise extremely well qualified.

We also continue to have concerns about non-Federal requirements that require Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors or certified application counselor designated organizations to maintain their principal place of business in the State, even though we are not finalizing the specific provisions that were directed at these types of non-Federal requirements in proposed §§ 155.210(c)(1)(iii)(E) and 155.225(d)(8)(iv). We have therefore decided to add text to the Federal standards being finalized in this rulemaking at §§ 155.210(e)(7) and 155.215(h) to clarify that although Navigators and non-Navigator personnel subject to § 155.215 must maintain a physical presence in the Exchange service area, they shall not be rendered ineligible to participate in the

applicable assister program merely because their principal place of business is outside of the Exchange service area. While we are not finalizing the proposed requirement in § 155.225(b)(1)(iii)) which would have required an organization to maintain a physical presence in the Exchange service area in order to be designated as a certified application counselor organization by an Exchange, we are finalizing in § 155.225(b)(3) the clarification that an organization shall not be rendered ineligible to participate in the applicable assister program merely because its principal place of business is outside of the Exchange service area. We hope that by codifying these principles through amendments to the regulations governing these assister programs, we will resolve any confusion caused by our proposals at §§ 155.210(c)(1)(iii)(E) and 155.225(d)(8)(iv), while at the same time addressing the concerns about non-Federal requirements that motivated these proposals and were presented in the preamble discussion related to those proposals.

Comment: Several commenters recommended that the list of provisions specifying non-Federal requirements that would prevent the application of the provisions of title I of the Affordable Care Act remain non-exhaustive and that HHS should continue to engage in monitoring of non-Federal requirements and their effects on consumer assistance functions that are required or permitted in an Exchange. A few commenters urged HHS to monitor the implementation of non-Federal requirements and their effects on assister programs, with one commenter suggesting that HHS be more proactive by delineating a process for how it will review non-Federal standards in the event that these provisions become finalized as proposed.

Response: We agree that, at this time, HHS should not attempt to provide an exhaustive list of provisions specifying the types of non-Federal requirements that would prevent the application of Federal requirements. We agree that continued monitoring of the passage and implementation of non-Federal requirements as they apply to Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors is critical to ensuring the implementation and ultimate success of consumer assistance functions of an Exchange to provide meaningful assistance to all consumers who seek such assistance. HHS has monitored, and will continue to monitor, new and existing non-Federal requirements as they are issued and implemented, and will continue to assess whether such laws prevent the application of the provisions of title I of the Affordable Care Act.

Comment: We received comments on whether all the proposed provisions regarding non-Federal requirements should apply in State Exchanges or whether only some of the provisions would apply to State Exchanges, as proposed. A few commenters expressed support for applying certain of the proposed provisions in all types of Exchanges, while applying other types of provisions only in FFEs (including State Partnership Exchanges). Others recommended that the provisions should apply consistently ''across-the-board'' to all Exchanges because doing so would create a bright line across all Exchanges and make it easier for all stakeholders to administer the various consumer assistance programs in an efficient, cohesive fashion and would minimize confusion if a State transitions from an FFE to a State Exchange.

Response: In light of the fact that we are not finalizing proposed §§ 155.210(c)(1)(iii)(E) and 155.225(d)(8)(iv) in this final rule (and our related decision to instead clarify certain Federal standards as they apply to assisters in the FFE, as discussed above), there are five preemption provisions being finalized in this rule under renumbered §§ 155.210(c)(1)(iii)(A)–(E) and four preemption provisions being finalized in both § 155.215(f)(1)–(4) and § 155.225(d)(8)(i)–(iv). We agree with commenters that these specific provisions, as finalized, should be directed at non-Federal requirements in all Exchanges, including State Exchanges. We continue to anticipate, based on our observations thus far, that a State Exchange would have an enhanced ability to coordinate with other State offices to ensure that State law applicable to assisters does not prevent the application of Federal requirements applicable to Navigators, non-Navigators and certified application counselors. However, we acknowledge that it is possible that a non-Federal requirement, as applied or implemented in a State, could prevent a State Exchange from operating the consumer assistance programs it is required (or authorized) to implement, or otherwise prevent the Exchange from implementing applicable consumer assistance programs consistent with Federal requirements, or could prevent consumer assistance entities or individuals in the State from performing their Federally-required duties. Rather than rule out the possibility that an ''as-applied'' conflict could occur with respect to a State Exchange, as captured in the provisions that were proposed at §§ 155.210(c)(1)(iii)(F) and 155.225(d)(8)(v) to be applicable only in an FFE, we are extending the applicability of these provisions, now renumbered as §§ 155.210(c)(1)(iii)(E) and 155.225(d)(8)(iv), and reformatted in § 155.215(f)(4), so that they apply equally to all types of Exchanges. Therefore, in finalizing these provisions, we have removed the reference to a ''Federally-facilitated Exchange.''

We are also amending § 155.210(e)(2) in the final rule, to specify, consistent with our discussion in the preamble to the proposed rule (see, for example, 79 FR 15828–15829), that in addition to the existing requirements under this provision and 155.210(e)(3) that Navigators must provide information and services in a fair, accurate, and impartial manner and must facilitate selection of a QHP, the duties of a Navigator include providing information that assists consumers with submitting the eligibility application; clarifying the distinctions among health coverage options, including QHPs; and helping consumers make informed decisions during the health coverage selection process. Under existing provisions at 45 CFR 155.215(a)(2)(i), these duties will also apply to non-Navigators subject to § 155.215. In addition, in this rulemaking, we are finalizing a new § 155.225(c)(1), to make certified application counselors subject to a similar set of duties.

We have also made a minor change to the parallel provisions for Navigators, non-Navigator personnel subject to § 155.215, and certified application counselors that are being finalized under § 155.210(c)(1)(iii)(E), § 155.215(f)(4) and § 155.225(d)(8)(iv). Specifically, we changed the reference to standards that would, as applied or as implemented in a State, prevent the application of Federal requirements applicable to the Exchange's implementation of the respective Navigator, non-Navigator assistance personnel or certified application counselor program ''consistent with Federal requirements,'' by deleting ''consistent with Federal requirements'' to eliminate redundancy.

Comment: Several commenters expressed support for the clear and specific acknowledgement in proposed § 155.215(f) that non-Navigator assistance personnel subject to § 155.215 must meet non-Federal requirements, as applicable, except when such non-Federal requirements prevent the application of the provisions of title I of the Affordable Care Act. As originally proposed,

§ 155.215(f) did not specify the types of non-Federal requirements which would prevent the application of title I of the Affordable Care Act, but instead incorporated them by reference to applicable provisions under proposed § 155.210(c)(1)(iii). A few commenters requested that HHS, in the interest of added clarity and ease of comprehension, revise proposed § 155.215(f) to spell out in the text of this provision the non-exhaustive list of non-Federal requirements that would prevent the application of the provisions of title I of the Affordable Care Act as applied to non-Navigator assistance personnel, rather than cross-referencing the applicable provisions under § 155.210(c)(1)(iii), as we had originally proposed.

Response: We agree with the comment that, consistent with section 1321(d) of the Affordable Care Act, non-Navigator assistance personnel subject to § 155.215 must meet any non-Federal requirements that may apply to them, so long as such requirements do not prevent the application of the provisions of title I of the Affordable Care Act. In the interest of added clarity and comprehension, we have modified this provision to add subparagraphs (1) through (4) to § 155.215(f), in which we list the previously cross-referenced provisions proposed in the Navigator rule at § 155.210(c)(1)(iii).

Comment: Several commenters supported the clear and specific acknowledgement in proposed § 155.225(d)(8) that certified application counselors and their designated organizations must meet non-Federal requirements, as applicable, except when such non-Federal requirements prevent the application of the provisions of title I of the Affordable Care Act. A few commenters asserted that the certified application counselor program operating in an FFE should not be subject to non-Federal requirements because, in the commenters' view, this program was created under HHS's regulatory authority—not by statute.

Response: We are finalizing the provisions of § 155.225(d)(8) with modifications consistent with those made to the parallel Navigator and non-Navigator provisions. These finalized provisions establish that certified application counselors must meet licensing, certification, or other standards prescribed by a State or Exchange, so long as they do not prevent the application of the provisions of title I of the Affordable Care Act.

It is unclear to HHS why some commenters believe that a certified application counselor program operating in an FFE should not be subject to non-Federal requirements simply because it was established through an HHS regulation implementing the Affordable Care Act, rather than being expressly provided for by the statute. As we have previously explained, the Secretary established the certified application counselor program under the authority provided in section 1321(a)(1) of the Affordable Care Act. Section 1321(a)(1) directs and authorizes the Secretary to issue regulations setting standards for meeting the requirements under title I of the Affordable Care Act, with respect to, among other things, the establishment and operation of Exchanges. Therefore, the certified application counselor program is authorized by the statute, even if the program was established through rulemaking. Whether a certified application counselor organization should be subject to non-Federal requirements will turn on application of the preemption standard set forth in section 1321(d) of the Affordable Care Act, namely whether the non-Federal requirement prevents the application of the provisions of title I of the Affordable Care Act, regardless of whether it is operating in an FFE.

Comment: Some commenters asserted that since 45 CFR 155.225(a) established that ''the Exchange must have a certified application counselor program that complies with the requirements of this section,'' it follows that it is the responsibility of ''the Exchange'' to regulate certified application counselors, and therefore any State that has opted for HHS to operate an FFE has relinquished authority to regulate the certified application counselor program in the State. In support of this view, the commenters noted a Federal court decision at *St. Louis Effort for AIDS, et al.* v. *Huff,* No. 13–4246–CV–C–ODS, 2014 WL 273201, at *9 (W.D. Mo. Jan. 23, 2014) (order granting preliminary injunction). This decision is currently on appeal before the United States Court of Appeals for the Eighth Circuit, *St. Louis Effort for AIDS v. Huff,* No. 14–1520 (8th Cir. Appeal docketed Mar. 6, 2014). Accordingly, commenters recommended that proposed § 155.225(d)(8) be modified to state: ''meets any licensing, certification, or other standards prescribed by the State or Exchange, *as applicable*'' (emphasis added).

Response: The issue presented in these comments is the subject of pending litigation before the United States Court of Appeals for the Eighth Circuit in *St. Louis Effort for AIDS* v. *Huff,* No. 14–1520 (8th Cir. Appeal docketed Mar. 6, 2014). In light of that ongoing litigation, we are refraining from making the recommended change to § 155.225(d)(8) of the final rule at this time. We will consider making changes in the future.

Comment: We received several comments in support of proposed §§ 155.210(c)(1)(iii)(A) and 155.225(d)(8)(i), with a few of these commenters noting that these provisions could bring an ancillary benefit of enhancing conflict-of-interest rules and mitigating the risk that assisters might receive ''kickbacks'' from entities not required to act impartially. Several of these commenters requested that we modify the provision to mirror the characterization included in the preamble by adding ''insurance agents and brokers'' explicitly into the rule text, in addition to retaining ''other entities not required to provide fair, accurate, and impartial information.'' On the other hand, a few commenters objected to the characterization in the preamble discussion of the proposed rule that, in their view, implied that licensed health insurance agents and brokers are permitted to engage in unfair acts or make false and misleading statements. The commenters explained that in most States, licensing and unfair trade practices laws require agents and brokers to refrain from engaging in deceptive behavior or making misrepresentations regarding benefits and terms of coverage.

A few commenters, while supporting the proposed provision's specification that mandated referrals to third parties not required to provide information in a fair, impartial, accurate manner are in conflict with applicable Federal standards, also requested that we explain that this provision applies only to non-Federal requirements that mandate such referrals, and asked that we confirm that assisters would be permitted to refer consumers to agents and brokers voluntarily in specific circumstances, such as when the consumer's needs exceed the assister's expertise, or when the assister or entity lacks the capacity and resources to assist all individuals who seek assistance. In addition, a few commenters recommended that HHS clarify that this provision should not be construed to mean that assisters are barred from making referrals to entities not required to provide fair, accurate, and impartial information. These commenters suggested, for example, that assisters should be permitted to make such referrals when a consumer requests a specific recommendation regarding which plan to choose, because making a specific plan recommendation might violate an assister's duties under the

applicable Federal standards, and doing so might also violate certain State laws that prohibit anyone other than a licensed health insurance agent or broker from recommending a plan. In addition, a few commenters asserted that it is appropriate for Navigators to fulfill requirements to assist small employers with enrollment through referral to agents and brokers in instances where Navigators do not have expertise in small business insurance, because agents and brokers continue to be an important source of information and enrollment assistance for both individuals and for small employers.

Response: We are finalizing this provision as proposed, with one modification with respect to proposed § 155.225(d)(8)(i). We do not believe that the regulation, or our discussion in the preamble to the proposed rule, suggests that agents and brokers engage in unfair or deceptive practices. We nonetheless believe that that the proposed language describing ''entities not required to act in the best interests of applicants assisted'' was confusing on this point, and have replaced it, consistent with the changes we are finalizing in this rule to 155.225(c)(1), with a reference to ''entities not required to provide fair, accurate, and impartial information.'' We decline to mention agents and brokers explicitly in the regulation text, because, as some commenters point out, agents and brokers may be required to act impartially and may be subject to standards that would require them to provide fair, accurate, and impartial information in a way that is similar to Exchange-approved consumer assistance entities and individuals.

We agree with the commenters who supported our view in the proposed rule that a non-Federal requirement mandating that Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors refer consumers to third parties not obligated to provide fair, accurate, and impartial information would conflict with the Federal duties required of Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors and their designated organizations under various authorities: for Navigators, sections 1311(i)(3)(B) and 1311(i)(5) of the Affordable Care Act, as well as 45 CFR 155.210(e)(2) and 155.215(a)(1)(iii); for Non-Navigator assistance personnel, 45 CFR 155.215 (a)(2)(i) and (iv); and for certified application counselors, 45 CFR 155.225(c)(1) as amended in this final rule. In light of the regulation text changes, discussed in greater detail below, that we make under § 155.225(c)(1) to align that provision more consistently with the standards that apply across Exchange consumer assistance programs, and to explicitly specify that certified application counselors must provide information ''in a fair, accurate, and impartial manner,'' we are clarifying the language of final § 155.225(d)(8)(i). Specifically, we are finalizing § 155.225(d)(8)(i) to specify that a referral to a third party that is not required to ''act in the best interest'' of applicants assisted, as required under § 155.225(d)(4), or to a third party that is not required to provide information in a fair, accurate, and impartial manner, as required under the clarifications to § 155.225(c)(1) that we make in this final rule, would prevent certified application counselors from meeting Federal standards that apply to them. To reiterate and, in recognition of the fact that a third party may be required to act in the best interest of the applicants they assist or provide information in a fair, accurate, and impartial manner to the same extent that a certified application counselor is required to, we would not construe a non-Federal requirement that required such a referral to that particular type of third party to prevent the application of the provisions of title I of the Affordable Care Act.

In addition, these comments present us with the opportunity to explain that we interpret certain Federal standards applicable to Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors and their designated organizations to prohibit these assisters from making specific plan recommendations. With respect to Navigators and the non-Navigator assistance personnel who are subject to § 155.215, the recommendation of a specific plan would be inconsistent with CMS's interpretation of 45 CFR 155.210(e)(2) and (3) (applicable to Navigators in all Exchanges) and 45 CFR 155.215(a)(1)(iii) (applicable to Navigators in an FFE) and (a)(2)(i) and (iv) (applicable to non-Navigator assistance personnel subject to § 155.215, which require these assisters to provide information in a fair, accurate, and impartial manner, including by acknowledging other programs; to provide information to individuals and employees about the full range of QHP options and insurance affordability programs for which they are eligible; and to facilitate selection of a QHP. With respect to certified application counselors, the recommendation of a specific plan would violate their duties to act in the best interests of the consumer (45 CFR 155.225(d)(4)), to provide information to individuals and employees about the full range of QHP options and insurance affordability programs for which they are eligible, and help to facilitate their enrollment in QHPs and insurance affordability programs (45 CFR 155.225(c)(1) and (3)). Specifically, in our view, permitting assisters to recommend a specific plan would undermine one overall purpose of consumer assistance programs, which is to provide interpretive guidance that enables consumers to become fully informed and health literate, to assess the full range of their coverage options and the strengths and weaknesses of different options or plans based on the information provided to them, and ultimately to be able to make their own informed choices about which coverage option best meets their needs and budget. Further, Federal standards require an assister to act to ''facilitate'' plan selection or enrollment (as applicable), which we interpret to mean that the act of plan selection and enrollment itself rests with the consumer (see our previously expressed interpretations of these requirements in preamble at 78 FR 42844–45). Consistent with these principles, we are amending § 155.210(e)(2) in the final rule, to specify that in addition to the existing requirement under this provision that Navigators provide information and services in a fair, accurate, and impartial manner, the duties of a Navigator include providing information that assists consumers with submitting the eligibility application; clarifying the distinctions among health coverage options, including QHPs; and helping consumers make informed decisions during the health coverage selection process. We are also adding these standards through amendments to § 155.225(c)(1) in the final rule, to clarify the existing duty of certified application counselors to provide information to individuals and employees about the full range of QHP options and affordability programs for which they are eligible which includes providing fair, impartial, and accurate information that assists consumers with submitting the eligibility application; clarifying the distinctions among health coverage options, including QHPs; and helping consumers make informed decisions during the health coverage selection process.

While consumers need to make the ultimate decision regarding the type of coverage that best meets their health care needs and budget, assisters may

facilitate enrollment in a QHP by providing comprehensive information about the substantive benefits and features of a plan, clarifying the similarities and distinctions among plans, and assisting consumers with making informed decisions in the plan selection process, consistent with the consumer's expressed interests and needs. Therefore, as part of facilitating a consumer's enrollment in a QHP, or selection of a QHP, Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors may provide information to the consumer that includes, but is not limited to, information regarding plan features such as deductibles, coinsurance and copayments, coverage limitations or exclusions, identifying plans for which an eligible consumer may receive CSRs or other Federal financial assistance (for example, Ryan White HIV/AIDS Program premium and cost-sharing assistance) and information about whether a particular provider or hospital is included within a plan's network. Offering this type of information is particularly important for consumers, who, without such assistance, might otherwise not complete the enrollment process or might not have all of the information they need to make a plan selection.

To the extent an assister is asked by a consumer to recommend a plan, we interpret the above-cited authorities as requiring the assister to refrain from providing a recommendation or otherwise steering a consumer to a particular plan. In addition, if a consumer asks an assister to recommend a specific plan, an assister should remind the consumer that they are prohibited from making plan recommendations because Federal standards require them to remain fair and impartial. The assister may, consistent with the consumer's expressed needs and desires, determine that it is appropriate to inform the consumer of the general availability of licensed, Exchange-trained health insurance agents and brokers as a resource that could provide specific plan recommendations, if licensed health insurance agents or brokers are permitted to do so under State law. The assister may direct the consumer to listings of agents and brokers; however, the assister should not make a referral to any specific agent or broker or specific set of agents or brokers.

With one limited exception,[23] assisters may not fulfill their Federally-required duties through referrals to agents and brokers. As we have stated previously, Navigators subject to § 155.215 (that is, Navigators in the FFEs and State Partnership Exchanges) and non-Navigator assistance personnel subject to § 155.215 must be prepared to serve both SHOP and the individual market Exchange, including small businesses with SHOP (see § 155.215(b)(1)(v) and 78 FR 42835–36). Certified application counselors in the FFEs are expected to assist employees with SHOP options and are permitted, but not required, to assist small employers with SHOP.[24] In the event that a particular consumer's individual needs go beyond the assister's expertise, or the assister or entity lacks the resources to assist all individuals who present themselves for assistance, an assister may, consistent with the consumer's expressed needs and desires, determine that it is in the consumer's best interests to inform the consumer of the general availability of other consumer assistance entities who may possess the requisite expertise and capacity to assist them, including the Exchange Call Center, non-Navigator assistance personnel or certified application counselors. With respect to the FFEs, we note that HHS maintains on its Web site and at its Call Center a public registry of Exchange-approved consumer assistance resources in each FFE, including Navigators, non-Navigators, and certified application counselor organizations. HHS also maintains on its Web site links to agent and broker trade association Web sites, which would allow a consumer to look up agents and brokers in a particular local area. We encourage State Exchanges to make consumer assistance resources publicly available in a similar manner and understand that many, if not most, State Exchanges have done so.

Comment: Many commenters indicated support for proposed §§ 155.210(c)(1)(iii)(B) and 155.225(d)(8)(ii) and agreed that non-Federal requirements that prevent Navigators, non-Navigator assistance personnel subject to 155.215, and certified application counselors from providing services to any individual who presents him or herself for assistance would prevent the application of the provisions of title I of the Affordable Care Act and should be interpreted as in conflict with the requirement for Navigator and non-Navigator assistance personnel subject to § 155.215 to provide information and services fairly and impartially. However, a few commenters asserted that one type of non-Federal requirement discussed in the preamble to the proposed rule, which would require assisters to suggest or encourage any consumer who is insured, or previously bought insurance through the aid of an agent or broker, to consult with that agent or broker before enrolling in a plan, serves a legitimate purpose because it is designed to prevent consumers from making uninformed or impulsive decisions. These commenters asserted that these non-Federal requirements do not prevent assisters from performing their Federal obligations because they require merely ''advising'' an insured consumer that they should consider talking to an insurance professional before changing health plans and do not necessarily result in the assister being unable to perform application and enrollment assistance for these types of consumers, to the extent that these consumers reject the assister's advice to consult with an agent or broker. Some commenters argued that certain non-Federal requirements of this nature strike the right balance and should not be viewed as preventing assisters from performing their Federally-mandated duties. Specifically, these commenters reasoned that although certain non-Federal requirements of this nature require an assister to advise an individual to consult first with a health insurance professional with whom they may have consulted previously, they permit an assister to continue to provide services to that insured individual if that individual expresses a preference not to consult with that health insurance professional.

Response: We are not persuaded by comments suggesting that assisters can uphold their duties to provide information in a fair and impartial manner and act in the consumer's best interests if they are required to advise a consumer to consult with an insurance professional when they learn that the consumer is insured or previously purchased health insurance with the aid of an agent or broker. While such non-Federal requirements might be intended to prevent consumers from making impulsive or uninformed decisions, the same is true of the Federal standards for Navigators, non-Navigator assistance personnel, and certified application counselors. These Federal standards are designed to ensure that these Exchange-approved assisters help a consumer make a fully informed decision.

[23] § 155.705(d) permits a State operating a State SHOP-only Exchange to allow Navigators to fulfill certain Navigator duties under § 155.210(e)(3) and (4) through referrals to agents and brokers.

[24] See question 40 at *http://marketplace.cms.gov/help-us/common-qandas-about-cac-designation.pdf.*

Specifically, assisters must provide information in a fair, accurate, and impartial manner, provide information on the full range of QHP options for which they are eligible, clarify distinctions among QHPs, and act in the consumer's best interests. Assisters must also provide fair, impartial, and accurate information that assists consumers with submitting the eligibility application; clarify the distinctions among health coverage options, including QHPs; and help consumers make informed decisions during the health coverage selection process, as specified in the modifications made to § 155.210(e)(2) (which is made applicable to certain non-Navigators through reference in § 155.215(a)(2)(i)) and § 155.225(c)(1) of this final rule.

Further, we note that under existing regulations at § 155.210(d)(4) and 155.215(a)(2)(i) and regulations finalized in this final rule at § 155.225(g)(2), Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors are subject to a conflict of interest standard which prohibits them from receiving consideration, directly or indirectly, in connection with enrollment in a QHP or non-QHP; and the requirement that one of these assisters refer or direct a consumer to another individual, such as an agent or broker, who receives such consideration in connection with QHP enrollment, would be inconsistent with this conflict of interest requirement under Federal law.

Comment: One commenter asserted that proposed §§ 155.210(c)(1)(iii)(B) and 155.225(d)(8)(ii)'s specification that prohibitions against an assister's ability to provide services to any individual who presents him or herself for assistance would prevent the application of the provisions of title I of the Affordable Care Act, were too broadly worded because they referred to ''services'' generically, and suggested that the provision be revised to read ''services required of [assisters] by the Affordable Care Act to all persons to whom they are required to provide assistance.'' The commenter further asserted that the consumer assistance programs created under the Affordable Care Act are intended to assist the uninsured, and therefore consumers such as employers and employees with employer-sponsored insurance offered through the small group market as well as those shopping in the individual market who already have insurance are not the types of consumers to whom assisters are intended or required to provide assistance.

Response: We are not modifying the regulation text in the manner suggested by the commenter. We do not agree with the commenter's view that the consumer assistance programs were created to serve the uninsured exclusively. As we explained in the preamble to the proposed rule, we interpret the requirement that Navigators and non-Navigator assistance personnel subject to § 155.215 provide information and services fairly and impartially to require that that these assisters provide services to all consumers seeking assistance and have explained in preambles to prior rulemakings that all Navigators and non-Navigator assistance personnel should have the ability to help any individual who presents him or herself for assistance (see 78 FR 20589 and 78 FR 42830). Further, § 155.215(b)(1)(v) requires that Navigators in FFEs and State Partnership Exchanges, and non-Navigator assistance personnel subject to § 155.215 be prepared to serve both the individual market Exchange and SHOP. In addition, section 1311(i)(3)(D) of the Affordable Care Act and § 155.210(e)(4) provide that Navigators are required to assist ''*any enrollee* with a grievance, complaint, or question regarding their health plan, coverage, or a determination under such plan or coverage'' (emphasis added).[25] Similarly, if a non-Federal requirement barred certified application counselors from assisting an employee with Exchange coverage, then such a requirement would prevent them from performing all of their Federal duties in amended § 155.225(c)(1) and in existing § 155.225(c)(2) to provide information to employees about the full range of QHP options for which they are eligible—including providing fair, impartial, and accurate information that assists consumers with submitting the eligibility application; clarifying the distinctions among health coverage options, including QHPs; and helping consumers make informed decisions during the health coverage selection process and assist employees to apply for coverage in a QHP through the Exchange and for insurance affordability programs. Accordingly, assisters would violate these various Federal standards if they withheld application or enrollment services from a consumer on the basis of any particular status, including status as an insured individual.

Comment: We solicited specific comments related to the exception noted in proposed §§ 155.210(c)(1)(iii)(A) and (B) with respect to non-Federal requirements for Navigators in States with a State SHOP-only Exchange and a FFE for the individual market. A commenter supported our approach in the proposed rule to provide an exception in proposed §§ 155.210(c)(1)(iii)(A) and (B) to account for existing Federal regulations that allow SHOP-only State Exchanges to permit Navigators to fulfill certain requirements through referral to agents and brokers.

Response: We are finalizing §§ 155.210(c)(1)(iii)(A) and (B) and § 155.225(d)(8)(i) and (ii), as proposed, without modification. As we explained in the preamble to the proposed rulemaking promulgating § 155.705(d), we believe that building and operating just a SHOP allows a State to move towards operating both a SHOP and an individual market Exchange. (78 FR 37044) Additionally, where the State elects to establish and operate only a SHOP Exchange, there will be two separate Navigator programs operating in the State: a Federal Navigator program for the individual market, and a State Navigator program for the SHOP. In conjunction with the various other areas of flexibility provided to States electing to operate a State SHOP-only Exchange, we continue to believe that it is prudent to give a State SHOP-only Exchange the flexibility to choose to focus its Navigator program on outreach and education to small employers by permitting SHOP Navigators to satisfy their duties under §§ 155.210(e)(3) and (4) through referrals to agents and brokers. Giving States this extra level of flexibility could further incentivize States to operate a SHOP Exchange as an intermediate step towards establishing and operating both a SHOP and an individual market Exchange in the future, because it could reduce operational costs in running a SHOP, and could help leverage existing coordination regarding small group market enrollment activities with the agent and broker community in the State, as may be applicable. While we recognize that allowing Navigators to fulfill two of their duties via referrals to agents and brokers might appear somewhat inconsistent with our general view that referrals to third parties who are not required to act impartially would prevent Navigators from meeting Federal standards, we believe that the benefit of providing administrative flexibility to a State SHOP-only Exchange's operation in this regard, and thus providing perhaps greater incentive to States to operate a SHOP-only

[25] § 155.705(d) permits a State operating a State SHOP-only Exchange to allow Navigators to fulfill certain Navigator duties under § 155.210(e)(3) and (4) through referrals to agents and brokers.

Exchange, compensates for the potential fact that a SHOP Navigator, if he or she makes referrals to agents and brokers, might be referring consumers to individuals who might not have the same duty to provide fair and impartial information. We therefore note, as we did in the preamble to the proposed rule, that we would not consider State laws or regulations that permit a State SHOP-only Exchange to take the option authorized under Federal regulations at § 155.705(d) to prevent the application of the provisions of title I of the Affordable Care Act.

Comment: We received a number of comments in support of proposed §§ 155.210(c)(1)(iii)(C) and 155.225(d)(8)(iii) and the view expressed in those proposals that non-Federal requirements that prohibit assisters from providing advice regarding substantive benefits or comparative benefits of different health plans would prevent assisters from fulfilling their duty to facilitate selection of or (as applicable) enrollment in a QHP. In support of these proposals, commenters reasoned that while consumers should make the ultimate decision about what type of coverage meets their health care needs and budget, providing comprehensive information about the substantive benefits and features of a plan, clarifying the distinctions among plans, and assisting consumers with making informed decisions in the plan selection process, consistent with the consumer's expressed interests and needs, are critical components of facilitating enrollment in a QHP, particularly for consumers, who, without such assistance, might not complete the enrollment process. However, many commenters indicated that the inclusion of the word ''advice'' in the proposed provision improperly implies that assisters are permitted to make recommendations regarding plan selection or are permitted to ''negotiate'' insurance, which are duties preserved for licensed health insurance agents and brokers in most States. To address this concern, these commenters recommended that we replace the word ''advice'' with ''information.'' On the other hand, many other commenters urged retention of the word ''advice'' because the use of this term in non-Federal laws and regulations is ambiguous enough to pose a conflict with an assister's duties under Federal requirements, given the nature of the information that assisters must provide in order to facilitate selection (or enrollment) in a QHP.

Response: In light of these comments, we are finalizing this provision with a few modifications. We reiterate that as an aspect of assisters' Federally-required duties under §§ 155.210(e)(2) and (3) (Navigators in all Exchanges), 155.215(a)(1)(iii) (Navigators in FFEs), 155.215(a)(2)(iv) (Non-Navigators in FFEs), and 155.225(c)(1) and (3) (certified application counselors in all Exchanges) to facilitate (as applicable) selection of a QHP or enrollment of eligible individuals in QHPs and insurance affordability programs and to provide information about coverage options, they are required to engage in substantive discussions about the terms and features of any coverage for which a consumer is or might be eligible, consistent with the consumer's expressed interests and needs. (See 79 FR 15829). This includes, but is not limited to, providing information regarding features such as deductibles, coinsurance and copayments, coverage limitations or exclusions, plans for which an eligible consumer may receive CSRs, and/or whether a particular provider or hospital is included within a plan's network. (79 FR 15829). We understand the difficulty faced by assisters to understand where the line should be drawn between a prohibition on ''advice'' and the ''information'' they are required to give to perform their duties, given the nature of the information that assisters must provide to fulfill their duties to provide fair and impartial information concerning enrollment in QHPs and insurance affordability programs and facilitate enrollment. In light of the need for further clarity, we have modified the applicable existing Federal standards, as we explained above, to clarify explicitly in the regulation text that providing fair, impartial, and accurate information that assists consumers with submitting the eligibility application, clarifying the distinctions among health coverage options, including QHPs, and helping consumers make informed decisions during the health plan coverage process, are components of an assister's Federally required duties. We are making these additions to the applicable Federal regulations for Navigators at § 155.210(e)(2), which applies to non-Navigator assistance personnel subject to § 155.215 by a cross-reference at § 155.215(a)(2)(i), and to the applicable certified application counselor regulations at § 155.225(c)(1).

In addition, we agree that while consumers need to make the ultimate decision about what type of coverage meets their health care needs and budget, providing comprehensive information about the substantive benefits and features of a plan, clarifying the similarities and distinctions among plans, and assisting consumers with making informed decisions in the plan selection process, consistent with the consumer's expressed interests and needs, are a critical part of assisters' required duties, particularly for consumers, who, without such assistance, might otherwise not complete the enrollment process or might not have all of the information they need to make a plan selection. Therefore, a non-Federal requirement that prohibits assisters from providing ''advice'' regarding substantive benefits or comparative features of different health plans would prevent the application of the provisions of title I of the Affordable Care Act, insofar as such a requirement, as interpreted or applied under State law, would prohibit assisters from doing any of the following: (1) Providing fair, impartial, and accurate information that assists consumers with submitting the eligibility application; (2) clarifying the distinctions among health coverage options, including QHPs; or (3) helping consumers make informed decisions during the health coverage selection process. We have always interpreted the Affordable Care Act and our regulations implementing its provisions to prohibit Navigators, non-Navigator personnel subject to § 155.215, and certified application counselors from recommending a particular plan or steering a consumer toward a particular plan or plans as because of their specified duties to distribute fair and impartial information to consumers and act in the consumer's best interests, while at the same time requiring them to provide consumers with all relevant and applicable information about the coverage options available to them. For example, we have stated that a Navigator cannot make the decision for an applicant as to which QHP to select, but they may play an important role in facilitating a consumer's enrollment in a QHP by providing fair, impartial, and accurate information that assists consumers with submitting the eligibility application, clarifying the distinctions among QHPs, and helping qualified individuals make informed decisions during the health plan selection process (78 FR 20583; see also 79 FR 15829).

Comment: We received a number of comments in support of our proposal at § 155.210(c)(1)(iii)(D) that non-Federal requirements that would require Navigators to hold an agent or broker license or carry errors or omissions insurance would prevent the application of the requirement at

155.210(c)(2) that there to be at least two types of Navigator entities, including at least one community and consumer-focused nonprofit organization. However, many commenters stated that this provision should be modified to apply more broadly to include other types of assisters, such as non-Navigator assistance personnel subject to § 155.215, certified application counselors and certified application counselor designated organizations. Further, a number of commenters recommended broadening the scope of the proposed provision to include other types of financial responsibility requirements, such as surety bond requirements or security deposits. These commenters noted that in some cases Navigators and other assisters have reported difficulty in obtaining surety bonds because issuers have been unwilling to underwrite a business service for which it is difficult to assess risk. Further, commenters described how some Navigators experienced so much difficulty in obtaining a surety bond from a vendor that they could only meet a non-Federal surety bond requirement by purchasing errors and omissions coverage. They reasoned that the potential imposition of civil money penalties for violations of privacy and security standards under § 155.260 or program standards (as proposed in §§ 155.206 and 155.285), as well as the availability of a special enrollment period for assister misconduct in accordance with § 155.420(d)(10), would be sufficient remedies in the event that an assister causes consumer harm, such that a surety bond would not be necessary to protect consumers. On the other hand, a few commenters indicated that the proposed rule's scope was appropriate and indicated that non-Federal requirements that require some form of financial responsibility, such as a surety bond, serve as an added consumer protection to make a consumer whole in the event of fraud or some other wrongdoing on the part of the assister. These commenters further reasoned that requiring assisters to hold a surety bond or other proof of financial responsibility does not necessarily inhibit a community and consumer-focused nonprofit organization from participating in any consumer assistance program because surety bonds are generally available to all types of businesses.

Response: We are finalizing this provision as proposed, with one modification. We appreciate commenters' concerns about the lack of parity that results from not extending this provision to non-Navigator assistance personnel subject to § 155.215 and certified application counselors. At this time, however, we decline to extend this provision to these other types of consumer assistance programs because we are not able to discern a facial conflict between non-Federal requirements that would require non-Navigator assistance personnel or certified application counselors to hold an agent or broker license or carry errors and omissions insurance coverage and the Federal standards applicable to these programs. However, we recognize that within the meaning of the statutory preemption standard set forth at section 1321(d) of the Affordable Care Act and proposed §§ 155.210(c)(1)(iii)(F) and 155.225(d)(8)(v), there might be specific factual circumstances in which these types of non-Federal requirements would prevent these individuals or entities from fulfilling their Federally required duties or would prevent an Exchange from operating the non-Navigator or certified application counselor programs that it is required (or authorized) to implement consistent with Federal requirements. In such cases, non-Federal requirements that require non-Navigator assistance personnel subject to § 155.215 or certified application counselors or their designated organizations to hold an agent or broker license or carry errors and omissions insurance or other forms of financial responsibility might prevent the application of the provisions of title I of the Affordable Care Act.

In addition, at this time, we believe it is appropriate to limit the scope of this provision so that it is directed only at non-Federal laws requiring Navigators to hold an agent or broker license and are not finalizing the reference to laws that require Navigators to carry errors or omissions insurance, as proposed. As we explained in the preamble to the proposed rule, requiring that each Navigator be a licensed agent or broker would mean, in effect, that all Navigators would be agents and brokers, and would therefore prevent the application of § 155.210(c)(2), which established the requirement that in all Exchanges, at least two types of entities, including one community and consumer-focused nonprofit group, must serve as Navigators. HHS has previously advised (see 77 FR 18331–32) that such requirements would prevent the application of § 155.210(c)(2). Since we understand, based on the comments, that in at least some jurisdictions, errors and omissions insurance coverage is not exclusively available to agents and brokers and other types of professionals might carry it, we cannot discern a facial conflict between a non-Federal requirement requiring errors and omissions insurance and Federal requirements applicable to Navigators or the Exchange. However, as we made clear in prior rulemaking and now make explicit here in finalizing the regulation text, any non-Federal requirement that would, in effect, require all Navigators to be licensed agents or brokers would prevent the application of the Federal standards that apply to an Exchange's operation of the Navigator program (specifically, would prevent the application of 45 CFR 155.210(c)(2)) and therefore would prevent the application of the provisions of title I of the Affordable Care Act. By removing the reference to errors and omissions coverage, we do not intend to foreclose the possibility that there might be specific factual circumstances under which a non-Federal financial responsibility requirement that does not facially conflict with a Federal requirement might, as applied or implemented, prevent the application of Federal requirements for Navigators within the meaning of section 1321(d) of the Affordable Care Act.

Comment: Many commenters indicated support for proposed §§ 155.210(c)(1)(iii)(E) and 155.225(d)(8)(iv) and the accompanying preamble discussion illustrating HHS's views regarding situations in which non-Federal requirements prevent otherwise eligible and qualified Exchange-approved assisters from operating in a State with an FFE. In particular, these commenters stated that non-Federal requirements that prohibit consumer assistance entities from receiving any consideration, directly or indirectly, from a health insurance issuer, even if not in connection with QHP enrollment, are unnecessary and have precluded some extremely qualified organizations from serving as an Exchange-approved assister organization. A few commenters recommended that HHS explain the interplay of this proposed provision and existing § 155.210(d)(4) (applicable to Navigators and, through155.215(a)(2)(i), to non-Navigator assistance personnel subject to § 155.215) and the parallel provision under proposed § 155.225(g)(2) (for certified application counselors and their designated organizations) prohibiting these assisters from receiving any consideration directly or indirectly from any health insurance issuer or issuer of stop loss insurance in connection with the enrollment of any individuals (or employees, for Navigators) in a QHP or

a non-QHP. The commenters explained that it appeared that these Federal standards were ''somewhat in conflict'' with the proposed rule's preamble discussion which stated that in HHS's view, a non-Federal requirement that imposes prohibitions on receiving any financial compensation from a QHP issuer even if not in connection with enrollment, would go beyond these Federal conflict-of-interest rules.

Response: As discussed above, we are not finalizing proposed §§ 155.210(c)(1)(iii)(E) and 155.225(d)(8)(iv). We are convinced by the concerns raised by commenters that it may not be possible to specify through rulemaking where the line should be drawn between non-Federal eligibility standards that prevent the application of Federal requirements and those that do not. These types of non-Federal requirements will likely need to be analyzed on a case by case basis. For example, a non-Federal requirement that, in its application, effectively limits the pool of assisters in the Exchange, to such an extent that the Exchange cannot operate its consumer assistance functions effectively, might prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d) of the Affordable Care Act. As already addressed in detail above, we are not finalizing §§ 155.210(c)(1)(iii)(E) and 155.225(d)(8)(iv), but have determined that the better approach is to clarify in regulation text two standards that we discussed in the preamble connected to these proposed provisions. First, we specify that in an FFE, an entity that seeks to become a Navigator entity, non-Navigator assistance personnel entity subject to § 155.215, or certified application counselor organization shall not be ineligible to operate as an assister entity solely because its principal place of business is outside of the Exchange service area. Second, we specify that in an FFE, no health care provider shall be ineligible to operate as a Navigator, non-Navigator assistance personnel subject to § 155.215, or a certified application counselor solely because it receives consideration from a health insurance issuer for health care services provided. We are finalizing these standards, consistent with discussions set forth in preamble discussions in the proposed rule and in prior rulemaking (78 FR 42832), through the provisions at §§ 155.210(e)(7), 155.215(h) and 155.225(b)(3), with respect to the principal place of business standard, and in § 155.210(d)(4) (made applicable to non-Navigator assistance personnel through § 155.215(a)(2)(i)) and § 155.225(g)(2), with respect to the consideration standard.

Comment: We received an overwhelming number of comments that supported including proposed §§ 155.210(c)(1)(iii)(F) and 155.225(d)(8)(v) in the final rule because the provisions appropriately recognized that other non-Federal requirements not specified expressly in other proposed provisions might also prevent the application of title I of the Affordable Care Act, if, as implemented or applied in a State, they would prevent assisters from performing their Federally required duties or prevent the Exchange from implementing the consumer assistance programs consistent with Federal standards. A few commenters recommended that this provision apply to State Exchanges in addition to FFEs. Several commenters identified a myriad of other types of non-Federal requirements that, in the commenters' view, should be expressly included in the finalized regulations under these provisions, such as: establishing requirements for current Navigator grantees after Navigator grants have been awarded, setting unreasonable or duplicative training requirements, setting unreasonable time limitations on meeting State standards, imposing unreasonable costs on Navigators or other assisters, imposing credit rating reporting requirements, requiring a GED or high school diploma, or implementing State requirements in a manner that is unduly burdensome for Navigators or that disadvantages certain Navigator entities.

Response: We are finalizing proposed §§ 155.210(c)(1)(iii)(F) and 155.225(d)(8)(v), which is now renumbered in this final rule under §§ 155.210(c)(1)(iii)(E) and 155.225(d)(8)(iv), as proposed, with a few modifications. We agree with the commenters who found that the proposed provisions appropriately recognize that non-Federal requirements, including but not limited to registration requirements, fingerprinting or background checks, and additional training, may not be in conflict with Federal standards on their face, but nevertheless could, as implemented or applied in a State, ultimately prevent assisters from meeting the Federal standards that apply to them or interfere with the Exchange's ability to operate the consumer assistance programs it is required (or authorized) to implement consistent with Federal requirements. In such circumstances, the non-Federal requirements would, in HHS's view, prevent the application of the provisions of title I of the Affordable Care Act within the meaning of section 1321(d). Consistent with our approach in the proposed rule, we do not think it is necessary or appropriate to enumerate in the final regulation text every type of non-Federal requirement that would fall under this provision. We view this provision largely as interpreting one way that the statutory preemption standard under section 1321(d) of the Affordable Care Act could apply to non-Federal requirements pertaining to assister programs in an Exchange. We decline to specify every conceivable type of non-Federal requirement which would, as applied or on its face, prevent the application of Federal requirements for assisters or assister programs in an Exchange. In many cases, the identification of such non-Federal requirements will depend on highly fact-specific circumstances that would be impractical, if not impossible, to enumerate in an exhaustive list. As explained in greater detail above, we agree with the recommendation that this provision should apply to State Exchanges in addition to FFEs because the preemption standard under section 1321(d) of the Affordable Care Act is generally applicable to all types of Exchanges. Therefore, in finalizing this provision, we have removed the reference that would have limited its applicability to FFEs. In addition, we have revised the provision to incorporate language included in preamble discussion to the proposed rule to state that a non-Federal requirement would also prevent the application of the provisions of title I of the Affordable Care Act if, as applied or implemented in the State, it prevents the Exchange's implementation of the applicable assister program consistent with Federal requirements under section 1311(i) of the Affordable Care Act, and 45 CFR 155.205, 155.210, 155.215, and 155.225. For example, if a State registration requirement is implemented in a way that makes it impossible for any individuals or entities to operate as an Exchange-approved assister, that requirement would prevent the Exchange from operating the consumer assistance program that it is required (or authorized) to implement. As such, we believe it is important to clarify this possibility explicitly in the regulation text.

Comment: A few commenters recommended that HHS specify that non-Federal requirements that prohibit certain health centers from performing voter registration activity would also prevent the application of title I of the Affordable Care Act, since the National

Voter Registration Act of 1993 (''NVRA'') requires States to designate all offices in the State that provide ''public assistance'' (which may include health centers who are Exchange-approved consumer assistance entities) as ''voter registration agencies'' to perform voter registration activities (42 U.S.C. 1973gg–5(a)(2)(A)).

Response: Because title I of the Affordable Care Act does not address voter registration activities, HHS expresses no view in this rulemaking regarding whether State laws regulating voter registration activities would be preempted by the NVRA.

2. Navigator, Non-Navigator Assistance Personnel, and Certified Application Counselor Program Standards (§§ 155.210, 155.215, and 155.225)

In the proposed rule, we also proposed a number of provisions to bring the standards for Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors into alignment. Specifically, with respect to Navigators and non-Navigator assistance personnel subject to § 155.215, we proposed that they must obtain consumer authorization before accessing an applicant's personally identifiable information (PII), and that a record of authorization be provided, just as is already the case for certified application counselors under § 155.225(f). In addition, we proposed that Navigators and non-Navigator assistance personnel subject to § 155.215 must not charge any applicant or enrollee, or request or receive any form of remuneration from or on behalf of an applicant or enrollee, for application or other assistance related to the applicable assister's duties, just as is already the case for certified application counselors under § 155.225(g). With respect to the certified application counselor program, we proposed that certified application counselors must be recertified on at least an annual basis and complete Exchange-required training, just as is already the case for Navigators in FFEs and State Partnership Exchanges and Non-Navigator assistance personnel subject to § 155.215, under § 155.215(b). Further, we proposed that certified application counselors and their organizations would be prohibited from receiving consideration, directly or indirectly, from health insurance issuers or stop loss issuers in connection with the enrollment of any individuals in a QHP or a non-QHP, just as is already the case for all Navigators and for non-Navigator assistance personnel subject to § 155.215, under §§ 155.210(d)(4) and 155.215(a)(2)(i).

We also proposed a number of new standards for Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors. First, we proposed to require that these entities and individuals maintain a physical presence in their Exchange service area. We also proposed the following prohibitions on their conduct: providing compensation to individual Navigators, non-Navigator assistance personnel subject to § 155.215, or certified application counselors on a per-application, per-individual assisted, or per-enrollment basis; providing gifts, including gift cards or cash, unless they are of a nominal value, or providing promotional items that market or promote the products or services of a third party, to any applicant or potential enrollee in connection with or as an inducement for application assistance or enrollment; soliciting any consumer for application or enrollment assistance by going door-to-door or through other unsolicited means of direct contact, including calling a consumer to provide application or enrollment assistance without the consumer initiating the contact; and initiating any telephone call to a consumer using an automatic telephone dialing system, or an artificial or prerecorded voice.

Comment: Commenters generally supported the alignment of provisions applicable to Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors. However, some commenters raised concerns that applying the newly proposed provisions at § 155.225(g)(3)–(6), without modification, to certified application counselors would be overly burdensome and would discourage individuals and organizations from serving as certified application counselors or certified application counselor entities.

Response: We understand the concerns raised by commenters about potential burdens that the new provisions might place on certified application counselors. However, we are finalizing the certified application counselor provisions consistent with the finalization of parallel provisions for Navigators and the non-Navigator assistance personnel that are subject to § 155.215. The purpose of aligning these provisions is to ensure that consumers are all afforded the same protections, no matter which type of assister they seek services from. As a result, we are not modifying the provisions specifically applicable to certified application counselors, except to bring them generally into alignment with the way we have finalized the parallel provisions for Navigators and the non-Navigator assistance personnel subject to § 155.215. There are two instances where the provisions are not parallel because it is not appropriate due to fundamental differences between the certified application counselor program and the Navigator and non-Navigator assistance personnel programs. We are not finalizing any restriction for certified application counselors regarding the use of Exchange funds to purchase gifts and promotional items because certified application counselors are generally not expected to receive Exchange funds. These distinctions are further discussed below.

Comment: Commenters agreed with and supported the proposal at § 155.210(d)(5) prohibiting Navigators and non-Navigator assistance personnel subject to § 155.215 (applicable through a cross-reference to § 155.210(d) in § 155.215(a)(2)(i)) from charging for application assistance services. Some commenters requested clarification that this does not otherwise prohibit an assister from charging for other services the assister might provide, such as clinical or legal services.

Response: Given support from commenters for the provision prohibiting Navigators and non-Navigator assistance personnel from charging consumers for application or other assistance services, we are finalizing this provision without change. We note that the language in the provision specifically limits this prohibition to charging for application assistance or other assistance provided as part of Navigator duties. We interpret the cross-reference in § 155.215(a)(2)(i) to this provision in § 155.210(d) to similarly limit the prohibition to charging for application assistance or other assistance provided as part of the duties of non-Navigator assistance personnel who are subject to § 155.215. We also note that this provision would not prohibit Navigators or non-Navigator assistance personnel subject to § 155.215 from charging consumers for services, such as clinical health care services or legal aid services, that are not provided as part of their duties as Navigators or non-Navigator assistance personnel.

Comment: We requested comment on the proposal to prohibit compensation paid to Navigators (proposed at § 155.210(d)(6)), non-Navigators subject to § 155.215 (applicable through a cross-reference to § 155.210(d) in § 155.215(a)(2)(i)), or certified application counselors (at § 155.225(g)(3)) on a per-application, per-individual-assisted, or per-enrollment basis. We also asked

whether there might be other alternatives for building rewards for performance without creating adverse incentives. Several commenters agreed that compensation paid to individual assistance personnel on a per-application, per individual-assisted, or per-enrollment basis could provide adverse incentives and invite behavior that is not in the best interest of consumers. These commenters recommended, for the same reasons, that we extend the prohibition so that Exchange-funded assister entities, and not just individual assisters, should not be compensated on a per-application, per individual-assisted, or per-enrollment basis. Other commenters raised concerns about this prohibition, noting that some State Exchanges are already using compensation models that would be prohibited by the proposed rule, and recommending that these States should be allowed to continue using their current compensation models. These commenters requested that, at a minimum, States currently using these compensation models be given an adequate transition period, with one recommendation being that this standard not become effective before the start of open enrollment for 2016 coverage in the individual market Exchanges. In general, commenters opposed to this prohibition recommended that HHS further evaluate these compensation models, and assess their effects in States using them, prior to regulating their use.

Response: We appreciate the concerns raised by commenters regarding this provision. We are finalizing these provisions, but have edited them to apply only to Navigators, non-Navigator assistance personnel, and certified application counselors in FFEs. We moved proposed § 155.210(d)(6) to § 155.215(i) and specified that it is applicable only to Navigators in FFEs, including State Partnership Exchanges, and to non-Navigator assistance personnel in FFEs and State Partnership Exchanges, by indicating that it applies only to Navigators and non-Navigator assistance personnel operating in an Exchange operated by HHS during the exercise of its authority under § 155.105(f). This provision is not applicable to Navigators and non-Navigator assistance personnel in State Exchanges, even if those non-Navigator assistance personnel are funded with Exchange Establishment Grants. We have made a similar edit to § 155.225(g)(3), by indicating that this provision applies only beginning November 15, 2014, and only to certified application counselors operating in an FFE, including a State Partnership Exchange.

We are making these modifications in an effort to balance the interests of the FFEs and State Exchanges. We understand that there are some State Exchanges currently using these types of compensation models for Navigators, non-Navigator assistance personnel, and/or certified application counselors. These States have noted successful enrollment efforts with these compensation models, and it is not our intent to disrupt compensation practices that are currently used or authorized by State Exchanges. However, for assisters operating in the FFEs, including State Partnership Exchanges, we have an interest and a concern in ensuring that they are not incentivized to hurry through an assistance session with a consumer, and possibly to avoid assisting those consumers who may have complex situations that require them to have extra time for completing an application. Additionally, these compensation structures create an incentive for Navigators, non-Navigator assistance personnel, and certified application counselors to focus primarily on facilitating enrollment in or selection of a QHP, as applicable, which is only one of the several duties required of Navigators and certified application counselors, and is not a required duty under Federal regulations for non-Navigator assistance personnel (although non-Navigator assistance personnel subject to § 155.215 may provide this assistance).[26] We will continue to evaluate and monitor the use of these compensation models in State Exchanges, while we give further consideration to whether the proposed prohibitions should apply to all Navigators, non-Navigator assistance personnel, and certified application counselors in all Exchanges.

For all assisters to whom the final provisions will apply, the provisions prohibiting compensation on a per-application, per-individual-assisted, or per-enrollment basis will become applicable November 15, 2014 to coincide with the beginning of the 2015 open enrollment period for the individual market Exchanges.

Comment: Commenters generally supported the principle behind prohibiting Navigators (at proposed § 155.210(d)(7)), non-Navigator assistance personnel subject to § 155.215 (through the cross reference to § 155.210(d) in § 155.215(a)(2)(i)), and certified application counselors (at § 155.225(g)(4)) from providing gifts, unless they are of nominal value, or providing promotional items that market or promote the products or services of a third party to applicants or potential enrollees as an inducement for application assistance or enrollment. However, most commenters who responded to this proposal raised concerns that the proposed language was too broad and would prohibit creative outreach and education strategies both relating to the FFE and to other community services. For example, some commenters raised a concern about whether this provision would prohibit an organization from reimbursing travel costs for consumers traveling long distances to receive application assistance, or from providing supplies or materials for legitimate care purposes (for example, diabetic testing supplies or medication samples) which in many cases would exceed $15. One commenter, on the other hand, raised a concern that this provision expressly allows the provision of gifts up to $15 in value, since we defined nominal value in the proposed rule as a cash value of $15 of less, or an item worth $15 or less, based on the retail purchase price of the item regardless of the actual cost. In addition, commenters worried that the third-party promotional item prohibition would prevent assisters from providing promotional materials about the Exchange or other community resources, noting that promotional materials about other community resources can help connect consumers with additional supportive services. Commenters indicated that the use of gifts and promotional items have helped them successfully encourage individuals to seek application assistance, and therefore that a prohibition on using these tools in connection with application assistance would be too proscriptive. Many commenters recommended expressly excluding outreach and education activities from the prohibition on third-party promotional items. Commenters also requested clarification about parameters regarding the provision of gifts and third-party promotional items.

Response: In light of the numerous comments received regarding this issue, we are modifying this provision to make clear that gifts and third-party promotional items are prohibited only when they are used to induce

[26] Non-Navigator assistance personnel subject to § 155.215 are only required to carry out one of the Navigator duties set forth at § 155.210(e), the duty at § 155.210(e)(2) to provide fair, accurate, and impartial information and services that acknowledge other health programs; however non-Navigator assistance personnel subject to § 155.215 are not prohibited from carrying out the other duties outlined for Navigators at § 155.210(e).

enrollment. In other words, gifts and third-party promotional items are prohibited when they are conditioned on an applicant's enrollment in coverage with the help of the assister or the assister's organization. This means that while nominal gifts and third-party promotional items may be provided as a way of encouraging consumers to seek or receive application assistance, they cannot be conditioned on a consumer's actually enrolling in coverage. We agree with commenters that prohibiting gifts and third-party promotional items in connection with application assistance would potentially prohibit assisters from providing items promoting other available community services, such as an item which promotes the services of a school, hospital, or clinic in the community, simply because it was provided at the same time a consumer is present for Exchange application assistance. We do not want to prohibit assisters from providing items that are inherently beneficial to consumers only because a consumer is present for Exchange application assistance and not for other services.[27] Therefore, promotional items may be provided so long as they are not provided to induce enrollment. We have finalized § 155.210(d)(6) (renumbered from § 155.210(d)(7) of the proposed rule) and § 155.225(g)(4) to reflect this policy, and have omitted the language prohibiting the provision of gifts or third-party promotional items ''in connection with'' enrollment, and finalized the prohibition on providing them ''as an inducement for enrollment.'' We have also omitted the provisions' reference to application assistance, and only finalized the language relating to inducing enrollment.

Further, the nominal value limit does not apply to third-party promotional items, so these items may exceed $15 in value. We note that we would consider items such as diabetic testing supplies to be third-party promotional items to the extent that they have the effect of promoting the brand for the supplies that are provided. We also note that there may be other Federal laws regarding providing promotional-items to consumers, and these regulations do not supersede those laws. Therefore, assisters should ensure their compliance with all applicable laws.

We are also modifying this provision to make clear that reimbursement for legitimate expenses, such as (but not limited to) expenses for travel or postage that a consumer incurs in seeking Exchange application assistance may exceed the nominal value threshold of $15. We anticipate that the circumstances where such reimbursement exceeds this amount will be rare. However, we acknowledge that commenters have indicated there may be times when consumers might incur expenses that exceed $15 when seeking Exchange application assistance, and we would not want to prohibit a reimbursement for legitimate expenses that exceed this amount.

Because we are modifying the provisions to be less proscriptive, we are also adding a new provision at § 155.210(d)(7) (applicable to non-Navigator assistance personnel to whom § 155.215 applies through a cross-reference to § 155.210(d) in § 155.215(a)(2)(i)) to clarify that in no event is it permissible for a Navigator or for non-Navigator assistance personnel subject to § 155.215 to use Exchange funds to purchase gifts or third-party promotional items for provision to applicants or potential enrollees. Pursuant to Affordable Care Act section 1311(d)(5)(B), all Exchanges, both FFEs (including State Partnership Exchanges) and State Exchanges, are prohibited from using any funds intended for the administrative and operational expenses of the Exchange for promotional giveaways. HHS would consider any funds used by an Exchange to pay for Navigator grants, to contract with or otherwise pay non-Navigator assistance personnel subject to § 155.215 carrying out the consumer assistance functions under 45 CFR 155.205(d) and (e), and any Federal Exchange Establishment grant funds used to pay for non-Navigator activities,[28] to be funds intended for the administrative and operational expenses of the Exchange. Therefore, Navigators and non-Navigator assistance personnel subject to § 155.215 are prohibited from using funding received from an Exchange to purchase items for promotional giveaways. In this final rule, therefore, we are also prohibiting Navigators and non-Navigator assistance personnel subject to § 155.215 from using Exchange funds to purchase gifts, including gift cards and cash, and promotional items.

We are not including a provision regarding the use of Exchange funds by certified application counselors because certified application counselors generally are not expected or required to receive Exchange funds.

Comment: Commenters generally supported our proposals at §§ 155.210(d)(8) and 155.225(g)(5) prohibiting Navigators, certified application counselors, and non-Navigator assistance personnel subject to § 155.215 (through the cross-reference in § 155.215(a)(2)(i) to § 155.210(d)), from soliciting any consumer for application or enrollment assistance by going door-to-door or through other unsolicited means of direct contact. However, most commenters who addressed these provisions were concerned that the proposals might also prohibit solicitation with respect to outreach and education activities. Commenters noted that the proposed language would inhibit outreach activities that have proven effective with respect to Medicaid and CHIP outreach. Additional commenters noted that some organizations have had great success during the 2014 open enrollment with door-to-door outreach and that at times some consumers were ready to enroll and wanted immediate application assistance. These commenters are concerned that the proposed language would prohibit these methods going forward. Some commenters requested that we clarify the definitions of ''application or enrollment assistance'' and ''unsolicited means'' to help establish clear parameters of what is and is not prohibited.

Response: We agree that that door-to-door consumer education and outreach can be a useful and effective method for improving public awareness about the Affordable Care Act, insurance affordability programs, and the Exchanges. We have edited the final provisions at § 155.210(d)(8) and § 155.225(g)(5) to clarify that the prohibitions on door-to-door solicitation for ''application or enrollment assistance'' prohibit assisters from engaging in door-to-door solicitation for the purpose of offering in-home application or enrollment assistance; they do not prohibit assisters from going door-to-door to conduct general consumer education or outreach, including to let the community know that the organization is available to provide application and enrollment assistance services to the public. In final § 155.210(d)(8) and § 155.225(g)(5), therefore, we specified that outreach

[27] As previously noted, though, Navigators are not permitted to solicit customers for their other, non-Navigator-related services in connection with their Navigator duties (79 FR 15831). Therefore, while Navigators may provide items that are inherently beneficial to a consumer at the same time the consumer is receiving application assistance, these items may not be used as a means of soliciting the consumers for their other, non-Navigator-related services.

[28] While section 1311(i)(6) of the Affordable Care Act prohibits Exchanges from using Exchange Establishment grant funds on Navigator grants, these funds can be used to fund the activities of non-Navigator assistance personnel (see 78 FR 20583–84).

and education activities may be conducted by going door-to-door or through other unsolicited means of direct contact, including calling a consumer.

We clarify that nothing in these provisions would prohibit a Navigator, non-Navigator assistance personnel, or certified application counselor from providing in-home application assistance, if such assistance is requested by a consumer. We note that in cases where a consumer is ill or has a disability that would make meeting an assister outside of the consumer's home difficult or impossible, in-home application and enrollment assistance might be appropriate. In these or other cases in which the consumer prefers in-home assistance or such assistance is appropriate for the consumer, the request for in-home assistance must come from the consumer and the consumer must give their consent. In such cases, we also recommend that two assistance personnel should go to the home, not one, because this is a best practice that promotes the safety of both the consumer and the assister.

We further explain that by ''unsolicited means,'' we refer to any means of contacting consumers directly to help them apply for or enroll in coverage through the Exchange, where the consumer did not initiate, request, or give prior consent to the contact, although we reiterate that this provision does not apply to public education and outreach activities. Additionally, we have added language to allow for assisters to contact consumers for application assistance in cases where the individual assister or assister entity has a relationship with the consumer, but we note that other State or Federal laws may apply with regards to these preexisting relationships, and those laws must also be complied with.

Comment: Commenters acknowledged the concerns that HHS addressed through the proposal that would prohibit Navigators (at § 155.210(d)(9)), non-Navigator assistance personnel (through the cross reference to § 155.210(d) in § 155.215(a)(2)(i)), and certified application counselors (at § 155.225(g)(6)), from making robocalls, or calls that use an automatic telephone dialing system or an artificial or prerecorded voice, when initiating contact with consumers. However, commenters were concerned that the language of this proposal might be overly broad and might prohibit effective uses of such tools in ways that have strong benefits for consumers. For example, some organizations have used such tools to provide notice to consumers about upcoming enrollment events, sometimes partnering with other community organizations to target certain populations. Other organizations pointed out that in the future, such tools might be useful to remind consumers when it is time to re-enroll in coverage. Some commenters noted that many States already have laws that would apply to assisters to protect consumers from unwanted solicitation, and therefore further prohibitions are unnecessary. Many commenters provided recommendations for revising the proposed language and requested that certain clarifications be made if the proposed provision is finalized. For example, commenters recommended revising the language to allow the use of these tools for consumers who have previously provided contact information via an outreach or education event, or for consumers who may have a pre-existing relationship with the organization itself (for example, as a patient or a client). Health centers, in particular, requested a clarification that this provision would not prohibit their use of these tools in their capacity as a health center since, for example, automated dialing is frequently used to remind health center patients about upcoming appointments. Some commenters also noted that certain ''in-reach'' activities that use these types of tools are required of organizations in order for them to be eligible for HRSA grants provided in the Health Center Outreach and Enrollment Assistance program, and therefore this proposed provision could create a conflict for these organizations.

Response: We understand that many entities operating as Navigators, non-Navigator assistance entities subject to § 155.215, and certified application counselors also function as other types of organizations with an existing client base, such as community health clinics, hospitals, or primary care associations. These prohibitions on assister conduct are not meant to disrupt any outreach or in-reach strategies that these organizations use to connect with their client base outside of their work as Exchange Navigators, non-Navigator assistance personnel, or certified application counselors. Therefore, we clarify that the provision prohibiting Navigators (at § 155.210(d)(9)), non-Navigator assistance personnel (through the cross-reference to § 155.210(d) in § 155.215(a)(2)(i)), and certified application counselors (at § 155.225(g)(6)) from making calls using an automatic dialing system would not prohibit a health center from automatically dialing patients to remind them of upcoming health care appointments. We also appreciate commenters' interest in using automatic calls to communicate with consumers with whom they already have a relationship. Therefore, we are finalizing § 155.210(d)(9) and § 155.225(g)(6) with an exception added for cases where the individual assister or assister entity has a pre-existing relationship with the consumer. Although the edited regulation text at § 155.210(d)(9) refers to Navigators, we interpret the cross-reference in § 155.215(a)(2)(i) to § 155.210(d) mean that that provision also applies to non-Navigator assistance personnel to whom § 155.215 applies. We are also noting that other State or Federal laws may apply with regards to these pre-existing relationships, and those laws must also be complied with, and have included this caveat in the final § 155.210(d)(9) and § 155.225(g)(6). We will monitor and evaluate this practice.

Comment: Some commenters requested that the disclosure of an assister's functions and responsibilities required under existing § 155.225(f)(1) and new §§ 155.210(e)(6)(i) and 155.215(g)(1) also include disclosure of the nondiscrimination requirements applicable to the assister.

Response: We agree that the nondiscrimination requirements applicable to the assister, such as those described in § 155.120(c) and § 155.105(f), would be appropriate information to include as part of the disclosure. While § 155.210(e)(6), § 155.215(g), and § 155.225(f) require assisters to inform consumers about the assister's functions and responsibilities, we have not outlined specific content for this disclosure in these provisions.

Comment: Commenters supported the proposed requirements that all Navigators (at § 155.210(e)(6)) and the non-Navigator assistance personnel subject to § 155.215 (at § 155.215(g)) obtain authorization from consumers before accessing their personally identifiable information, together with our proposal in these provisions, as well as in the proposed amendment to existing § 155.225(f), that the Exchange must establish a reasonable retention period for maintaining these records. In FFEs, we proposed that this period would be three years, unless a different retention period has already been provided under other applicable Federal law. Some commenters recommended that we identify a specific period of time for which the authorization will be valid, such as two years, so that the authorization will automatically expire at the end of that time frame, as well as a separate period of time after the expiration for which the assister must

maintain the record of the authorization. Some commenters requested a retention period of only one year because plan years operate on a 12-month cycle.

Response: We are modifying these provisions to specify that in FFEs, the minimum retention period for the authorization form is no less than six years, unless a longer retention period has already been provided in applicable Federal law in the FFEs, including State Partnership Exchanges. The six-year minimum retention period is consistent with the statute of limitations that has been included in the CMP provisions being finalized in this rule under 45 CFR 155.206 and 155.285, because we recognize that it may be relevant to some CMP investigations whether authorization for the disclosure of a consumer's personally identifiable information was given to an assister. We also note that there are record retention requirements already applicable to Navigators in the FFEs and State Partnership Exchanges under Federal grant laws, such as 45 CFR 92.42 and 45 CFR 74.53. Since we are specifying a minimum retention period of six years in this final rule, if a shorter retention period is provided under other applicable Federal requirements, the six-year minimum provided in § 155.210(e)(6)(ii), § 155.215(g)(2), and § 155.225(f)(2) will apply. We have modified these provisions to reflect this policy by indicating that in FFEs, the retention period is no less than six years, unless a different and longer retention period has already been provided under other applicable Federal law. Because we are aligning the requirement to obtain the authorization and maintain a record of the authorization so that there are consistent requirements for Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors, we think it is appropriate to apply a consistent retention period standard to all three assister types as well and are therefore modifying the provisions for consistency across all three assister types.

We are not adding language to include an automatic expiration date for the authorization because it could become burdensome for a consumer consistently seeking services from the same assister to have to routinely fill out a new authorization form, and for the assister to have to maintain each new form for a minimum of six years. We do note, however, that consumers are allowed to revoke their authorization at any time, and may place a time restriction on the authorization, if they desire.

Comment: Many commenters requested that we create a standard authorization form for assisters to use, rather than leaving it to assisters to create their own form, which commenters believed would cause assisters to incur considerable costs. Commenters also recommended that low literacy levels should be taken into consideration when creating the form, and that the form be translated into at least the top 15 languages to meet the needs of limited English proficient consumers served in an FFE.

Response: We support the commenters' suggestion to have a model form to use for obtaining this authorization, and share the commenters' concerns about the costs to assisters of creating an authorization form if there were no model form available. We note that, for Navigators in FFEs, including State Partnership Exchanges, a model form is included in the grant award materials, and for certified application counselors in FFEs and State Partnership Exchanges, a model form is among the documents provided to certified application counselor designated organizations upon designation by the Exchange; in both cases, these forms are provided in both English and Spanish versions. HHS intends to develop a model form for use by non-Navigator assistance personnel in FFEs and State Partnership Exchanges in the future. We will take into consideration the comments regarding literacy levels and language translations as we develop a model authorization form for use by non-Navigator assistance personnel subject to § 155.215, and as we review the current Navigator and certified application counselor model forms for the FFEs and State Partnership Exchanges.

Comment: Some commenters requested that the disclosure to consumers include information about the permissible and impermissible ways an assister may use a consumer's personally identifiable information, as well as how consumers may opt out of follow-up from the assister.

Response: These regulations do not require specific content in the consumer authorization form. However, we note that the model authorization form currently provided in the FFE and State Partnership Exchange Navigator grant award materials and to certified application counselor designated organizations in the FFEs, including State Partnership Exchanges, includes information about how a consumer's personally identifiable information may be used, as well as an option for consumers to authorize follow-up contact from the Navigator or certified application counselor, as applicable. As we develop a model form for non-Navigator assistance personnel in the FFEs and State Partnership Exchanges, we will also consider including these same content elements.

Comment: Commenters submitted several requests and recommendations regarding the form of the authorization. Many commenters requested that the authorization be allowed to be collected and maintained in electronic form to help reduce the costs and burden associated with paper forms. Some commenters also requested that a voice-recorded authorization be allowed when assisters are helping consumers over the phone. Additionally, several commenters requested that Exchanges be permitted to retain the record of authorization on behalf of the assister, noting that some State Exchanges are already doing this.

Response: We note that these regulations do not specify acceptable formats for obtaining the authorization or for maintaining its record. Additionally, to allow for the flexibility in State Exchanges requested by commenters, we have modified the proposed language specifying that the authorization be provided ''in a form and manner as determined by the Secretary'' to indicate that the authorization must instead be provided in a form and manner as determined by the Exchange. As a result of this change, each Exchange will have discretion to determine the appropriate form and manner for these authorizations. In response to commenters' concerns about whether these regulations would prohibit a State Exchange from retaining these authorizations on behalf of their assisters, we have also revised the language in this provision of the final rule to indicate that the form and manner of the assistance entity's or personnel's maintenance of the authorization is to be determined by the Exchange. This modification will allow State Exchanges that have chosen to retain these authorizations on behalf of their assisters to continue to do so, provided it is consistent with the ''form and manner as determined by the Exchange.''

We acknowledge that the language regarding the form and manner of obtaining or maintaining the authorization was not included with respect to certified application counselors at proposed § 155.225(f)(2). To align the provision with those provisions applicable to Navigators and non-Navigator assistance personnel subject to § 155.215, we are adding this language to § 155.225(f)(2).

Finally, we are deleting the cross references in proposed § 155.210(e)(6)(ii) to 45 CFR 92.42 and 45 CFR 74.53 due to the potential for these cross references to become obsolete or inaccurate in the future. We believe the remaining phrase ''other applicable Federal law'' will capture the intent of the cross references to ensure that Navigators comply with retention periods for maintaining these records in accordance with all Federal laws that may apply. This cross reference was only included in the proposed provision applicable to Navigators; therefore no change is necessary to the provisions at § 155.215(g)(2) or § 155.225(f)(2).

Comment: Several commenters raised concerns about the requirement for Navigators, non-Navigator assistance entities subject to § 155.215, and certified application counselor designated organizations to maintain a physical presence in their Exchange service area under proposed § 155.210(e)(7) and § 155.225(b)(1)(iii). Commenters claimed that this proposed provision eliminates vital flexibility for consumer assistance personnel, noting that these assistance personnel often provide effective service over the phone or internet. Commenters pointed out that in large, rural, or frontier States, consumers often rely on remote assistance. Commenters also mentioned that some State Exchanges are working on software that would allow assistance personnel to help clients remotely, by facilitating screen sharing and split screen views for assistance personnel and clients, and these commenters expressed the concern that the proposed language would inhibit such technological innovations. Commenters requested that, at a minimum, clarification be provided that this provision will not affect the ability of assisters to provide remote assistance to consumers. However, there were a few commenters who supported this requirement, and recommended that the provision be broadened to require Navigator organizations, non-Navigator assistance entities subject to § 155.215, and certified application counselor organizations to maintain a principal place of business within their Exchange service area.

Response: The proposed requirement that Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors maintain a physical presence in their service area so that face-to-face assistance can be provided was designed to ensure that these consumer assistance personnel understand and are able to meet the specific needs of the communities they serve, to foster trust between these consumer assistance personnel and community members, and to encourage participation in the Navigator, non-Navigator assistance, and certified application counselor programs by individuals whose backgrounds and experiences reflect those of the communities they serve.

In light of the comments we received indicating that this requirement may be too restrictive for certified application counselor organizations already providing remote assistance, we are not finalizing proposed § 155.225(b)(1)(iii) which would have required certified application counselor organizations to maintain a physical presence in the Exchange service area. We understand that unique circumstances may exist that would make remote assistance more effective or practical than face-to-face assistance, particularly when a certified application counselor is providing services to individuals or populations that might otherwise be difficult to reach. We continue to believe that face-to-face, in-person assistance is important, and we encourage certified application counselors to provide this type of assistance as much as possible. We will continue to evaluate the effectiveness of remote assistance offered by certified application counselors and certified application counselor organizations, to determine whether a physical presence requirement may be necessary in the future.

We are finalizing these requirements at § 155.210(e)(7) and § 155.215(h) that Navigators and non-Navigator assistance personnel subject to § 155.215 must maintain a physical presence in the Exchange service area, so that face-to-face assistance can be provided to applicants and enrollees. We believe this provision will improve the ability of Navigators and non-Navigator assistance personnel subject to § 155.215 to provide culturally competent application and enrollment assistance. As we explained in the preamble to the proposed rule, this requirement may also facilitate State consumer protection efforts.

We agree with commenters that remote application and enrollment assistance can be extremely important and effective, especially as a way to provide this assistance to consumers in rural or remote areas. Therefore, we want to make clear that nothing in this provision prohibits Navigators or non-Navigator assistance personnel subject to § 155.215 from providing assistance via the telephone, Internet, or through other remote means, as long as the organization with which they are affiliated also maintains a physical presence in the Exchange service area, consistent with § 155.210(e)(7) and § 155.215(h). We also clarify that Exchange service area refers to the entire area served by the Exchange, and not to smaller regions within the area served by the Exchange.

We disagree with comments suggesting that these assister organizations should be required to maintain a principal place of business within their Exchange service area. Many trusted national organizations have State or local branches that operate as Navigators, non-Navigator assistance personnel subject to § 155.215, or certified application counselors, and who, partly because of their physical presence in the State, are able to provide high-quality assistance tailored to the needs of their communities. Therefore, we are finalizing § 155.210(e)(7) as proposed with a modification to specify that in an FFE, no individual or entity shall be ineligible to operate as a Navigator solely because its principal place of business is outside of the Exchange service area. With respect to the certified application counselor program, we are adding a new § 155.225(b)(3) to specify that in an FFE, no individual or entity shall be ineligible to operate in this program solely because its principal place of business is outside of the Exchange service area.

We indicated in the preamble to the proposed rule that we were proposing to make the same provision specifying that Navigators maintain a physical presence in their Exchange service area under § 155.210(e)(7) also applicable to non-Navigator assistance personnel subject to § 155.215, and we proposed adding a new paragraph under § 155.215 for that purpose. However, the rule text of the proposed rule omitted the new paragraph under § 155.215. In the final rule, therefore, we are correcting this oversight, and adding this standard to § 155.215 as a new paragraph § 155.215(h) to specify that all non-Navigator assistance personnel subject to § 155.215 who operate in FFEs must maintain a physical presence in the Exchange service area, so that face-to-face assistance can be provided to applicants and enrollees. Similarly, we are modifying this provision to add a specification that no individual or entity shall be ineligible to operate as non-Navigator assistance personnel subject to § 155.215 solely because its principal place of business is outside of the Exchange service area.

Summary of Regulatory Changes

We revised § 155.210(c)(1)(iii) to remove reference to ''errors and

omissions insurance'' and replaced it with ''any requirement that, in effect, would require all Navigators in the Exchange to be licensed agents and brokers.''

We are not finalizing proposed §§ 155.210(c)(1)(iii)(E) and 155.225(d)(8)(iv).

We renumbered proposed §§ 155.210(c)(1)(iii)(F) and 155.225(d)(8)(v) as new §§ 155.210(c)(1)(iii)(E) and 155.225(d)(8)(iv). We modified newly renumbered §§ 155.210(c)(1)(iii)(E) and 155.225(d)(8)(iv) to extend these provisions to all Exchanges by removing the reference to ''in a Federally-facilitated Exchange'' and by specifying that non-Federal standards that would, as applied or implemented in a State, prevent the application of Federal requirements applicable to Navigators (or non-Navigator assistance personnel subject to § 155.215), or certified application counselors or designated organizations or, as added in this final rule, ''the Exchange's implementation of the [respective assister] program'' would prevent the application of the provisions of title I of the Affordable Care Act. We revise § 155.215(f) to add subparagraphs (1) through (4) explicitly under that provision, rather than incorporating by reference parallel provisions in the applicable Navigator standards under § 155.210(c)(1)(iii), as was proposed.

We revised §§ 155.210(d)(4) and 155.225(g)(2) to add that in an FFE no health care provider individual or entity shall be ineligible to operate as Navigators (or non-Navigator assistance personnel subject to § 155.215), or certified application counselors or certified application counselor designated organizations solely on the basis of receiving consideration from a health insurance issuer for health care services provided.

We also revised § 155.210(e)(7) to provide that in an FFE, no individual or entity shall be ineligible to operate as a Navigator solely because its principal place of business is outside of the Exchange service area. We added § 155.215(h) to create a parallel provision to §§ 155.210(e)(7) for non-Navigator assistance personnel subject to § 155.215, as was discussed in the preamble to the proposed rule. We did not finalize § 155.225(b)(1)(iii), but we added a new § 155.225(b)(3) to specify that in an FFE, no individual or entity shall be ineligible to operate as a certified application counselor or designated organization solely because its principal place of business is outside of the Exchange service area.

We moved § 155.210(d)(6) to § 155.215(i) and limited this provision, as well as § 155.225(g)(3), to Navigators, non-Navigator assistance personnel, and certified application counselors operating in FFEs, including State Partnership Exchanges, and revised these provisions to specify that they do not take effect until November 15, 2014.

We renumbered proposed § 155.210(d)(7) to § 155.210(d)(6), and revised newly renumbered § 155.210(d)(6) along with § 155.225(g)(4) to clarify that gifts, gift cards, or cash, and promotional items that market or promote the products or services of a third party provided by assisters to consumers are prohibited for the purposed of inducing enrollment, and that gifts, gift cards, or cash may exceed nominal value for the purpose of providing reimbursement for legitimate expenses incurred by a consumer in effort to receive Exchange application assistance, such as (but not limited to) travel or postage expenses. We also add new § 155.210(d)(7) to prohibit the use of Exchange funds to purchase gifts or gift cards, or promotional items that market or promote the products or services of a third party, that would be provided to any applicant or potential enrollee.

We revised §§ 155.210(d)(8) and 155.225(g)(5) to clarify that the prohibitions on door-to-door solicitation for application or enrollment assistance do not prohibit Navigators, non-Navigator assistance personnel, or certified application counselors from going door-to-door to conduct general consumer education or outreach, or from soliciting consumers with whom the assister has a preexisting relationship so long as other applicable State and Federal laws are complied with.

We revised §§ 155.210(d)(9) and 155.225(g)(6) to clarify that the prohibitions on using an automatic telephone dialing system or an artificial or prerecorded voice to initiate a telephone call to a consumer, do not prohibit Navigators, non-Navigator assistance personnel, or certified application counselors from using those means to communicate with consumers with whom they already have a relationship, so long as other applicable State and Federal laws are complied with.

We revised §§ 155.210(e)(2) and 155.225(c)(1) to add that the duties of Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors includes a duty to provide information in a fair, accurate, and impartial manner to individuals and employees about the full range of QHP options and insurance affordability programs for which they are eligible, which includes providing fair, impartial, and accurate information that assists consumers with submitting the eligibility application, clarifying the distinctions among QHPs, and helping consumers make informed decisions during the health coverage selection process.

We made technical edits to preserve the grammatical pattern that appears in the existing list at § 155.210(d)(1)–(4) and extended it through § 155.210(d)(9) by placing semicolons after each subparagraph and moving the ''or'' following proposed § 155.210(d)(5) to follow § 155.210(d)(8).

We revised §§ 155.210(e)(6)(ii) and 155.215(g)(2) to change the word ''Secretary'' to ''Exchange'' to allow for State Exchanges to determine their own appropriate form and manner for obtaining the consumer authorization that is required for a Navigator or non-Navigator assistance personnel to obtain access to the consumer's personally identifiable information. We also specified that the Navigator and non-Navigator assistance personnel subject to § 155.215 must maintain a record of the authorization provided ''in a form and manner as determined by the Exchange,'' and that the period is no less than six years (not three years, as proposed), unless a different and longer retention period has already been provided. In § 155.210(e)(6)(iii), we removed reference to 45 CFR 92.42 and 45 CFR 74.53 and retain only ''other applicable Federal law.'' We also revised § 155.225(f)(2) to add parallel language to require certified application counselors to obtain and maintain record of the authorization in a form and manner as determined by the Exchange, and to specify that the retention period is no less than six years, unless a different and longer retention period has already been provided under other applicable Federal law.

We revised proposed § 155.225(d)(8)(i) to replace the phrase ''act in the best interest of applicants'' with the phrase ''provide fair, accurate, and impartial information.''

c. Payment of Premiums (§ 155.240)

In order to address situations in which enrollees have mid-month changes in enrollment, we proposed in § 155.240(e) standards for providing partial month premiums. First, we proposed to provide flexibility for Exchanges to establish a standardized methodology for partial month premiums or to rely on issuers to prorate premiums in accordance with

State law and issuer policies. Second, we proposed in § 155.240(e)(1) that, for the FFE, the premium for coverage lasting less than one month must equal the product of the premium for one month of coverage divided by the number of days in the month and the number of days for which coverage is being provided in the month.

Comment: We received several comments expressing general support for the proposed provisions in § 155.240(e). Commenters also specifically supported the proposed methodology for partial month premiums in the Federally-facilitate Exchange. Commenters viewed the methodology proposed in § 155.240(e)(1) as an equitable and beneficial solution to a common issue that consumers face with respect to their health insurance premiums. The methodology proposed for the FFE was also noted as being simple and easy for consumers to understand. Additionally, several of these commenters requested that HHS require all Exchanges to use the partial month premium methodology originally proposed for the FFE to promote consistency across Exchanges.

Response: We appreciate the support received for the proposed provisions in § 155.240(e). We maintain that Exchanges are in the best position to determine the methodology used for partial month premiums within their jurisdiction. However, in the case of the FFE, the methodology we proposed is appropriate given the Exchange's unique circumstances. Specifically, CMS jointly administers the FFEs currently operating in multiple States, each of which may have different rules for proration and, therefore, the administrative burden to enforce varying rules across these States would be overwhelming without the implementation of a single, standard approach. For example, in order to provide the appropriate amount of advance premium tax credit to the issuer, the issuer must inform the Exchange of the premium amount charged to each individual. Without a standardized approach in the FFE, this information would come to us in a variety of forms in accordance with various State laws and issuer practices for partial month premiums, which would be burdensome to manage. Consequently, we note that the standards for partial month premiums in the FFE apply even if State requirements in those FFE States differ from this final rule. There is also a customer service advantage to using a single methodology because it makes it easier for customer service representatives to explain one clear, comprehensive policy for all consumers throughout the FFE. Because of the high degree of variability across the States in the FFE, we maintain that the proposed methodology for calculating prorated premiums is the most efficient and equitable approach. We are finalizing the regulation as proposed.

Comment: A few members of the issuer community provided comment on the implementation of the proposed provision for the FFE. We received comments requesting that HHS limit premium proration to the FF–SHOP and not extend the policy to the individual market FFE. Commenters argued that current standard industry practices are simpler and more cost effective for issuers because they do not require reconciliation of daily proration. A commenter also noted that, because the Exchange will not perform premium aggregation in the individual market, there is no need to adopt a standard method for proration of premiums. Commenters noted that implementing the proposed policy would require reconfiguration of issuer information technology systems, including billing mechanisms, which takes significant time and investment; therefore, commenters requested that implementation not occur before the 2015 benefit year. These commenters also requested that the requirement not be implemented retroactively and, instead, for months prior to the effective date of this policy, issuers have the flexibility to use their own proration methodology or follow State law.

Response: While premium aggregation is a compelling reason to adopt premium proration, there are numerous other reasons to adopt it as noted in the comment response above and in the proposed rule's preamble. We previously have been asked by States and issuers for guidance in this area and implementing a standard policy for the FFE will establish a clear standard with which issuers can comply and for consumers to understand. Issuers have also told us that proration of partial month premiums is a methodology that can be implemented. We believe that having a policy in place is vastly preferable to operating without any guidance and we remain committed to working closely with issuers on implementation. In order to ensure that issuers have sufficient time to implement this proposal, the FFE will implement it effective January 1, 2015. Issuers may also choose to implement the policy immediately. We also note that, in response to the comment, we will not seek retroactive implementation of the partial month premium policy for the FFE but note that State Exchanges have flexibility to determine how to implement their policy in this area.

Comment: One commenter expressed concern that the preamble to this section specified the events for which an Exchange may require proration of premiums, such as voluntary withdrawal. The commenter believed that these policies are more suitably addressed at the State level, where they can reflect a State's unique market dynamics.

Response: The examples used in the preamble to the proposed rule were illustrative of the policy but not intended to replace our previous guidance for partial month enrollments found at 45 CFR 155.420 and 155.430.

Comment: Finally, one commenter requested clarification as to whether a prorated premium could count as a first month's premium (for example, in the case of a newborn) and how that would also impact the 3-month grace period provided in § 156.270(d) and (e).

Response: A partial month premium does count as a first month's premium. Additionally, payment of a prorated premium in full can be considered payment in full for the purpose of the 3-month grace period in § 156.270(d) and (e).

Summary of Regulatory Changes

We are finalizing the provisions proposed in § 155.240 without modification.

d. Privacy and Security of Personally Identifiable Information (§ 155.260)

We proposed amending § 155.260(g) to add a reference to § 155.285, which is being added as part of this final rule. Section 155.285 specifies the grounds for imposing CMPs, the notice required to be given to a person when a civil money penalty is assessed, and factors to be used to determine the amount of CMPs assessed, as well as some aspects of the process for imposing CMPs. We proposed this addition to § 155.260(g) to clearly link these two regulatory provisions and to ensure that readers fully understand how CMPs will be assessed for any improper use or disclosure of information.

Comment: We received some comments in support of the proposed amendments to § 155.260(g). However, a few commenters also requested additional amendments to the provision. For example, one commenter requested that we amend § 155.260(g) to clarify that outreach and follow-up efforts made by community assisters is not impeded by the reference to § 155.285. Specifically, the commenter encouraged HHS to specify that, with

receipt of express consumer consent, PII can be used to conduct outreach to follow up with individuals who still need to complete applications or for outreach to help individuals maintain and renew existing health coverage. Another commenter suggested that the provision note that the use and retention of PII is permissible with the consumer's consent, in order to ensure consistency with the Navigator provisions at § 155.210(e)(6) and § 155.225(f) which permit such use. The commenter also requested amendments to § 155.260(a) and (b) to specify that retention of PII is permissible with the consent of the consumer.

Response: We acknowledge the importance of consumer assistance entities being able to contact consumers in order to follow-up regarding applications for coverage or annual renewals. However, § 155.260 as proposed, does not impede these types of outreach. Rather, § 155.260 prohibits improper use and disclosure of information, as described in the preamble to the proposed rule at § 155.285. Similarly, a Navigator's use of information as described in § 155.210(e)(6) and § 155.225(f) is not prohibited under § 155.260(g) and we do not see the need to include further clarification of that in the rule. Finally, the requested amendments to § 155.260(a) and (b) are outside the scope of this proposed rule. Therefore, we intend to finalize § 155.260(g) as proposed.

Comment: Some commenters expressed concern about the proposed amendment. Commenters thought the reference to § 155.285 was duplicative and that the application of § 155.260 may, in some cases, be broader than the specific prohibitions on disclosure intended by section 1411(g) of the Affordable Care Act and should not be linked to § 155.260.

Response: We disagree with the contention that the reference to § 155.285 in § 155.260 is duplicative. The cross-reference links the improper use and disclosure of PII to the imposition of CMPs as prescribed in section 1411(g) and (h) of the Affordable Care Act. Therefore, we finalize the provision as proposed.

Comment: We received many comments to both § 155.260 and § 155.285 requesting clarification about the role of PII with respect to CMPs.

Response: Because of the relationship between § 155.260 and § 155.285, we address comments on § 155.206 in the preamble related to § 155.285(a) of this final rule.

Summary of Regulatory Changes

We are finalizing the addition to § 155.260 as proposed, with a minor change where we have inserted the numerical penalty amount instead of a reference to section 1411(h) of the Affordable Care Act where the maximum penalty is specified.

e. Bases and Process for Imposing Civil Money Penalties for Provision of False or Fraudulent Information to an Exchange or Improper Use or Disclosure of Information (§ 155.285)

In § 155.285(a), in accordance with the grounds on which penalties may be imposed as specified in section 1411(h) of the Affordable Care Act, we proposed the circumstances under which HHS may impose CMPs on a person if HHS determines that the person has provided false or fraudulent information as prohibited by section 1411(h)(1) or improperly used or disclosed information in violation of section 1411(g). In § 155.285(a)(1)(i), we proposed that if any person fails to provide correct information under section 1411(b) of the Affordable Care Act and such failure is attributable to negligence or disregard of any regulations of the Secretary, the person may be subject to a CMP. Under proposed § 155.285(a)(1)(i), if a person fails to make a reasonable attempt to provide accurate, complete and comprehensive information and as a result provides incorrect information, the person may be subject to a CMP.

Second, in § 155.285(a)(1)(ii), we proposed that if a person knowingly and willfully provides false or fraudulent information under section 1411(b) of the Affordable Care Act, the person may be subject to a CMP. We noted that if consumer assistance personnel such as an agent, broker, Navigator, certified application counselor, or non-Navigator assistance personnel, were to in some manner directly provide false or incorrect information required under section 1411(b), they may also be subject to a CMP. Third, in § 155.285(a)(1)(iii), we proposed that if a person knowingly and willfully uses or discloses information in violation of Affordable Care Act section 1411(g), the person may be subject to a CMP. In § 155.285(a)(1)(iii)(A) through (C), we proposed types of activities that would be in violation of section 1411(g) of the Affordable Care Act and in § 155.285(a)(2), we proposed a definition of the term ''person.''

In § 155.285(b), we proposed the factors that HHS may take into consideration when determining the amount of CMPs to impose. In § 155.285(b)(3), we implemented the reasonable cause exception of section 1411(h)(1)(A)(ii) of the Affordable Care Act pursuant to which no penalty will be imposed under § 155.285(a)(1)(i) if HHS determines that there was a reasonable cause for the failure to provide correct information required on an Exchange application and that the person acted in good faith.

In § 155.285(c), we proposed maximum penalties for each different type of violation. In § 155.285(d), we proposed standards for a notice of intent to issue a CMP that HHS must send to the person against whom the CMP may be imposed. In § 155.285(d)(1)(i)–(viii), we proposed eight elements that must be included in the notice. We proposed that the person may request a hearing before an ALJ on the proposed penalty by filing a request pursuant to the procedure that will be outlined in the notice of intent to impose a penalty that the person receives.

In § 155.285(e), we proposed the consequences for a person who fails to request a hearing in a timely manner. We proposed that HHS may assess the proposed CMP 60 calendar days after the date of issuance printed on the notice of intent to issue a CMP. In § 155.285(e)(1), we proposed that HHS will notify the person in writing of any penalty that has been imposed, the means by which the person can satisfy the penalty, and the date on which the penalty is due. We proposed in § 155.285(e)(2) that a person has no right to appeal a penalty with respect to which the person has not timely requested a hearing.

In § 155.285(f), we proposed to use the existing appeals framework in regulation at 45 CFR Part 150, Subpart D. In § 155.285(g), we proposed that CMS and OIG will share enforcement authority to impose the CMPs in § 155.285.

In § 155.285(h), we proposed a settlement authority provision to ensure CMS is able to settle any issue or case described in § 155.285(a) if necessary. Finally, in § 155.285(i), we proposed a six year statute of limitations, beginning from the date on which the violation occurred, within which HHS may impose a CMP against a person.

Comment: We received some comments regarding § 155.285(a)'s reference to basing the imposition of a CMP on ''credible evidence'' if HHS ''reasonably determines'' that someone has violated the rule. The commenters recommended that, because a CMP could be potentially significant, the standard should be based on a preponderance of the evidence. The commenters also noted that this

standard is consistent with the Administrative Procedures Act.

Response: We maintain that the standard proposed in § 155.285(a) is appropriate in light of the fact that a CMP is not immediately imposed but, instead, imposed only after a process involving notice and the right to a hearing is provided. If HHS identifies circumstances that meet the standard set in § 155.285(a), the resultant action is a notice informing the person of the potential imposition of a CMP. The person then has the right to request a hearing in front of an ALJ in accordance with h§ 155.285(d)(2) before the CMP is levied. For these reasons, we finalize the standard as proposed.

Comment: We received one comment regarding the definition of negligence, provided in § 155.285(a)(i)(A). The commenter sought clarification as to what is considered a ''reasonable'' attempt to provide accurate, complete, and comprehensive information.

Response: The proposed definition of ''negligence'' is modeled on section 6662 of the Internal Revenue Code and was incorporated based on the similarities between providing information on tax filing forms and completing an application for Exchange coverage. This definition should provide CMS and the public with ample history on which they may rely to assess negligence in this context. We also believe this definition is appropriate because it holds actions that are made through honest mistake and error (which are protected by the reasonable cause provision in § 155.285(b)(3)) not culpable for a violation. We finalize the definition as proposed.

Comment: We received many comments regarding the imposition of CMPs under § 155.206 and § 155.285. Some commenters recommended that HHS retain discretion to impose CMPs under both sections, citing some violations under § 155.285 will also violate consumer assistance standards and, in those instances, HHS should levy penalties under both provisions. These commenters noted that allowing penalties under both provisions will give Navigators and assisters in the Federally-facilitate Exchange an extra incentive to maintain the privacy of those they assist. Another group of commenters recommended that where violations of § 155.206 and § 155.285 overlap, HHS should use its discretion to impose a CMP under only one section. Similarly, many commenters in this cohort urged HHS to exempt consumer assistance entities from § 155.285, explaining that assistance personnel do not actually provide information as part of the process of applying for coverage or an exemption, and therefore it was difficult to see how they could provide false or fraudulent information in violation of § 155.285. These commenters considered imposing violations for consumer assistance entities under both sections would be duplicative.

Response: We disagree that consumer assistance personnel should be exempt from the provisions of 45 CFR 155.285. Any Navigator, non-Navigator assistance personnel, or certified application counselor who encourages a consumer to submit false or fraudulent information and then enters that information into the application for the consumer, or enters false or fraudulent information without the knowledge of the consumer, might be in violation of either § 155.285 or § 155.206. Therefore, we maintain that where conduct by a consumer assistance entity may warrant CMPs under either § 155.285 or § 155.206, HHS should have discretion to determine whether to impose a CMP under § 155.285 or under § 155.206. If a consumer assistance entity is in a situation where CMPs could be imposed under both § 155.206 and § 155.285, CMS will take that into account as a factor under § 155.285(b)(1)(viii).

Comment: Commenters expressed a general concern that the provisions of § 155.285 might have a chilling effect on consumer assistance entities, particularly those that rely on voluntary participation. These commenters urged us to limit CMPs to egregious violations of selected requirements where there are no other enforcement mechanisms in place. Commenters felt that fewer people might be willing to become assisters if they feared being held responsible for CMPs, particularly for information provided and attested to by applicants.

Response: We understand the concerns raised by commenters about the potential for these penalties to discourage participation as a consumer assistance entity. However, we are finalizing the provisions, and their application to consumer assistance entities, as proposed. The purpose of these provisions is to ensure consumer information is safeguarded, no matter where it is in the eligibility or enrollment process or whether the consumer seeks the assistance of a consumer assistance entity. HHS's goal in issuing the CMP rule is to encourage program compliance, prevent misconduct, and remedy violations promptly. We do not think these goals will be served by lessening the proposed standards for imposing CMPs.

Comment: We received comments expressing support for the grounds proposed for imposing CMPs. These commenters viewed the authority to impose CMPs as an effective way to safeguard the use of consumer information. However, many commenters also sought clarification about what constitutes improper use and disclosure of PII under the NPRM and in relation to section 1411(g) of the Affordable Care Act. Several of these commenters requested that § 155.285 be amended to note that, with receipt of consent, PII can be used to conduct outreach to follow up with individuals who still need to complete applications or for outreach to help individuals maintain and renew existing health coverage. Other commenters feared any relaxation of PII standards would compromise consumer information and cause harm.

Response: Protection of consumer information is one of the most critical duties of consumer assistance entities and Exchanges. Section 155.260 provides privacy and security standards handling and safeguarding consumers' PII. Section 155.260 also provides that the Secretary can determine additional uses and disclosures of PII and develop a framework through which Exchanges can seek the Secretary's approval of other requested uses and disclosures of eligibility and enrollment PII that would ensure the efficient operation of the Exchange, comply with other applicable law and policy, and require the consent of the individual subject of the PII prior to the requested use or disclosure. Uses and disclosures of information that are not permitted by § 155.260 or otherwise permitted by statute or regulation, therefore, are prohibited. Those prohibited uses and disclosures are the focus of the penalties imposed in § 155.285 to the extent they are knowing and willful. But, we note that some uses and disclosures, as specified in rule, are permissible with the specific consent of the consumer.

Comment: We received several comments on the definition of ''person'' in § 155.285(a)(2). Some commenters found the broad definition of ''person'' warranted for imposing CMPs for violations of section 1411(g) of the Affordable Care Act. However, a portion of commenters requested that HHS exclude assisters from the definition of ''person.'' We also received one comment noting that the inclusion of QHP issuers potentially creates confusion regarding the source of required application information provided to establish eligibility to purchase a QHP.

Response: Exchanges involve the coordination of a wide variety of individuals and entities for their

success. Therefore, our definition of ''person'' is broad to encompass each of these and the possibility that they could engage in the actions enumerated in § 155.285(a)(1). We want to ensure that these individuals and entities are on notice of the penalties they could incur for the misuse of information. The inclusion of assisters and similar consumer assistance entities within § 155.285 is discussed in detail above in the comment response to questions regarding the application of § 155.206 and § 155.285 to assisters. Finally, the inclusion of QHP issuers in the definition is purposeful for the reasons noted above and we do not share the concern of the commenter that this creates confusion. Many of the entities included in the definition are required to provide information for use by the Exchange, including QHP issuers; however, it is only the provision of false or fraudulent information or improper use or disclosure of information that is penalized. We finalize the definition as proposed.

Comment: We received many comments in support of the proposed provisions of § 155.285(b), which lists the factors used to determine the amount of CMPs imposed. A few commenters suggested additional factors to be considered including, whether the violation resulted in other legal consequences for an individual, attempts at taking corrective action, and the extent to which assistance personnel were deceived by the consumer into providing false or incorrect information.

Response: We appreciate the support we received for the proposed factors used to determine the amount of CMPs imposed. We have considered the factors commenters suggested and find that only minor revisions to the proposed set of factors are necessary. For example, we have added one additional factor at subparagraph (b)(1)(viii) to include a factor allowing HHS to take into consideration whether other remedies or penalties have been imposed for the same conduct or occurrence. We have also clarified the scope of the factors in subparagraphs (b)(2)(i) and (ii) to account for violations that could have resulted in financial harm or could have caused harm to an individual's reputation, respectively. We note that harm to an individual's reputation could include, for example, actions impacting a consumer's credit rating or incurring costs on behalf of another person without their knowledge or consent. Additionally, § 155.285 does not require a corrective action plan, so we do not include corrective steps taken in the factors provided. We believe the extent to which assistance personnel were deceived by the consumer is adequately encompassed in subparagraph (b)(2). Therefore, we finalize the provisions with the modifications to § 155.285(b)(1)(viii) and (b)(2)(i) and (ii) as noted above.

Comment: We received considerable support for the reasonable cause provision proposed in § 155.285(b)(3). In addition, several commenters sought clarification or safe harbors regarding circumstances where false information is provided due to a mistake or misunderstanding. We received a couple comments requesting a safe harbor specifically for QHP issuers who rely on information provided to them from both the Exchange and consumers, since QHP issuers may have no way to verify information independently. Another commenter sought a safe harbor for conduct relating to calendar years 2014 and 2015 because of the uncertain environment issuers worked in during initial open enrollment. Commenters believed that levying a CMP in such cases would be too severe.

Response: Section 155.285(b)(3) states that no penalty will be imposed if HHS determines that there was a reasonable cause for the failure to provide correct information and that the person acted in good faith. The situations commenters cited would likely fall within this exception. We note that violations must be knowing and willful and information provided merely by mistake and in good faith is not subject to a CMP.

Comment: We received a handful of comments regarding the imposition of penalties, as described in § 155.285(c). A few commenters expressed general support for the proposed provisions. One commenter shared concern that there is no maximum penalty defined, which could cause financial devastation to some consumer assistance entities. A couple commenters requested more clarity on what constitutes a submission of information and questioned whether an application which is started on the phone but completed online results in two submissions or one. Another commenter was concerned about permitting HHS to estimate the number of consumers affected by the violation to calculate the maximum penalty. The commenter supported, instead, using the number of consumers directly affected by the violation or placing a maximum on the estimate calculated by HHS based on the size of the consumer population served by the consumer assistance entity to prevent unreasonable penalties for the assister community. Finally, one commenter requested clarification that § 155.285(c) does not limit penalties under State law or a State's ability to take action to protect consumers.

Response: Although § 155.285(c) provides a maximum cap per violation, there is no global cap on CMPs. CMPs are intended to discourage the misuse of information; therefore, we believe that providing a global cap on CMPs would defeat there intended purpose. In response to the questions received, we note that one application, no matter the number of modes used to complete it, is considered one submission for purposes of imposing a CMP. This concern is further mitigated by the availability of an appeal prior to the imposition of a penalty during which this issue may be explored. We finalize the provisions as proposed. Finally, in response to the request for clarity about the role of State law in relation to § 155.285, we note that the standards in § 155.285 do not limit a State's ability to impose penalties or protect consumers under State law.

Comment: In response to § 155.285(d), we received a comment requesting that notices be written clearly and be culturally and linguistically.

Response: All Exchange-related notices, including those related to CMPs, must comply with the requirements for notices established in § 155.230.

Comment: Some commenters requested that § 155.285(e) be amended to provide additional time to request a hearing. The commenters noted, that under the proposed regulation, there are no additional options for an individual who misses the 60-day timeframe to request a hearing. One commenter suggested permitting additional time to request a hearing under a good cause exception. Another commenter suggested permitting an additional 60-day period to request a hearing following the due date of a CMP payment. The commenter noted that a payment date may provide more effective notice to the individual and also that many entities may have segregated chains of duty and the appropriate person may not be notified in time to request a hearing.

Response: We disagree with commenters that 60 days from the date of the notice in § 155.285(d) is insufficient for an individual to request a hearing. We believe 60 days to be neither too short to provide adequate notice nor too long to delay the process of imposing a CMP. We finalize the provision as proposed.

Comment: As proposed in § 155.206, several commenters recommended that CMS first require any consumer assistance entity that is alleged to have provided false information or

improperly used or disclosed information to enter into a corrective action plan before a CMP could be issued.

Response: We believe that § 155.285 provides HHS or OIG sufficient flexibility to offer an entity or individual an opportunity to take corrective action or propose a plan of corrective action to avoid penalties prior to HHS or OIG issuing a notice of intent to impose a civil money penalty. Particularly, HHS might offer an opportunity for corrective action in relation to minor infractions that expose entities or individuals to a penalty under § 155.285.

Comment: Some commenters requested clarification regarding payment methodologies and timeframes for CMPs. For example, one commenter questioned whether the entirety of the penalty would be due upon payment of taxes or upon notification of being found guilty of a violation.

Response: We do not provide this level of detail in the regulation at this time. We will address this issue in the future.

Comment: One commenter expressed disagreement with the proposed six-year statute of limitations in § 155.285(i). The commenter noted that between IRS review, issuer validation of payments, and other methods of cross-referencing and auditing, each incident of a violation should be able to be discovered within two years. The commenter also noted that a longer statute of limitations may lead to collection procedures, such as wage garnishments, to collect unpaid debt, which can extend the efforts needed to collect the money for a CMP.

Response: We believe the six-year statute of limitations period is appropriate. This period is not indefinite and, therefore, will hopefully not discourage efforts by consumer assistance entities. However, HHS's goal in issuing the CMP rule is to encourage program compliance, prevent misconduct, and remedy violations promptly and, therefore, we do not want to provide a period that is too short to encourage strict compliance with the rule and provide protection for PII. We believe six years provides sufficient time for HHS to discover and investigate any potential CMPs and acknowledges the reality that in many situations, misuse of a consumer's personally identifiable information may not be discovered by a consumer and reported to HHS for some time after the unlawful use.

Comment: Several commenters advocated against duplication of penalties in instances where certain types of violations may already subject them to other types of penalties. A few commenters noted that the Health Insurance Portability and Accountability Act already governs certain critical aspects of compliance related to the protection of consumer personal information.

Response: We understand commenters' concern about the potential duplication of penalties, and have amended § 155.285(b)(1) to include a factor allowing HHS to take into consideration whether other remedies or penalties have been imposed for the same conduct or occurrence. It would be the responsibility of the entity to bring such information to HHS's attention. However, we also note that HHS will consider referring cases to appropriate law enforcement officials based on the facts and circumstances of the violation.

Comment: One commenter requested clarification regarding whether an individual would be held accountable for repayment of an overpayment of the advance premium tax credit or CSRs paid on a consumer's behalf, in addition to a CMP.

Response: The provisions of § 155.285 concern only the imposition of CMPs and not payment or repayment of advance payments of the premium tax credit or CSRs as a result of the misuse of information. This provision has no effect on the Department of Treasury's authority to recoup overpayments of the advance payment of the premium tax credit or CSRs paid on a consumer's behalf.

Comment: We received one comment that, although, we reference PII, it is not defined in regulation.

Response: There are various definitions of PII, and we believe the adoption of any one of them at this stage may unduly limit HHS's ability to adequately redress violations of the rule. Given the advanced state of technology and developments in the way information may be manipulated, combined, and ultimately used to re-identify persons based on de-identified data, we believe that PII is an evolving concept that may not be fully captured in a single definition. We, therefore, will not provide a specific definition of PII in the text of § 155.285 at this time. We do note that OMB Memoranda M–07–16 (May 22, 2007) generally defines PII as information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, alone, or when combined with other personal or identifying information that is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name.

Summary of Regulatory Changes

We are finalizing the provisions proposed in § 155.285 of the proposed rule regarding CMPs, with the following modifications: In an effort to prevent confusion, in § 155.285(c) we have removed the references to section 1411(h)(1) and (2) of the Affordable Care Act and have instead inserted the numerical maximum penalty amounts. In § 155.285(a)(1)(ii), we have added ''or fraudulent'' after ''knows to be false'' to make the text consistent with section 1411(h)(1) of the Affordable Care Act. In § 155.285(b)(1) and (2), we have added language to clarify that the factors in these provisions are ''including, but not limited to'' the factors listed in their subparagraphs. In § 155.285(b)(1)(viii), we have added a factor allowing HHS to take into consideration whether other remedies or penalties have been imposed for the same conduct or occurrence. We have clarified the scope of the factors in subparagraphs (b)(2)(i) and (ii) to account for violations that could have resulted in actual or potential financial harm or could have resulted in actual or potential harm to an individual's reputation, respectively. We have made a minor change to the wording in § 155.285(d)(2) by substituting the word ''appeal'' for ''request.'' We have also made a technical correction to substitute ''the notice of intent to issue a civil money penalty'' in § 155.285(d)(2) with a cross reference to § 155.285(f). In § 155.285(f), we have rephrased the paragraph to read ''HHS has proposed to impose'' rather than ''HHS has imposed.'' Finally, we are substituting the reference to ''CMS'' with ''HHS'' in (g)(1) and, in consultation with OIG, we are finalizing concurrent jurisdiction with respect to § 155.285(a)(1)(ii) and not § 155.285(a)(1)(iii) at this time.

3. Subpart D—Exchange Functions in the Individual Market: Eligibility Determinations for Exchange Participation and Insurance Affordability Programs

a. Verification Process Related to Eligibility for Insurance Affordability Programs (§ 155.320)

In § 155.320(d)(4), we established an option under which a State Exchange could rely on HHS to conduct verifications of enrollment in an eligible employer-sponsored plan and eligibility for qualifying coverage in an eligible employer-sponsored plan for purposes of eligibility for advance payments of the premium tax credit. This option was made available for eligibility determinations that are effective on or after January 1, 2015. However, we have

determined that the benefit gained by having HHS provide this function is outweighed by the information technology development and administrative and consumer complexity that would be introduced for a State through this approach. As such, we proposed to strike paragraph (d)(4).

Comment: We received comments from several State Exchanges urging HHS to retain the option of the employer-sponsored coverage verification process. Many of the comments focused on the need for State Exchanges to develop functionality and administrative capacity to verify employer-sponsored coverage in the absence of this Federally-managed service and the administrative and financial burden this would place on State Exchanges. One commenter suggested retaining the service at the Federal level would take advantage of economies of scale rather than burdening each State Exchange, individually. Several States noted that their system builds and operating budgets could not accommodate this change in time for the 2015 benefit year and recommended that, if HHS does finalize the proposal, HHS postpone eliminating the service for an additional year.

Response: We appreciate the comments received from State Exchanges on this proposed rule change. We understand the administrative costs and development burden associated with providing verifications for Exchange determinations. However, even with the Federally-managed service, State Exchanges and HHS would need to develop a way to send, receive, and process the information and provide dual customer service functionality to communicate with consumers. In addition, the State Exchange would need to modify systems to integrate the HHS verification response into what should be a near-real-time eligibility process. Therefore, we do not believe that there are significant efficiencies to be gained by providing this service to State Exchanges. However, we do understand the time and budget constraints some State Exchanges face in order to adjust their processes to accommodate this change and agree that additional time is needed for States to come into compliance with this requirement. Therefore, we are finalizing the provision as proposed, removing the original regulatory language at § 155.320(d)(4), but extending the flexibility previously provided at 78 FR 42257 to permit State Exchanges to implement the sample-based reviews for employer-sponsored coverage for eligibility determinations for insurance affordability programs starting January 1, 2016.

Comment: Additionally, some commenters shared concern that employer coverage data currently available to States is insufficient to perform this verification and that a comprehensive national resource is needed to sufficiently perform the verification. Without such a source, the commenters noted that States would have to employ and administer an alternative data source, causing a lack of uniform documentation and verification across Exchanges. The commenters suggested that HHS allow self-attestation to be sufficient verification until HHS can make available approved data sources for verification.

Response: Verification standards for employer-sponsored coverage are provided in 45 CFR 155.320(d)(2) and include: (1) Federal employment data from the Office of Personnel Management, which is currently provided to State Exchanges by HHS, (2) SHOP data that is available to the State Exchange, and (3) any electronic data sources that are available to the Exchange and which have been approved by HHS. We remain committed to working with State Exchanges to develop effective solutions for verifying enrollment in an eligible employer-sponsored plan and eligibility for qualifying coverage in an eligible employer-sponsored plan, and will work to make any additional electronic data sources that become available to HHS equally available to State Exchanges.

Summary of Regulatory Changes

We are finalizing the changes to § 155.320(d)(4) as proposed but note that we are extending the flexibility previously provided at 78 FR 42257 to permit State Exchanges to implement the sample-based reviews for employer-sponsored coverage for eligibility determinations for insurance affordability programs starting January 1, 2016.

b. Eligibility Redetermination During a Benefit Year (§ 155.330)

In the proposed rule, we proposed a technical correction in paragraph (d)(2)(ii) of § 155.330 to remove the reference to paragraph (e)(3) of this section. In the final rule, titled, ''Medicaid and Children's Health Insurance Programs: Essential Health Benefits in Alternative Benefit Plans Eligibility Notices, Fair Hearing and Appeal Processes and Premiums and Cost Sharing; Exchanges: Eligibility and Enrollment, 78 FR 32319, we previously removed paragraph (e)(3) from this section. As such, we clarified in the proposed rule that paragraph (d)(2)(ii) should only refer to the standards specified in paragraph (e)(2) of this section.

Summary of Regulatory Changes

We did not receive any comments on this proposal and are finalizing the provision as proposed.

4. Subpart E—Exchange Functions in the Individual Market: Enrollment in Qualified Health Plans

a. Enrollment of Qualified Individuals in a QHP (§ 155.400)

In § 155.400, we proposed to add paragraph (e) to establish that Exchanges may, and the FFE would, require payment of the first month's premium to effectuate enrollments.

We also proposed to add paragraph (f), which would authorize Exchanges to provide requirements to QHP issuers regarding the instructions for processing electronic enrollment-related transactions.

Additionally, in § 156.265 we proposed to establish a requirement for issuers in the FFEs to collect premiums no later than the day before the coverage effective date. Our intention was to give the Exchange the flexibility to establish policy and process rules regarding premium payment.

Comment: One commenter suggested that the Exchange should not provide instructions to issuers regarding payment of the first month's premium for enrollments. The commenter recommended that the Exchange should allow issuers to establish their own business rules on first month's premium for enrollments. However, another commenter supported establishing a date by which an enrollee must make a first premium payment to effectuate coverage creating greater transparency for payment deadlines and reducing cancellations of coverage due to failure to pay in a timely manner. We also received a comment that urged us to amend the regulation to allow payment of the first premium up to the day before the coverage effective date, rather than allowing plans to set payment dates that are earlier than this day. The commenter also suggested that issuers should be required to provide timely invoicing for consumers,

Response: We recognize that decisions regarding payment of the first month's premium have traditionally been a business decisions made by issuers. Accordingly, we are not finalizing § 156.265(d)(2) which would revise premium payment dates for first

month's premiums in the FFE, and are deleting current § 156.265(d)(2). We will therefore redesignate § 156.265(d)(1) as § 156.265(d). However, because we appreciate the comment about giving consumers adequate time to pay their first month's premium, we maintain the proposed § 155.400(e) in the final rule to allow Exchanges to establish a consistent process throughout each Exchange regarding first month's premium. In particular, each Exchange can determine how to handle first month's premium payment dates for special enrollment periods that may occur close to or after the effective date. We believe giving each Exchange the flexibility to establish uniform guidance for all issuers for first month's premium for enrollments will benefit the Exchange, issuers, and consumers by ensuring a consistent operational procedure. It is our expectation that QHP issuers will send consumers their bills within one to two business days after receiving enrollment transactions to accomplish the goal of timely effectuating coverage.

Comment: We received several comments that acknowledged establishing a payment due date the day before coverage is effective in most situations, but there are several scenarios that commonly occur today that make this approach challenging and in some cases, impossible to implement. For example, the birth of a child can cause retroactive coverage in which the premium cannot be paid by the effective date, or an individual may lose minimal essential coverage and be given an effective date with only one day prior to coverage effectiveness in which to pay. There are also instances where the consumer does not receive the bill until after the due date. One commenter voiced concern that some States give 10 day grace periods and recommended that we should allow the FFE the same flexibility offered to SBEs when it comes to how the first premium payment effectuates coverage.

Response: For similar reasons given above, we are not finalizing § 156.265(d)(2) which would establish premium payment dates for first month's premiums and expect the FFE to address this in subregulatory guidance.

Summary of Regulatory Changes

We are finalizing § 155.400(e) and (f) of the proposed rule without modification. Additionally, we are finalizing the provisions proposed in § 156.265(d)(1) of the proposed rule as the entire paragraph (d), and we are not finalizing any § 156.265(d)(2), allowing each Exchange to establish its own premium payment dates.

b. Initial and Annual Open Enrollment Periods (§ 155.410)

In 45 CFR 155.410(d), we specified that starting in 2014, the Exchange must provide a written annual open enrollment notification to each enrollee no earlier than September 1, and no later than September 30. In 45 CFR 155.335(d), we specified that notice of annual redetermination for coverage effective January 1, 2015 be provided as a single, consolidated notice with the notice specified in 45 CFR 155.410(d). In the 2015 Payment Notice, we amended 45 CFR 155.410(e) to specify that for the benefit year beginning on January 1, 2015, the annual open enrollment period begins on November 15, 2014. Accordingly, we believe that it is appropriate to modify the timing of the notice of annual open enrollment and annual redetermination. We proposed two options for this notice: (1) shifting the period during which the notice would be sent by a month, so that the notice would be sent no earlier than October 1, and no later than October 31, and (2) shifting the period during which the notice would be sent by a month and lengthening this period so that the notice would be sent no earlier than October 1, and no later than November 15, provided that electronic notices are available for any consumer who contacts the Exchange on November 15. We sought comment on which of these options we should implement, or if we should implement another option.

Comment: We received many comments from States, issuers, and consumer advocates about the timeline for issuing the notice of annual open enrollment and annual redetermination. The majority of comments from States and the issuer community support the extended timeframe of October 1 to November 15. States noted the additional flexibility to decide when to send the notice as a benefit to the extended timeframe. Issuers also saw a benefit to extending the timeframe because it would allow for additional attempts to contact enrollees if the first contact was unsuccessful. Several consumer advocacy groups found the shorter timeframe of October 1 to October 31 preferable because it would permit consumers two weeks advance notice before open enrollment and additional time for consumers to contact enrollment assisters and assemble any documents needed for redetermination.

A limited number of commenters supported timeframes outside the two proposed options. One supported keeping the original timeframe for sending the notice no earlier than September 1 and no later than September 30; another sought flexibility to send notices no earlier than August 1. We also received a comment expressing concern over shifting the timeframe either way due to misalignment between open enrollment notices, issuer 90-day renewal notices, and Exchange redetermination notices.

Response: In order to best meet the needs of Exchanges, which are responsible for sending the notices, and consumers, who need enough information about open enrollment in a timely manner, we are finalizing § 155.410(d) to state that, starting in 2014, the Exchange must provide a written notice of annual open enrollment and redetermination to each enrollee no earlier than the first day of the month before the open enrollment period begins and no later than the first day of the open enrollment period. This reflects the second of our proposed options.

Comment: We received one comment recommending that the notice be provided to existing enrollees as well as: (1) Potential enrollees who submitted applications after the close of the last open enrollment period and were subsequently determined eligible for a QHP but unable to enroll, (2) individuals who had applied for a special enrollment period but were denied during the past year, (3) individuals who had requested enrollment information from the Exchange during the period between open enrollment periods, and (4) individuals who were terminated from a QHP during the period between open enrollments periods.

Response: This comment is outside the scope of the provisions included in the proposed rule; however, we note that § 155.335(c) provides that the Exchange must provide every qualified individual with an annual redetermination notice that, for coverage effective January 1, 2015, must be provided as a single, coordinated notice including notice of the annual open enrollment period. Therefore, outreach will extend to individuals beyond current enrollees. We also note that Exchanges have the flexibility to conduct outreach beyond the individuals cited in the rule.

Comment: One commenter requested the addition of language clarifying that States may set an open enrollment period for the Exchange that is broader than the Federal open enrollment period.

Response: This comment is beyond the scope of this rulemaking and we direct the commenter to the open

enrollment period rule at 45 CFR 155.410.

Summary of Regulatory Changes

We are amending § 155.410(d) to state that, starting in 2014, the Exchange must provide written notice of annual open enrollment to each enrollee no earlier than the first day of the month before the open enrollment period begins and no later than the first day of the open enrollment period.

c. Special Enrollment Periods (§ 155.420)

In 45 CFR 155.420, we set forth provisions for special enrollment periods. In the proposed rule, we proposed amending § 155.420(b)(2)(ii), (d)(1), (d)(6)(iii) and (e), which pertain to the special enrollment period for loss of coverage; § 155.420(b)(2)(i) and (iii), which pertain to effective dates for certain special enrollment periods; and § 155.420(c), which pertains to the length of the special enrollment periods.

In paragraph (b)(2)(i), we proposed to provide flexibility for coverage effective dates in the case of birth, adoption, placement for adoption, or placement in foster care. We require the Exchange to ensure that coverage is effective for a qualified individual or enrollee on the date of birth, adoption, placement for adoption, or placement in foster care, unless Exchanges permit the qualified individual or enrollee to elect a later coverage effective date. If the Exchange permits the qualified individual or enrollee to elect a later coverage effective date, the Exchange must ensure coverage is effective on the date elected by the qualified individual or enrollee.

In § 147.104(b)(2), we specified that a health insurance issuer in the individual market must provide, with respect to individuals enrolled in non-calendar year individual health insurance policies, a limited open enrollment period. Accordingly, in order to align Exchange regulations with those of the broader insurance market, in paragraph (d)(1), we proposed that the Exchange permit qualified individuals and their dependents to enroll in or change from one QHP to another if they are enrolled in a non-calendar year individual health insurance policy in 2014 described in § 147.104(b)(2), even if issuers of such non-calendar year policies offer to renew the policy. Thus, consumers whose individual health insurance policies would renew outside the Exchange open enrollment period would have an opportunity to enroll in an Exchange, just as they would if their policies were offered for renewal during the Exchange open enrollment period. Without this addition, consumers with individual health insurance policies renewing outside the Exchange open enrollment period would be required to renew such policies, and wait to terminate the policies during the Exchange open enrollment period, should they wish to enroll through the Exchange, thus disadvantaging these consumers as compared to consumers enrolled in calendar year individual market policies.

In 26 CFR 1.5000A–2(b)(1)(ii)(C), the Secretary of the Treasury specified that coverage of pregnancy-related services under section 1902(a)(10)(A)(i)(IV) and (a)(10)(A)(ii)(IX) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)(IV), (a)(10)(A)(ii)(IX)) was not minimum essential coverage. In order to ensure that women losing eligibility for coverage of pregnancy-related services as described above are not left without an option to enroll in a QHP after the conclusion of Medicaid eligibility, in paragraph (d)(1), we proposed that the Exchange permit qualified individuals and their dependents to enroll in a new QHP if they lose eligibility for such pregnancy-related services. We solicited comments regarding whether there are other situations in which an individual loses coverage that is not defined as minimum essential coverage and should be provided with a special enrollment period.

We proposed to add to paragraph (c) to specify that the Exchange must permit qualified individuals and their dependents to access the special enrollment periods described in paragraph (d)(1) for up to 60 days prior to the end of the qualified individual's or his or her dependent's existing coverage. This is consistent with existing regulations in paragraph (d)(6)(iii) that are specific to an individual who is enrolled in an eligible employer-sponsored plan who is determined newly eligible for advance payments of the premium tax credit based in part on a finding that such individual is ineligible for qualifying coverage in an eligible employer-sponsored plan. To improve the clarity and structure of this rule, we proposed to move the language in paragraph (d)(6)(iii) regarding the 60 days prior access to the special enrollment period to paragraph (c). The proposed change, to paragraph (d)(1) that would expand the ability to report a change and select a plan in advance to all individuals who are described in paragraph (d)(1) is designed to allow an individual who is losing eligibility for coverage outside the Exchange to transition to coverage offered through an Exchange without a gap in coverage, but with protections to ensure that advance payments of the premium tax credit are not provided in advance of the loss of eligibility for minimum essential coverage outside the Exchange. Accordingly, we note that individuals are not eligible for advance payments of the premium tax credit until they are no longer enrolled in minimum essential coverage outside the Exchange. While consumers will be able to report the loss of coverage and select a QHP offered on the Exchange in advance of the loss, their coverage effective date will be no earlier than the first day of the month following the loss of coverage (for example, if the loss of minimum essential coverage is on May 31, 2014 and the consumer reports the loss on March 5, 2014, coverage will not be effective until June 1, 2014). Lastly, we proposed to make conforming changes to paragraphs (b)(2)(ii) and (e) to align with the changes in terminology proposed in paragraph (d)(1).

In paragraphs (d)(4), (d)(5), (d)(9) and (d)(10), we provide special enrollment periods for errors of the Exchange or HHS, contract violations by the QHP, exceptional circumstances and misconduct by a non-Exchange entity. Existing paragraph (b)(2)(iii) specifies that for a plan selection made during one of the special enrollment periods under paragraphs (d)(4), (d)(5), and (d)(9), coverage must be effective on an appropriate date based on the circumstances of the special enrollment period, in accordance with guidelines issued by HHS, and provides two options for that effective date. We proposed to add special enrollment periods triggered under paragraph (d)(10) to those special enrollment periods for which these special coverage effective dates are available. In order to ensure that the Exchange has sufficient flexibility with which to address the types of scenarios that may trigger these special enrollment periods, we proposed to amend paragraph (b)(2)(iii) to remove the restriction to these two options. The resulting proposed regulatory text would allow the Exchange to set an effective date based on what is appropriate to the circumstances, in accordance with any guidelines issued by HHS. Similarly, in order to ensure that the Exchange sets the length of these same special enrollment periods to be appropriate to the circumstances of the specific enrollment period, we proposed to modify paragraph (c) to specify that the Exchange may define the length of these special enrollment periods as appropriate based on the circumstances of the special enrollment period, in accordance with any guidelines issued

by HHS. We believe that this flexibility is important to ensure that the special enrollment periods can be implemented as intended.

Section 155.420(e) clarifies what qualifies as loss of coverage for purposes of the special enrollment period described in paragraph (d)(1). We proposed to modify this paragraph to clarify that voluntary termination does not qualify as loss of coverage for purposes of a special enrollment period, since the intent of this special enrollment period is to ensure that an individual who is losing coverage can transition to the Exchange without interruption, and not to allow an individual to switch from another form of coverage to the Exchange during the year when the other form of coverage remains available and he or she does not qualify for another special enrollment period described in this section. We solicited comments regarding this clarification.

Comment: We received comments both in support of, and opposed to, the proposed language providing flexibility for Exchanges to allow either retroactive coverage back to the date of the birth, adoption, placement for adoption, or placement in foster care, or a coverage effective date later than the date of the birth, adoption, placement for adoption, or placement in foster care.. Some commenters supported providing prospective enrollment at the option of the Exchange, and the consumer. Other commenters opposed allowing retroactive coverage and preferred that Exchanges follow regular effective dates. One commenter suggested we clarify that coverage may be effective no later than the first of the month following the occurrence of the triggering event. Additionally, commenters sought clarification on the length of time before the coverage may become effective following the triggering event

Response: Section 1311(c)(6)(C) of the Affordable Care Act which references section 9801 of the Internal Revenue Code of 1986 requires retroactivity for birth, adoption, or placement for adoption, and we received commenter support for allowing retroactive or prospective enrollment at the option of the Exchange. We therefore are finalizing paragraph (b)(2)(i) with the clarification that coverage may be effective no later than the first of the month following the occurrence of the triggering event at the option of the consumer. Without this clarification there is a potential for adverse selection whereby a consumer could choose an effective date on which they knew services would be utilized. Accordingly, we are finalizing this provision with the clarification. State Exchanges have flexibility when and if they will provide the option.

Comment: One commenter recommended allowing for mid-month coverage effective dates in the case of loss of minimum essential coverage, as described in paragraph (d)(1) of this section.

Response: We do not intend to allow for mid-month coverage effective dates in the case of loss of minimum essential coverage at this time. The language in (c)(2)(i) provides consumers with adequate flexibility to avoid a gap in coverage. We appreciate the comment and may consider mid-month coverage effective dates in future rulemaking.

Comment: Commenters encouraged clarification on effective dates provided in § 155.420(b)(2)(iii). Specifically, commenters recommended allowing for retroactive effective dates back to when the triggering event occurred and recommended retroactivity be at the option of the consumer.

Response: The language proposed in this section does not prohibit Exchanges from providing retroactive coverage for special enrollment periods as described in paragraphs (d)(4), (d)(5), (d)(9), or (d)(10) of this section. Rather, the proposed language provides flexibility for Exchanges to determine the appropriate effective date based on the circumstances of the special enrollment period. Exchanges may provide retroactive coverage at the choice of the consumer provided it is deemed appropriate by the Exchange. Accordingly, we are finalized this paragraph as proposed.

Comment: Commenters asked that HHS consistently define and apply effective dates and lengths of special enrollment periods to increase consistent application across enrollees. One commenter requested HHS develop a minimum length of 60 days for all special enrollment periods.

Response: As provided in paragraph (b)(2)(iii) of this section, Exchanges must ensure that coverage is effective on an appropriate date based on the circumstances of the special enrollment period. Due to the unique circumstances of each special enrollment period, it could be harmful to the consumer to implement a general effective date policy. If a consumer does not agree with a special enrollment decision they may request an appeal of the effective date as provided in § 155.505(b)(1)(i). Therefore, we are finalizing this paragraph as proposed.

Comment: One commenter recommended that special enrollment periods conclude at the end of the enrollment period, or when an individual selects a QHP, whichever is sooner.

Response: The current regulation at § 155.410(a)(1) provides that ''The Exchange must provide an initial open enrollment period and annual open enrollment periods consistent with this section, during which qualified individuals may enroll in a QHP and enrollees may change QHPs.'' This regulation does not provide for limiting consumers' opportunity to enroll during the specified enrollment periods. Because the language recommended by the commentator would directly conflict with § 155.410(a)(1), we decline to accept this recommendation.

Comment: One commenter requested the length of the special enrollment period provided in § 155.420(d)(6)(iii) be extended to allow the employee time to receive the notice of their COBRA rights. The commenter also requested clarification that a consumer could elect COBRA coverage prior to their coverage effective date.

Response: We believe that providing the individual with the flexibility provided in (c)(2)(ii) of this section to select an Exchange QHP based on their anticipated loss of qualifying employer sponsored coverage up to 60 days in advance of the loss combined with the 60 day special enrollment period provided in (c)(1) of this section will minimize any potential gap in coverage resulting from a loss of employment notwithstanding the required timeline associated with the employer notifying the group plan administrator and the group plan administration notifying the employee of their COBRA rights. On May 2, 2014 we published a bulletin that provided a special enrollment period for persons eligible or COBRA and COBRA beneficiaries. Additionally, on May 2, 2014 the Department of Labor released revised model notices for group health plans to provide to covered employees and their families which provides updated information on COBRA benefits and the Exchange. Finally, we note that an individual could elect to enroll in COBRA coverage and enroll in Exchange coverage when he or she loses employer-sponsored coverage, and disenroll from COBRA when Exchange coverage becomes effective. The consumer is not eligible for advance payments of the premium tax credit or CSRs while enrolled in COBRA. Accordingly, we are finalizing as proposed.

Comment: One commenter requested that HHS extend the proposal to allow individuals prior access to a special enrollment period for individuals who are gaining access to a new QHP as a result of a move.

Response: While we did not solicit comments on this provision. In future rulemaking we may allow consumers eligible for special enrollment periods other than those provided in (c)(2)(i) of this section to report in advance.

Comment: Commenters supported the proposed flexibility provided for consumers to select a plan in advance of the triggering events described in paragraphs (d)(1) and (d)(6)(iii) of this section, which pertain to the loss of coverage or qualifying coverage in an eligible employer-sponsored plan, respectively to prevent a gap in coverage.

Response: Given commenter support, we are finalizing this provision with clarification. We note that a consumer who loses coverage as described in paragraphs (d)(1) or (d)(6)(iii) may report a loss of coverage 60 days before or 60 days after the loss. If plan selection occurs on or before the date of the loss, the effective date will be the first day of the month following plan selection. If plan selection is made after the date of the loss, Exchanges may choose to either follow regular effective dates under paragraph (b)(1) of this section or allow for an effective date of the first of the month following plan selection, as the previous rule allowed for both scenarios. The FFE allows for coverage to be effective the first day of the month following plan selection when plan selection is made after the loss. For purposes of (d)(1) and (d)(6)(iii), the date of the ''loss of coverage'' means the last day a consumer would have coverage. Exchanges will have the flexibility provided under (b)(3)(i) of this section to allow for earlier effective dates if all issuers in the service area agree.

Comment: Multiple commenters supported the proposed additions to establish a special enrollment period for consumers who are enrolled in non-calendar year individual health insurance policies. Commenters requested HHS align the length of the special enrollment period in accordance with 45 CFR 147.104(b)(2). Additionally, commenters requested this special enrollment period be provided to consumers whose transitional policy, or group health plan, is renewing.

Response: Section 147.104(b)(2) allows consumer to report the non-renewal in the plan 30 days prior to the date the policy year ends while 147.104(b)(4) provides 60 days for the special enrollment period. The proposed rule allows consumers to report their intent not to renew a non-calendar year policy (including a transitional policy) 60 days in advance of the date the policy year ends and select a plan although the coverage effective date will not be until the first day of the month following the termination date. Additionally, the proposed rule provides 60 days from that date to select a QHP through the Exchange. We are finalizing this provision in the proposed rule without modification. Since the intention of this provision is to align with the market rules, we are citing directly to § 147.104(b)(2). In addition, on May 2, 2014 we released guidance allowing consumers in this scenario to report a loss of coverage to the Exchange under the authority provided in paragraph (d)(9) of this section.

Comment: Commenters were supportive of the newly established special enrollment period for women losing pregnancy-related Medicaid coverage.

Response: We are finalizing the language as proposed.

Comment: Commenters requested special enrollment periods be established for a variety of triggering events including; pregnancy, tobacco cessation after six months which may impact the consumer's premium, same sex couples who enter into a legally recognized relationship other than marriage, individuals who make an individual responsibility payment for not having coverage in 2014, and persons who are victims of domestic violence. Additionally, commenters requested HHS regulate on certain special enrollment periods which exist in sub-regulatory guidance including; benefit display errors and loss of exemptions.

Response: We did not solicit comment on this provision and the comments received are out of scope with this regulation. However, Exchanges retain the flexibility provided in paragraph (d)(4) and (d)(9) of this section to define errors of the Exchange and provide special enrollment periods for exceptional circumstances to provide such special enrollment periods as determined appropriate by the Exchange. For instance, the Federally-facilitated Exchange recently provided guidance that survivors of domestic abuse are eligible for a limited duration special enrollment period as a result of guidance released by the Internal Revenue Service.

Comment: Multiple commenters responded to our solicitation regarding situations other than loss of eligibility of pregnancy-related services in which an individual loses coverage that is not defined as minimum essential coverage and should be provided a special enrollment period. Suggestions included; AmeriCorps, Indian Health Service, student health coverage that is not designated minimum essential coverage, foreign health coverage that is not designated minimum essential coverage, excepted benefits offered by an employer, medically needy Medicaid coverage, and family planning Medicaid services.

Response: To ensure individuals who lose certain types of limited Medicaid coverage which generally meets their primary and specialty health care needs, but which is not recognized as minimum essential coverage, have the option to enroll in a QHP at the conclusion of Medicaid eligibility, we are expanding the special enrollment period to include loss of medically needy as well as pregnancy-related coverage which is not recognized as minimum essential coverage. With respect to the loss of medically needy coverage, we are limiting beneficiaries to one special enrollment period per calendar year based on loss of medically needy coverage. This enables individuals with only medically needy coverage to enroll in a QHP outside of the open enrollment period, but avoids permitting individuals to switch QHPs multiple times a year each time they reach the end of their medically needy budget period within the same calendar year. We are not extending a special enrollment period to individuals who lose Medicaid coverage of family planning services, as such coverage is limited to a narrow set of benefits which does not meet the covered individuals' primary or specialty health care needs, other than family planning services. HHS may provide a special enrollment period for other similar situations in future rulemaking or guidance. In addition, on May 2, 2014 we published a bulletin that provided a special enrollment period for individuals who are beginning service in the AmeriCorps State and National, VISTA, or NCCC programs and for individuals who are concluding their service in the AmeriCorps State and National, VISTA, or NCCC programs and are losing access to short-term limited duration coverage or self-funded coverage.

Comment: We received comments requesting we clarify the criteria for qualifying events described in paragraphs (d)(4), (d)(5), (d)(9), and (d)(10). Commenters also requested clarification on the process for notifying consumers who are impacted by an exchange error.

Response: We believe the ability for Exchanges to respond appropriately to the circumstances surrounding an individual's special enrollment period is necessary. CMS has previously issued

guidance describing guidelines on the criteria for special enrollment periods which fall under the authority of paragraphs (d)(4), (d)(9), and (d)(10) in the FFE.

Comment: Commenters recommended amending paragraph (d)(6)(i) to include individuals who are not current Exchange enrollees. Such revision would allow the following groups of consumers to utilize the special enrollment period; people who live in States that did not adopt Medicaid expansion, people who divorce during the year, victims of domestic violence that occurs after May 31, 2014, people who experience the death of a spouse, and people who lose a job but did not enroll in employer-sponsored coverage because of high costs.

Response: We note that many individuals in these circumstances may have other triggering events that would qualify them for an existing special enrollment period. However, we remain concerned that expanding paragraph (d)(6)(iii) could result in adverse selection and destabilization of the individual insurance market. We have provided sub-regulatory guidance on special enrollment periods under paragraph (d)(4) and (d)(9) of this section including for COBRA beneficiaries, survivors of domestic abuse, and people who divorce during the year and may continue to do so in the future. Accordingly, we are finalizing as proposed without additional modification.

Comment: We received comments both for and against the proposed addition to paragraph (e) of this section stating that voluntary termination does not qualify an individual for a loss of coverage special enrollment period.

Response: The proposed language clarifies existing regulations that termination includes voluntary termination by an enrollee. The intention of paragraph (e) of this section is to stabilize the market by preventing individuals from voluntarily terminating their coverage and then utilizing the loss of minimum essential coverage special enrollment period provided in paragraph (d)(1) of this section. Accordingly, we are finalizing as proposed.

Summary of Regulatory Changes

We are finalizing the provisions proposed in section § 155.420 of the proposed rule with the following modifications. In paragraph (b)(2)(i), we provide that coverage must be effective on the date of the birth, adoption or placement for adoption, placement for foster care, or the Exchange may allow the consumer to select a coverage effective date of the first of the month following the date of birth, adoption, placement for foster care, or placement for adoption. In paragraph (b)(2)(ii), we clarify that coverage is effective the first day of the month following plan selection. In paragraph (b)(2)(iii) we provide flexibility for Exchanges to ensure coverage is effective based on the specific circumstances of the special enrollment period. We also have added a new paragraph (b)(2)(iv) that clarifies a consumer's ability to select a plan 60 days before and after a loss of coverage described in subparagraph (d)(1) and (d)(6)(iii). Finally, in paragraph (d)(1), we define the date of the loss of coverage for each triggering event described under paragraph and establish a special enrollment period for individuals losing medically needy coverage.

d. Termination of Coverage (§ 155.430)

We proposed to add paragraph (e) to § 155.430 to establish the difference between a termination and a cancellation and establish the significance of a reinstatement action in the context of QHP coverage offered through an Exchange. Specifically, we proposed to specify that a cancellation is a specific type of termination action taken that ends a qualified individual's coverage on or before the effective date, thus rendering coverage as never effective. In contrast, a termination is an action taken after the effective date of coverage that ends an enrollee's coverage effective on a date after the coverage effective date. In a cancellation, the effect of the QHP's action would be that a qualified individual does not receive coverage from the QHP, whereas in a termination the QHP covers the enrollee for some period of time and would be liable for covered services that the enrollee received during the time period between the coverage effective date and the termination date, under the terms of the coverage. A reinstatement action is a correction of an erroneous termination or cancellation action resulting in restoration of an enrollment with no break in coverage.

In addition to establishing the difference between cancellations and terminations, we also proposed that an Exchange may establish operational standards for QHP issuers for implementing terminations, cancellations, and reinstatements. Enrollment systems for both SBEs and the FFE continue to evolve, and we believe that the Exchange's ability to issue operational instructions will enable both the Exchange and the issuer community to respond more effectively to changing systems and changing processes. We believe the effectiveness of this approach has been demonstrated in other programs administered by CMS, specifically the Medicare Advantage and Medicare Part D programs.

Further, we proposed to clarify in paragraph (d)(6) that the termination effective date for a QHP would be the day before the effective date of coverage in a different QHP even in cases of retroactive enrollments. This could occur when a consumer is granted a special enrollment period to change QHPs with a retroactive coverage effective date under 155.420(b)(2)(iii). For coverage that is terminated retroactively, CMS would adjust any applicable payments to the original QHP issuer based on the retroactive termination date, in order to recoup any advance payments of the premium tax credit and cost-sharing reductions made to the former issuer for the enrollee. The Exchange would be required to ensure that the former issuer refunds or credits any premium paid to the issuer by the enrollee and reverse claim payments for services rendered during the retroactive coverage period. We sought comment on whether to add a specific requirement to this effect on issuers in Part 156.

Conversely, in the case of a retroactive coverage date, CMS would provide the gaining issuer any applicable advance payments of the premium tax credit and CSRs based on the retroactive coverage effective date. CSR reconciliation would occur for all CSRs provided beginning with the retroactive coverage date. The gaining issuer would collect the enrollee's portion of the premium for all months of coverage and would be required to adjudicate the enrollee's claims incurred during the retroactive period, and provide any applicable CSRs.

Comment: We received several comments supporting the provision ensuring that consumers receive the benefit of the advance payments of the premium tax credits and CSRs to which they are entitled and refunded any premiums from the issuer from which the consumer terminated coverage. However, some commenters opposed the requirement for issuers to refund out-of-pocket payments since those payments are made by consumers directly to providers. Another commenter asked for clarification of the impact of a retroactive termination and effective date on deductibles and accumulators.

Response: The Exchange must ensure that appropriate actions are taken following a retroactive termination. Under the policy finalized in this rule, when a retroactive termination and

enrollment results in the enrollee changing issuers, the Exchange must ensure that the former issuer refunds or credits any premium paid to the issuer by or for the enrollee for coverage after the retroactive date, reverses any claims for services provided after the retroactive termination date, and recoups payments made to providers for services provided to the enrollee after the retroactive termination date. The former issuer must also ensure that providers refund to the enrollee any cost sharing paid by or for the enrollee (other than CSRs to be reimbursed by the Federal government). CMS will also recoup any advance payments of the premium tax credit and CSRs provided to the issuer for the enrollee back to the retroactive termination date

The gaining issuer in turn, should collect the enrollee's portion of the premium and is responsible for any covered services incurred, in each case for the period following the retroactive effective date of coverage. CMS will also provide the gaining issuer any applicable advance payments of the premium tax credit and CSRs for the enrollee back to the retroactive effective date of coverage. (We intend to provide additional guidance regarding how issuers should handle a claim that spans a period of time in which the enrollee has coverage from two separate issuers in such circumstances.) Providers are responsible for billing the gaining issuer for any covered services incurred back the retroactive enrollment date, and the issuer must ensure that the provider collects only the cost sharing for the covered service to reflect the enrollee's cost-sharing obligation for the service under the gaining issuer. We acknowledge that such an adjustment may result in the enrollee owing the provider additional funds, depending on the cost sharing and benefit structure of the new plan. We note that consistent with 45 CFR 156.410(c)(1) and our CMS Bulletin to Exchanges on the Availability of Retroactive Advance Payments of the PTC and CSRs in 2014 Due to Exceptional Circumstances, dated February 27, 2014, any refund or credit for any excess cost sharing or premium paid for or on behalf of the individual must be provided (or begin to be provided in the case of a credit) with 45 calendar days of the date of discovery of the excess cost sharing or premium paid.

If an applicant switches QHP issuers, we do not require out-of-pocket amounts paid under the prior plan to carry over to the new QHP issuer, but defer to issuers and State laws with regard to how out-of-pocket payments under the former issuer's plan should be accounted for in the deductibles and limitations on cost sharing under the new issuer's plan.

Comment: We received a comment recommending that if a consumer enrolls in a different QHP with the same issuer, the issuer should not be required to reverse claim payments, and should not be required to refund out-of-pocket payments, but could instead apply any cost-sharing paid to the new QHP's annual limitation on cost sharing. The same commenter also sought clarification on how out-of-pocket payments for prescription drugs, most of which are adjudicated at the point of sale, will be handled in the case of a change in QHP issuers with a retroactive effective date.

Response: We are finalizing the proposed provision as proposed, noting that the processes set forth in the final rule are designed to ensure that consumers are provided the CSRs and advance payments of the premium tax credit for which they determined eligible, and are refunded any excess premiums paid or out-of-pocket payments made by or for the enrollee for covered benefits and services incurred. Applying enrollee cost sharing or other out-of-pocket spending already paid to the new QHP's accumulators, such as deductibles, or limitations on cost sharing or out-of-pocket spending, will not always be equivalent to providing a refund. For example, for an enrollee that does not exceed the deductible for a benefit year, simply accumulating excess cost sharing already paid may mean the enrollee will have paid more in cost sharing than required under the new plan. However, we recognize that, when the enrollee switch plans within the same issuer (or between variations of the same plan), reversing the claims and providing refunds may not be the most efficient way of adjusting the enrollee's portion of the premium and any differences in cost sharing. Therefore, in such circumstances, the Exchange and the issuer will be considered to be in compliance with the policy set forth in this rule as long the enrollee's premium payments and cost sharing are adjusted to reflect the enrollee's obligations under the new plan or variation and providers are made whole. Thus, the issuer may elect to make the enrollee whole for cost sharing directly through a refund or credit without requiring the provider to provide any refund directly to the enrollee, and may net provider payments to reflect the provider's obligations and payments due. Furthermore, consistent with 45 CFR 156.425(b), in the case of a change in assignment to a different plan variation (or standard plan without CSRs) of the same QHP in the course of a benefit year under this section, the QHP issuer must ensure that any cost sharing paid by the applicable individual under the previous plan variations (or standard plan without CSRs) for that benefit year is taken into account in the new plan variation.

Under the policy and processes set forth in this final rule, prescription claims should be treated in the same manner as other claims.

Comment: Many commenters supported the new definitions for terminations and cancellations to codify the existing practices included in the enrollment standards as well as the inclusion of a definition for reinstatement. One commenter did not recommend guidance to issuers to follow operational instructions issued by the Exchange given the limited nature of retroactive effective dates that result in a termination. However, another commenter recommended that that HHS require, not solely permit, Exchanges to establish operational procedures for issuers in these circumstances and place a requirement on issuers to follow the established procedures. In doing so, all issuers participating in the Exchange would be required to comply with similar procedures on terminations, cancellations, and reinstatements to ensure a consistent process. Additionally, the commenter stated that simplifying the procedures among QHP issuers would be in the consumers' interest and avoid consumer confusion, especially in situations where members of the household may be in different QHPs.

Response: We agree that if an Exchange establishes operational instructions for implementing terminations, cancellations, and reinstatements, then issuers should be required to follow such procedures. However, we still believe it is up to the Exchange to determine whether or not to establish procedures. Therefore, we are finalizing § 155.430(e) as proposed, while adding a corresponding paragraph (j) to § 156.270, to specify that QHP issuers must follow the transaction rules established by the Exchange in accordance with § 155.430(e).

Comment: We received a comment requesting that CMS reconsider the implementation of the 90-day grace period and require that health plans pay any claims during the entire grace period.

Response: We note that the comment is outside the scope of this rulemaking. Requirements for issues regarding grace

periods are addressed at 45 CFR § 156.270.

Summary of Regulatory Changes

We are finalizing the provisions proposed in § 155.430 of the proposed rule without modification. However, we are adding § 156.270(j) to specify that QHP issuers must follow the transaction rules established by the Exchange in accordance with § 155.430(e) based on comments we solicited and ensuring a consistency of operational procedures among issuers in the Exchange.

5. Subpart F—Appeals of Eligibility Determinations for Exchange Participation and Insurance Affordability Programs

a. General Eligibility Appeals Requirements (§ 155.505)

In § 155.505, we proposed a technical correction to paragraph (b)(4) by removing ''; and'' at the end of the paragraph and adding a period in its place.

Summary of Regulatory Changes

We receive no comments on this proposal and are finalizing the provision as proposed.

b. Dismissals (§ 155.530)

In § 155.530, we proposed to amend paragraph (a)(1) to provide an additional method for appellants to withdraw appeal requests. The existing provision requires an appellant who wishes to withdraw his or her appeal request to do so in writing (hard copy or electronic). We proposed to include the alternative for an appellant to withdraw his or her appeal by telephone, if the appeals entity is capable of accepting telephonic withdrawals. In paragraphs (a)(1)(i)(A) and (B), we proposed the requirements for providing a telephonic withdrawal process. Specifically, we proposed that the appeals entity must record in full the appellant's statement and telephonic signature made under penalty of perjury, and provide a written (in hard copy or electronically) confirmation to the appellant documenting the telephonic interaction. We sought comment on this proposed amendment, including the proposed requirements for accepting telephonic withdrawals and the potential misalignment with Medicaid fair hearing rules caused by this proposed amendment.

Comment: Nearly all the comments we received in response to the proposal to provide the option for telephonic withdrawals were supportive. This included many positive comments from State Exchanges. Commenters noted the additional method to withdraw appeals would ease the burden on appeals entities by protecting resources while providing an efficient means for consumers to end their appeal at their discretion. We also received support from consumer advocate groups for the proposed provision requiring written documentation of the telephonic interaction as well as the proposed requirement that the appellant's telephonic statement be recorded in full and include a telephonic signature made under penalty of perjury. However, we also received a comment requesting that we not finalize the provisions requiring the appellant's telephonic statement be recorded in full and a written confirmation because they are burdensome and duplicative. The commenter suggested that simply providing written documentation of a telephonic withdrawal with an option for the appellant to request to vacate the withdrawal within a specific period of time is sufficient.

Response: We agree with commenters that incorporating this option for telephonic withdrawals will assist appeals entities in maintaining an efficient process by providing a convenient method for appellants to end an appeal at their option, thereby, protecting resources for other appeals-related activities. We understand the concern that the requirements for providing a telephonic withdrawal process are significant and call for both a full recording of the appellant's telephonic withdrawal and a confirmation of the telephonic withdrawal sent in writing. However, the appellant's right to a hearing is the central concern of the appeals process and any mechanism for relinquishing the right to the hearing must include sufficient safeguards. The requirement for both a recording and a written confirmation of the telephonic withdrawal are meant to ensure that the appellant's right to a hearing is safeguarded. Further, we note that the preamble to the proposed rule acknowledged that the requirement to provide confirmation of a telephonic withdrawal can be met through issuance of the dismissal notice, which is required to contain instructions on how to request to vacate the dismissal in accordance with § 155.530(b)(3). Therefore, we finalize the provision for telephonic withdrawal as proposed.

Comment: A few commenters cited the potential vulnerabilities of appellants under a telephonic withdrawal process. For instance, appellants may be vulnerable to coaching by appeals entity staff to withdraw their appeal over the telephone. Similarly, an appellant may feel pressured to withdraw an appeal prematurely after an informal resolution if the appeals entity initiates such a discussion with the appellant by telephone. However, the commenter also acknowledged that if an appellant initiates the call to withdraw the appeal, no such concern exists. One commenter recommended that HHS create scripted information about the significance of withdrawing an appeal that includes an attestation of understanding by the consumer to be used by Exchange appeals entities to help protect appellants.

Response: While there is potential for undue influence on an appellant to close an appeal in some cases, we also realize that appeals entities aim to run an efficient process. As noted above, we believe the process we have proposed fairly balances these concerns and provides sufficient protections for appellants, including the requirement that telephonic withdrawals be recorded in full, made under penalty of perjury, and confirmed in writing. In addition, withdrawals result in dismissal notices under § 155.530(b), which provide for the opportunity to request to vacate a dismissal for good cause. With these protections in place, we are confident that appellant's interests will be safeguarded.

Comment: We received one comment on the alignment of our proposed policy with Medicaid fair hearing rules. The commenter opposed the potential misalignment caused by the proposed provision and noted that only permitting a written withdrawal, as in the current rule and in Medicaid fair hearing rules, is a strong consumer protection measure.

Response: Although the option to implement telephonic withdrawals will put the Exchange rules out of alignment with the Medicaid fair hearing rules, it is our intent to provide a modernized appeals process that can take advantage of technology and still safeguard appellant rights, as noted above. CMS is considering its policy regarding written and telephonic withdrawals in Medicaid and may issue future guidance on this issue. However, we note that as a result of this current incongruence in rules, appeals entities must ensure that appellants are afforded the appropriate rights. Individuals appealing denials of Medicaid eligibility may not withdraw their appeal via telephone, even if the appeals entity meets the requirements for providing such a process under the Exchange rule. Current appellants of Medicaid eligibility determinations may only withdraw an appeal in writing in accordance with 42 CFR 431.223(a).

Comment: Some commenters suggested that the written confirmation

of the telephonic withdrawal should include a mechanism for challenging the validity of the telephonic signature.

Response: As noted in the preamble to the proposed rule, the requirement to provide confirmation of a telephonic withdrawal can be met through issuance of the dismissal notice, which is required to contain instructions on how to request to vacate the dismissal in accordance with § 155.530(b)(3). However, even if the appeals entity decides to provide confirmation of the telephonic withdrawal in a notice separate from the dismissal notice, a dismissal notice, including instructions on requesting to vacate a dismissal, is required in the case of a withdrawal nonetheless. Therefore, all appellants who provide a telephonic withdrawal will receive instructions on requesting to vacate the dismissal, which would have the effect of reopening the appeal.

Comment: We received one comment suggesting that telephonic withdrawals only be accepted through the Exchange toll-free number and that assisters, Navigators, and certified application counselors not be authorized to accept telephonic withdrawals.

Response: If an appeals entity wishes to provide telephonic withdrawals in accordance with the final requirements, the appeals entity must maintain a phone line, capable of recording calls from appellants for the purposes of withdrawing an appeal. Whether that phone line is the same as the Exchange's customer service number or not is at the discretion of the appeals entity. We also note that, although appellants may seek assistance from assisters, Navigators, and certified application counselors, these consumer support entities are not authorized to operate any portion of the Exchange appeals process, including accepting telephonic withdrawals.

Summary of Regulatory Changes

We are finalizing the provision as proposed and note, as in the proposed rule, that this change also impacts employer appeal withdrawals by cross-reference at § 155.555(f)(1).

c. Employer Appeals Process (§ 155.555)

We proposed to amend § 155.555 by redesignating paragraphs (d)(1) through (d)(4) to more clearly delineate between the requirements associated with valid appeal requests versus invalid appeal requests. We note that under this proposed redesignation, paragraph (d)(4) would become new paragraph (d)(2), stating that upon receipt of an invalid appeal request, the appeals entity must promptly and without undue delay send written notice to the employer that the appeal request is not valid because it fails to meet the requirements of this section. New paragraph (d)(2) would also provide introductory language for the requirements provided in paragraphs (d)(2)(i) through (iv). The result of these proposed revisions would be to separate the requirements for valid appeal requests in redesignated paragraph (d)(1) and the requirements for invalid appeal requests in new paragraph (d)(2).

Summary of Regulatory Changes

We received no comments on the proposed redesignations and are finalizing the redesignations as proposed.

6. Subpart G—Exchange Functions in the Individual Market: Eligibility Determinations for Exemptions

a. Required Contribution Percentage

Under section 5000A of the Code, an individual must maintain minimum essential coverage for each month, qualify for an exemption, or make a shared responsibility payment. Sections 5000A(d) and (e) provide for nine categories of exemptions, and authorize the Secretary to determine individuals' eligibility for some of the exemptions, including the hardship exemption. Sections 1.5000A–3(a) through (h) of 26 CFR enumerate the circumstances in which an individual may be exempt from the shared responsibility payment. These grounds for exemption include: (1) under 26 CFR 1.5000A–3(e), the individual lacks affordable coverage because the individual's annualized required contribution for minimum essential coverage for the month exceeds the required contribution percentage of the individual's household income; (2) under 26 CFR 1.5000A–3(h), the individual has in effect a hardship exemption certification issued by an Exchange because, based on the individual's projected household income, the individual is not eligible for affordable minimum essential coverage; and (3) as described in 45 CFR 155.605(g)(5), the individual and one or more employed members of his or her family have been determined eligible for affordable self-only employer-sponsored coverage through their respective employers, but the aggregate cost of employer-sponsored coverage for all the employed members of the family exceeds 8 percent of household income for that calendar year. Determining eligibility for these exemptions requires comparison between the individual's share of the costs for obtaining minimum essential coverage and a certain percentage of the individual's household income, actual or projected, for the taxable year (the required contribution percentage). Under section 5000A(e)(1)(A) of the Code, the required contribution percentage is 8 percent. Section 5000A(e)(1)(D) of the Code and 26 CFR 1.5000A–3(e)(2)(ii) further provide that, for plan years beginning in any calendar year after 2014, the percentage will be the percentage determined by the Secretary to reflect the excess of the rate of premium growth between the preceding calendar year and 2013 over the rate of income growth for that period.

As discussed below, in this final rule, we establish a methodology for determining the excess of the rate of premium growth over the rate of income growth for a period, and establish the required contribution percentage for the 2015 calendar year. For calendar years after 2015, the required contribution percentage will be published in the annual HHS notice of benefit and payment parameters. We also define the required contribution percentage under § 155.600(a) to mean the product of 8 percent and the rate of premium growth over the rate of income growth for the calendar year, rounded to the nearest one-hundredth of one percent. Finally, we modify § 155.605(g)(5), which currently sets the required contribution percentage at 8 percent, so that the required contribution percentage for purpose of section 5000A in future years reflects the required contribution percentage for the applicable calendar year.

Methodology for Determining the Excess of the Rate of Premium Growth Over the Rate of Income Growth

In the proposed rule, we outlined and requested comments on methodologies for determining the excess of the rate of premium growth over the rate of income growth. We discussed an approach under which the rate of premium growth over the rate of income growth for a particular calendar year would be calculated as the quotient of (x) one plus the rate of premium growth between the preceding calendar year and 2013, divided by (y) one plus the rate of income growth between the preceding calendar year and 2013. We sought comment on whether we should constrain this ratio to be greater than or equal to one, as well as the impact of these constraints on the excess of the rate of premium growth over the rate of income growth. We sought comment on this and other approaches for determining the excess of the rate of premium growth over the rate of income growth, and in particular, whether the excess of the rate of premium growth over income growth should be

calculated based on the difference between the growth rates, the ratio of the growth rates, or through other methods, and whether the result should be subject to other adjustments.

In response to comments, we are finalizing the methodology outlined in the proposed rule, such that the rate of premium growth over the rate of income growth for a particular calendar year will be the quotient of (x) one plus the rate of premium growth between the preceding calendar year and 2013, carried out to ten significant digits, divided by (y) one plus the rate of income growth between the preceding calendar year and 2013, carried out to ten significant digits. The quotient will be carried out to ten significant digits, and multiplied by the required contribution percentage for 2014 (8 percent). The result will then be rounded to the nearest hundredth of a percent, to yield the required contribution percentage for the calendar year. We do not constrain this percentage to be greater than or equal to one, or subject it to other adjustments or constraints.

Comment: Several commenters supported our proposal that we perform this calculation using a ratio rather than a difference. One commenter suggested the formula be the quotient of (x) one plus the rate of premium growth between the preceding calendar year and 2013, over (y) one plus the difference between the rate of premium growth between the preceding calendar year and 2013, and the rate of income growth between the preceding calendar year and 2013, stating that this would minimize volatility of the formula. Some commenters supported permitting the ratio to be less than one, while another commenter suggested that the ratio should be constrained to be greater than or equal to one, to avoid the required contribution increasing when both premium growth and income growth are negative. One commenter suggested a ceiling on the index factor of 1.1 to ensure that premium contributions do not increase by more than 1 percent of consumers' incomes.

Response: We believe that the methodology described above most accurately measures the relationship between changes in premiums and income. While we recognize some of the policy concerns raised by commenters, we believe that any constraints on the ratio could result in the required contribution percentage not fully reflecting the growth rates of premiums and income, which we believe is the general intent of the statute.

Comment: Some commenters recommended delaying any adjustments to the required contribution percentage. One commenter stated that adjustments to the required contribution percentage and to the applicable percentages used to calculate the premium tax credits under section 36B of the Code should be delayed until at least 2016, to permit fuller assessments of the consequences of these adjustments. Another commenter suggested delaying any increase in premium contributions for the foreseeable future, noting significant technical and administrative costs, such as revising online calculators and coding Exchange functions.

Response: While we recognize the commenters' concerns, we believe the required contribution percentage should track premium and income changes from year to year, and delaying this adjustment would conflict with the general intent of the statute. We also anticipate that the operational changes associated with these adjustments will be manageable.

Premium Growth: In the proposed rule, we sought comment on whether we should use the premium adjustment percentage as a measure of premium growth for the purpose of calculating the adjustment to the required contribution percentage, and whether that adjustment should be constrained through the use of ceilings or floors. We also sought comment on whether other data sources or methods should be used to measure premium growth.

Taking into consideration the comments received, we are finalizing our proposal to measure the rate of premium growth for a calendar year by using the premium adjustment percentage for the year, without any adjustments or constraints. We provided in the 2015 Payment Notice [29] that the premium adjustment percentage, described at 45 CFR 156.130(e), will be published each year in the HHS notice of benefit and payment parameters, and will be used to adjust certain cost-sharing parameters established by the Affordable Care Act. As established in the 2015 Payment Notice, the premium adjustment percentage for 2015 is 4.213431463 percent.

Comment: Several commenters supported setting the rate of premium growth equal to the premium adjustment percentage. One commenter stated we should not consider constraining the annual rate of premium growth to equal or exceed zero, while another commenter argued that premium growth should constrained to be a positive number. Another commenter suggested that HHS use actual, rather than projected, growth in private insurance premiums, and suggested that HHS delay implementation of any adjustment until the 2016 plan year, when a number of significant market changes would have concluded and when actual premium growth between 2014 and 2015 will be known. One commenter was concerned that the trend in employer plan premiums may understate premium growth in the individual market.

Response: The premium adjustment percentage is calculated based on projections of average per enrollee employer-sponsored insurance premiums from the National Health Expenditure Accounts (NHEA), which are calculated by the CMS Office of the Actuary. As discussed in the 2015 Payment Notice, these projected premiums reflect premiums from nearly the entire private health insurance market. However, because these projected premiums will exclude premiums from the individual market, which are likely to be subject to a number of short-term effects related to implementation of market reforms, we believe these projections provide an appropriate measure of average per capita premiums for health insurance coverage for the initial years. However, as noted in the proposed rule, after the initial year(s) of implementation of market reforms, we may propose to change the methodology for calculating the premium adjustment percentage.

Income Growth: In the proposed rule, we discussed measuring the rate of income growth for a calendar year as the percentage by which the per capita GDP for the preceding calendar year exceeds the per capita GDP for 2013, carried out to ten significant digits. We stated that we were considering using the projections of per capita GDP used for the NHEA.[30] We sought comment on alternative sources of income data that we should consider, and whether adjustments should be made to our data source, or to the methodology outlined in the proposed rule. We also sought comment on whether we should seek to measure income growth per person under the age of 65 or per worker.

In response to comments, in this final rule, we are establishing as the measure of income growth for a calendar year the percentage by which the per capita GDP for the preceding calendar year exceeds the per capita GDP for 2013, carried out to ten significant digits, using the

[29] Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2015, 79 FR 13744 (March 11, 2014).

[30] *See* Table 1 in *http://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/Proj2012.pdf.*

projections of per capita GDP used for the NHEA. Under this methodology, the rate of income growth for 2015 is 3.608458790 percent. This measure is based on data sources that are consistent with the data sources used for determining premium projections, resulting in a consistent estimate of the ratio of premiums to income. In future years we may consider alternative income measures.

Comment: Commenters supported using per capita GDP for the purpose of calculating income growth, stating that this is a widely used measure of income. One commenter noted that it would not be technically sound to measure growth in GDP per person under age 65 or per worker, because GDP estimates are not available for those subsets of the population. Another commenter suggested that we consider whether per capita GDP sufficiently accounts for inflation and housing costs, and whether it overstates the income growth rate for lower income populations. Another commenter urged HHS not to use wage growth.

Response: Following consideration of comments received, we believe that growth in per capita GDP provides the most comprehensive and accurate measure of income growth available at this time. This measure is also consistent with the data that the CMS Office of the Actuary uses to project premiums for the NHEA. We may consider revising this measure in the future to account for future circumstances or data availability, including if alternative income measures or subsets of GDP become available.

Comment: One commenter stated that in order to avoid an increase in the required contribution percentage during a recession, the annual change in per capita GDP should be constrained to equal or exceed zero, and that benchmark revisions should not be allowed to affect the calculation of the rate of income growth. Another commenter suggested that the formula should account for negative income changes, such that in a year where income decreases, there should be a decrease in the affordability threshold. Another commenter opposed negative income growth, because it would increase the required contribution percentage during times of economic decline.

Response: We acknowledge that in a recession a negative change in per capita GDP could result in an increase in the ratio of premiums to income. However, we note that such occurrences have been rare in recent decades, and constraining income growth to be positive would risk the required contribution percentage not fully reflecting the growth rates of premiums and income, which we believe is the general intent of the statute.

Required Contribution Percentage for 2015

The required contribution percentage for 2014 is 8.00 percent. Based on the methodology finalized in this final rule, the rate of premium growth over the rate of income growth for 2015 is 1.04213431463/1.0360845879 or 1.005839028. This results in a required contribution percentage for 2015 of 8.00*1.005839028, or 8.05 percent, when rounded to the nearest one-hundredth of one percent.

Summary of Regulatory Changes

We define the required contribution percentage under § 155.600(a) to mean the product of eight percent and the rate of premium growth over the rate of income growth for the calendar year, rounded to the nearest one-hundredth of one percent. We are also amending § 155.605(g)(5), so that the required contribution percentage for this exemption in future years reflects the required contribution percentage for the applicable calendar year.

b. Options for Conducting Eligibility Determinations for Exemptions (§ 155.625)

In § 155.625, we established an option under which a State Exchange could adopt an eligibility determination for an exemption from the shared responsibility payment that was made by HHS, provided that certain conditions were met. We proposed to revise § 155.625 to remove the option for a State Exchange to adopt an eligibility determination for an exemption from the shared responsibility payment made by HHS for applications submitted on or after November 15, 2014. Under this proposal, HHS would continue to provide support in this area for applications up until that date.

Comment: We received several comments, many from State Exchanges, urging HHS not to eliminate the option described in § 155.625(b). Commenters opposed this change because of the burden, in terms of cost, time and resources it would put on State Exchanges to accommodate the provision of exemption determinations. Several commenters from State Exchanges noted that resources have already been allocated and timelines already established for the systems development and shared the concern that States will not have the resources or administrative capacity to carry out this function by November 15, 2014. Under the proposed timeline, one commenter anticipated that State Exchanges would, at best, only be able to implement a paper-based and manual exemption eligibility determination process. One commenter shared the belief that the current process could be modified to HHS' concerns by asking the consumer to include the information that only State Exchanges have, such as the lowest cost bronze plan. A majority of commenters agreed that, if HHS proceeds with the proposed change, State Exchanges need additional time to develop their own exemption processes; therefore, commenters suggested that implementation begin November 15, 2015. Finally, one commenter agreed that having a single entity conduct exemption determinations makes the most sense but, to achieve this, HHS must provide clear implementation standards to guide State Exchanges and consumers for uniform application of the law.

Response: We appreciate the comments received on this proposed change, particularly those from State Exchanges. We acknowledge the impact of such a change on State Exchanges in terms of administrative costs and development timelines. As noted below, we are providing Exchanges additional time to make this change.

Additionally, and as previously stated in the proposed rule, we support this change because the current procedure introduces significant information technology development and administrative burden into a process that could otherwise be executed at a single entity. For example, it requires coordinated information sharing systems between State Exchanges and HHS to send, receive, and process the information needed to make an exemption determination, particularly for those exemptions that require information only held by the State Exchange, such as the cost of the lowest-cost bronze plan net of advance payments of the premium tax credit. Furthermore, the current process requires dual customer service responsibilities at both HHS and the State Exchange, which creates challenges for consumers and Exchange customer service representatives. Therefore, we do not believe that there are significant efficiencies to be gained by HHS providing this service to State Exchanges.

HHS is committed to providing technical assistance to State Exchanges to develop the capacity to handle the minimum functions of granting certificates of exemption. HHS has

developed and released a set of model paper applications that can be adopted by State Exchanges and will consider providing additional guidance, such as example standard operating procedures, to assist State Exchanges as they develop their own exemption processes. We do understand the time and budget constraints State Exchanges face in order to adjust their processes to accommodate this change and agree that additional time is needed for State Exchanges to come into compliance with this requirement. Accordingly, we are finalizing the provision with an amendment to eliminate the option for HHS to provide exemption determinations for State Exchanges for applications submitted after the start of open enrollment for the 2016 plan year.

Summary of Regulatory Changes

We are amending § 155.625(a) and (b) to state that the Exchange may adopt an exemption eligibility determination made by HHS for applications submitted before the start of open enrollment for the 2016 plan year.

7. Subpart H—Exchange Functions: Small Business Health Options Program

a. Functions of a SHOP (§ 155.705)

Sections 155.705(b)(2) and (3) currently provide that, for plan years beginning on or after January 1, 2015, all SHOPs must make available to qualified employers the option of selecting an actuarial value level of coverage as described in section 1302(d)(1) of the Affordable Care Act and make all QHPs at that level available to qualified employees (''employee choice''). Additionally, pursuant to section 1312(a)(2) of the Affordable Care Act, qualified employers may provide support for coverage of employees under a QHP by selecting any level of coverage under section 1302(d) to be made available to employees, and each employee of an employer that elects a level of coverage may choose to enroll in a QHP that offers coverage at that level. Based on communications with issuers and State Insurance Commissioners early in 2014, HHS became concerned that, in some circumstances, implementing employee choice in 2015 might significantly disrupt some small group markets, and it might therefore have a negative effect on the ability of small business owners to access coverage.

To address these concerns, we proposed to amend § 155.705(b)(2) and (3) to provide for a one year transition policy under which a SHOP would be permitted to not implement employee choice in 2015 under specific circumstances: (1) if employee choice would result in significant adverse selection in the State's small group market that could not be fully remediated by the single risk pool or premium stabilization programs; or (2) if there is an insufficient number of issuers offering QHPs or qualified SADPs to allow for meaningful plan choice among QHPs or qualified SADPs for all actuarial value levels in the State's SHOP. We proposed that meaningful choice would mean sufficient competition in the market to allow for participation in the SHOP from multiple issuers throughout the State.

We proposed that a State regulatory agency, such as the State Department of Insurance, could submit a recommendation to the State's SHOP (or in the case of an FF–SHOP, to the Secretary) showing why either of the two proposed circumstances applied in 2015. We sought comment on whether the State regulatory agency recommendation should include a mitigation plan describing the process the State regulatory agency would take to ensure that full implementation of employee choice in 2016 would not result in the occurrence of either proposed circumstance. We proposed that the State would be required to provide in the recommendation to the SHOP concrete evidence that one of the two proposed circumstances applied. The SHOP would then evaluate the State's recommendation and determine whether the State's small group market would be significantly adversely affected as a result of the implementation of employee choice.

In the preamble to the proposed rule, we also recognized the importance of the timing of a State regulatory agency's recommendation and the SHOP's decision regarding employee choice under this proposal. Whether or not employee choice is available in a SHOP may be relevant information for issuers to consider as they make QHP submissions, but State regulatory agencies also need time to evaluate market dynamics before they can make a recommendation about whether the SHOP should not implement employee choice in 2015. We considered establishing a deadline for the State regulatory agency's recommendation to the SHOP. We considered a timeline under which State regulatory agencies would make recommendations prior to the close of the initial QHP certification application window, with sufficient time for issuers to decide whether or not to participate in SHOP for the following plan year. We also considered a second timeline as follows: (1) All issuers interested in participating in SHOP would apply during the initial application window; (2) State regulatory agencies then would have a specific window of time within which to make a recommendation regarding whether to not implement employee choice in 2015 based on the applications received; (3) the SHOP would then have a specific window of time to decide whether to implement employee choice in 2015 based on that recommendation; (4) issuers could, based upon the SHOP's decision, decide whether to maintain, modify, or withdraw their QHP applications. In the FF–SHOPs, under this second scenario, issuers would be able to submit applications after the initial deadline to apply for QHP certification had passed.

We are finalizing this provision with the following modifications. First, based on a careful re-evaluation of the two conditions under which the State regulatory agency could make the proposed recommendation, we have recognized that some issuers have concerns about the potential for adverse selection in the small group market under employee choice and these concerns might cause them to price their products and plans higher than they might otherwise price them if the SHOP did not offer employee choice. Therefore, in the final rule, we specify that a State Insurance Commissioner could recommend to the SHOP that employee choice not be implemented in that State in 2015 if the Commissioner can adequately explain that this would be in the best interest of small employers and their employees and dependents, given the likelihood that implementing employee choice would cause issuers to price their products and plans higher than they would otherwise price them. Second, we are finalizing the first timeline in the proposed rule, and are requiring that a State Insurance Commissioner make its recommendation to the SHOP, and that the SHOP make its decision about implementing employee choice, sufficiently in advance of the end of the QHP certification application window such that issuers can make informed decisions about whether to participate in the SHOP. In the FF–SHOPs, State Insurance Commissioner must submit to HHS their recommendation on or before June 2, 2014. This will provide HHS (as operator of the FF–SHOPs) sufficient time to review any recommendations. HHS anticipates that its decision regarding the implementation of employee choice in States with an FF–SHOP would be made by June 10, 2014, which would provide sufficient time for

issuers to decide whether to participate in the SHOP for the following year.

Comment: We received several comments in support of providing an opportunity for a State to recommend that a SHOP not implement employee choice in 2015, so that States and issuers could develop a Statewide plan for a full and successful implementation of employee choice in 2016. We also received several comments opposing the proposal, stating that employee choice is both statutorily required and is a core element necessary to establish SHOP's value and attract participation by small employers. One commenter urged HHS to not implement employee choice in 2015 only when there is clear harm that outweighs any of the value presented by employee choice and there is no other way to mitigate such harm. Several commenters expressed concern that an additional year without employee choice will not reduce the ultimate impact of any adverse selection concerns, but will just postpone its effects until 2016. Commenters expressed concern that the deferral of employee choice could go on for years, and could possibly be permanent.

Response: We believe that the option to permit a State to recommend that employee choice not be implemented, if the State fulfills the regulatory requirements, might be important to preserve market stability in certain States in 2015. We recognize that some State Insurance Commissioners and issuers have concerns about the potential for adverse selection in the small group market in light of the fact that employee choice will be a new feature in many markets and issuers at this point in time may feel that they do not have sufficient data available concerning expected enrollee risk in an employee choice environment. This may lead issuers to price coverage more conservatively than they otherwise would price it, even taking into account premium stabilization programs and other considerations. Further, we understand that some State Insurance Commissioners believe that this potential for adverse selection will result in less robust issuer participation in a SHOP that offers employee choice.

Therefore, consistent with the proposal that this policy reflect issuer and State concerns about adverse selection we are finalizing § 155.705(b)(3)(vi) to allow a SHOP to elect to provide employers only with the option set forth at paragraph (b)(3)(ii)(B), or in the case of a FF–SHOP, only with the option set forth at paragraph (b)(3)(iv)(B) only if the State's Insurance Commissioner can adequately explain that it is his or her expert judgment, based on a documented assessment of the full landscape of the small group market in his or her State, that not implementing employee choice in 2015 would be in the best interest of small employers and their employees and dependents, given the likelihood that implementing employee choice would cause issuers to price products and plans higher in 2015 due to the issuers' beliefs about adverse section. This transitional policy only applies for plan years beginning in 2015. We expect that by 2016, States and issuers will be able to learn from the experiences of issuers in a wider range of SHOPs that have implemented employee choice so that any adverse selection concerns will no longer be material. For example, we believe that by 2016, issuers will have much more information on which to make pricing and plan design decisions for an employee choice environment. HHS anticipates that the conditions for a State to recommend a transition in employee choice will apply in a subset of markets, and HHS remains committed to implementing employee choice in all SHOPs by 2016. In any event, in light of the statutory language providing that employee choice should be implemented in all SHOPs, this policy will not be extended beyond 2015. HHS will approve an FF–SHOP State's recommendations with the understanding that the transitional policy applies for one year.

While the rule would also permit State-based SHOPs to decide against implementing employee choice in 2015, HHS believes it is unlikely that State-based SHOPs will opt not to implement employee choice in 2015 because most of them currently offer employee choice.

We are not finalizing the proposal that States include a statement describing how the plan to increase meaningful choice or reduce adverse selection concerns for 2016 and beyond in their recommendation because HHS anticipates that the conditions that would support the State recommendation required under this final rule will not apply in most markets.

Comment: One commenter does not support allowing States to not implement employee choice because the participation provision in 45 CFR § 156.200(g) requires issuers with more than a 20 percent share of the State's small group market share participate in the FF–SHOP as a condition of participating in the FFE individual market. Therefore, most issuers participating in the FFE are unlikely to decline participating in an FF–SHOP. The commenter expressed the view that employee choice would make it easier for plans that do not meet the 20 percent threshold to participate in an FF–SHOP, thus expanding the competitive choices available to small business employees.

Response: 45 CFR 156.200(g) was finalized to help provide employers a choice of QHPs in FF–SHOPs. While employee choice may encourage rather than limit choice of issuers and plans, we believe that States are in the best position to make an assessment of the choice of issuers and plans that are available at this time.

Comment: We received several comments on the proposed circumstance under which a State Insurance Commissioner could recommend that the SHOP not implement employee choice based on significant adverse selection that could not be remediated by the single risk pool or the premium stabilization programs. One commenter recommended that adverse selection could be addressed by limiting choice within one issuer. Another commenter stated that risk adjustment would eliminate the risk of adverse selection, but that this would not happen until several months after the State must submit its recommendation regarding employee choice. Another expressed concern about employers continuing to offer grandfathered health plans.

Response: We generally agree with the commenters who questioned including the adverse selection circumstance as drafted in the proposed rule and agree that the single risk pool, risk adjustment program, and other considerations are likely to address adverse selection concerns in the small group market, including small group markets in which the SHOP offers employee choice. Nonetheless, we recognize that some State Insurance Commissioners and issuers have concerns about the potential for adverse selection in the small group market due to employee choice, given that this will be a new feature in many markets and issuers at this point in time may feel that they do not have sufficient data available concerning expected enrollee risk in an employee choice environment. This may lead to issuers to price products and plans more conservatively than they otherwise would price, even taking into account premium stabilization programs and other considerations. We also understand that some State Insurance Commissioners believe that issuer concerns about adverse selection will result in less robust issuer participation in a SHOP that offers employee choice. Accordingly, in this final rule, we have modified the proposed recommendation that the State Insurance Commissioner would submit regarding adverse

selection to better capture the circumstances under which issuers' concerns about adverse selection might negatively affect the small group market.

Comment: Several commenters provided recommendations about how to define meaningful choice. Such definitions ranged from ensuring employees have a choice among health plans within those metal levels to ensuring there was at least one plan in every metal level.

Response: In response to concerns from commenters, HHS is not finalizing the provision of the proposed rule that would permit the State Insurance Commissioner to recommend that the SHOP not implement employee choice based on a lack of meaningful choice among QHPs or SADPs. Instead, HHS is modifying the proposal to permit State Insurance Commissioners to submit a written recommendation to the SHOP adequately explaining that it is the State Insurance Commissioner's expert judgment, based on a documented assessment of the full landscape of the small group market in his or her State, that not implementing employee choice would be in the best interests of small employers and their employees and dependents, given the likelihood that implementing employee choice would cause issuers to price products and plans higher in 2015 due to the issuers' beliefs about adverse selection. A State Commissioner's recommendation must be based on concrete evidence, including but not limited to discussions with those issuers expected to participate in the SHOP in 2015.

Comment: Several commenters are concerned about whether HHS will be ready to fully implement employee choice in the FF–SHOPs and recommended that concerns about operational readiness be added to the list of circumstances under which a State may recommend not implementing employee choice in 2015. They also stated that FF–SHOP functionality and design would also need to be completed well in advance of the launch and must be scalable to all FF–SHOP States.

Response: HHS, with the assistance of appropriate vendors, has finalized business requirements necessary for the launch of the FF–SHOP online portal for 2015. We do not expect that operational and technological processes will pose a limitation to implementing employee choice and premium aggregation services in the FF–SHOPs.

Comment: Some commenters support allowing a SHOP to have the discretion of determining whether employee choice would have to exist for both medical QHPs and SADPs. One commenter stated that SADPs do not have the protections of the single risk pool, risk corridors, and risk adjustment, which differentiates SADPs from QHPs.

Response: Because of operational limitations in the build of the FF–SHOP online portal, employee choice will either be implemented or not implemented for both SADPs and QHPs in the FF–SHOPs, depending on whether State Insurance Commissioners submit recommendations consistent with this final rule. However, State-based SHOPs could choose to provide employee choice for medical QHPs and SADPs, or vice versa for the 2015 plan year, if their IT systems can accommodate employee choice variation by plan type, and if a recommendation from a State Insurance Commissioner consistent with this final rule would support that approach.

Comment: Some commenters recommended that HHS require that the State's recommendation include concrete, specific details of employee choice's estimated impact on the small group market. One commenter specifically recommended that the requirement for concrete evidence be included in regulatory text. Other commenters recommended that HHS adopt a more simplified waiver process giving States, including State-based SHOPs, greater discretion and flexibility in choosing SHOP options that meet local needs. These commenters stated that HHS should not include requirements, criteria, or standards that prescribe or limit State flexibility or State decision-making processes regarding implementation of employee choice. Additionally, some commenters urged HHS to require that a State's recommendation include a mitigation plan describing how any adverse effects of not implementing employee choice in 2015 would be addressed so that these conditions do not persist into 2016. One commenter recommended that the requirement for a mitigation plan should indicate how the State intends to increase stand-alone dental plan participation in the employee choice market. Some commenters believe that all States should be required to have a public review and comment period on the State's recommendation to not implement employee choice in 2015 and that all evidence should be subject to public review and comment.

Response: We are finalizing language in this rule requiring that the State's recommendation must be sent by the State's Insurance Commissioner to HHS (as operator of the FF–SHOP) or to the State-based SHOP and must be based on documented assessment of the full landscape of the State's small group market. HHS is not being prescriptive about the specific types of evidence that must be included in this documented assessment, as this evidence may vary based on the State's small group market. However, the documented assessment of the full landscape of the State's small group market in a State must support the Insurance Commissioner's expert judgment that not implementing employee choice would be in the best interests of small employers and their employees and dependents, given the likelihood that implementing employee choice would cause issuers to price products and plans higher in 2015 due to the issuers' beliefs about adverse selection. A State Insurance Commissioner's recommendation would need to be based on concrete evidence, including but not limited to discussions with those issuers expected to participate in the SHOP in 2015. Nonetheless, in order that SHOPs will make an informed, fair decision about whether to approve a State's recommendation, HHS has included in this final rule text the overarching standards on which the State Insurance Commissioner must base its recommendation. We think that the finalized standard accommodates the unique variation of States' small group markets and provides flexibility to States in making their recommendation to a SHOP. The timeline and schedule that is being finalized in this rule does not make it feasible for FF–SHOPs to solicit public input on a State's recommendation not to implement employee choice. However, State-based SHOPs and State Insurance Commissioners who make recommendations about not implementing employee choice in 2015 may choose to have a public comment period on their proposed recommendation. If a State elects to hold a public comment period, it must submit a summary of all comments received with its recommendation to not implement employee choice in 2015 to the relevant SHOP.

Comment: We received several comments about how to address the timing issue presented in the preamble of the proposed rule. Some commenters prefer the timing option whereby the State agency would have to make recommendations prior to the close of the initial QHP certification application window, and stated that this provides time for QHPs to make informed participation decisions. One commenter recommended that the decision and announcement of a State's recommendation regarding employee

choice be made no later than one month prior to the deadline for filing rates for the 2015 benefit year to assure actuarially sound rates. One commenter preferred the second proposed timeline from the preamble of the proposed rule whereby issuers would have the option to maintain, modify, or withdraw their products from the SHOP market after the SHOP's employee choice decision has been made. Another commenter asked how issuers would file rates without knowing whether employee choice is required and was concerned that the timing of the letters from the States and the State decision were not in alignment with the QHP certification timelines.

Response: HHS is finalizing in this rule that a State Insurance Commissioner should submit a recommendation to the SHOP, and that the SHOP should make a decision based on that recommendation, sufficiently in advance of the close of the QHP certification application window such that issuers can make informed decisions about whether to participate in the SHOP. In a FF–SHOP, State Insurance Commissioners must submit to HHS the recommendation on or before June 2, 2014, and HHS will make a decision based on any recommendations submitted by that deadline before the close of the QHP certification application window. Only States interested in not implementing employee choice would need to make a recommendation. State Insurance Commissioners making such recommendations should submit them via email to *shop@cms.hhs.gov.* HHS expects that no later than June 10, 2014, the FF–SHOP will post the list of States approved for their transition of employee choice for one year, creating a public record. HHS will make publicly available the State's recommendation to the FF–SHOP and the results of its review in a written decision explaining whether HHS agreed with the State's recommendation. This timeline ensures that HHS' decisions will be made prior to the close of the initial QHP certification application window for the FF–SHOPs, with sufficient time for issuers to decide whether or not to participate in the FF–SHOP in 2015.

This timeline reduces uncertainty for issuers because issuers will know if employee choice is being offered in a SHOP prior to the end of the QHP application period. Issuers will be able to make a decision about SHOP participation based on final information about whether employee choice will be implemented and will be less likely to seek to modify their rates or withdraw their applications.

State-based SHOPs will be required to follow the same timeline as FF–SHOPs, but exact dates for State Insurance Commissioner recommendations and SHOP decisions may differ from the FF–SHOP.

Summary of Regulatory Changes

We are finalizing the provision as proposed, with the modification that a SHOP's decision not to implement employee choice in 2015 should be based on a written recommendation submitted by the State Insurance Commissioner adequately explaining that it is the Insurance Commissioner's expert judgment, based on a documented assessment of the full landscape of the small group market in his or her State, that not implementing employee choice would be in the best interests of small employers and their employees and dependents, given the likelihood that implementing employee choice would cause issuers to price products and plans higher in 2015 due to the issuers' beliefs about adverse selection. A State Insurance Commissioner's recommendation must be based on concrete evidence, including but not limited to discussions with those issuers expected to participate in the SHOP in 2015. We clarify that this policy only applies in 2015 by adding the word ''only.'' We also changed in § 155.705(b)(3)(vi) the word options to be singular as one option is available for FF–SHOPs and another for State-based SHOPs. Finally, we have established in the final rule the first of two proposed timelines under which States to make their recommendations to SHOP.

b. Enrollment Periods Under SHOP (§ 155.725)

We proposed amendments to § 155.725(c) and (e) to amend the dates for the annual open enrollment periods for qualified employers and qualified employees in all SHOPs, both State-based and Federally-facilitated. In proposed §§ 155.725(c)(1), we proposed to align the start of annual employer election periods in all SHOPs for plan years beginning in 2015 with the start of open enrollment in the corresponding individual market Exchange for the 2015 benefit year. Under the proposal, the annual employer and employee election periods would begin no sooner than November 15, 2014 with employers making selections first, followed by employees. We are finalizing this proposal with one modification. Based on comments we received through the public comment period, we are modifying § 155.725(c)(1) to limit this provision to FF–SHOPs. State-based SHOPs may start their annual employer election periods earlier than November 15, 2014. We further clarify that nothing in this rule eliminates the rolling monthly enrollments in the SHOPs outlined at 45 CFR 155.725(b) and the requirement also outlined at 45 CFR 155.725(b) that a plan year in the SHOP be 12 months.

We note that pursuant to § 147.104(b)(1)(i), group coverage purchased in the SHOP between November 15 and December 15 of each year is not subject to employer contribution or group participation rules. As explained in Chapter 5 of the 2015 Letter to Issuers published on March 14, 2014, FF–SHOPs do not enforce minimum participation requirements between November 15 and December 15 of each year, but they are enforced upon initial enrollment and at renewal outside of this window. Aligning the start of the annual employer election period in the FF–SHOPs with the start of the individual market Exchange such that the employer election period would begin no sooner than November 15, 2014, will provide qualified employers and employees with a period of time to enroll for 2015 coverage when the FF–SHOP minimum participation provisions are not enforced. State-based SHOPs wishing to begin annual employer election periods prior to November 15 may extend the window of time when employers are not subject to employer contribution or group participation rules. For example, a State-based SHOP may extend the window of time during which minimum contribution and participation rules are not applicable from October 15 through December 15, so long as November 15 through December 15 is included in the time period.

In §§ 155.725(c)(2) and 155.725(e), we proposed to remove the required minimum lengths of both the annual employer election period and the employee open enrollment period to provide additional flexibility to all SHOPs and qualified employers. The existing minimum standards may make it difficult for groups participating in the SHOP to renew coverage in a timely manner, as under those minimums, it might take 75 days or longer to complete a group renewal. This proposal will permit employers to expedite their enrollment timeline. Also, this proposal increases a qualified employer's access to the most up-to-date rate information by permitting alignment with the quarterly rate update cycle. We are finalizing these provisions as proposed.

Comment: We received several comments on our proposal to align the start of the employer election periods

for plan years beginning in 2015 with the start of open enrollment in the corresponding individual market Exchange for the 2015 plan year, as amended in the 2015 Payment Notice, so that the annual employer and employee election periods would begin no sooner than November 15, 2014. Some commenters supported having a uniform timeline for enrollment in the individual Exchange and SHOPs, to reduce confusion, improve efficiencies, and possibly bring about cost savings. Another commenter believed that there are too many election periods for different populations and therefore recommends that the annual open enrollment period be more spread out. One commenter recommended that employers be able to make decisions whether to participate in the SHOP prior to November 15 so that employees can shop in both Exchanges beginning November 15. We also received several comments recommending that State-based SHOPs should have the flexibility to maintain their own employer election periods to remain in alignment with the broader small group market in the State. Several commenters noted that aligning the timing of the SHOP employer election period for 2015 with the individual market annual open enrollment period may pose challenges for certain State-based SHOPs, and encouraged HHS to maintain the flexibility afforded to State-based SHOPs discussed in the preamble to the Exchange Establishment final rule at 77 FR 18402–18403. For example, commenters observed that some State-based SHOPs see benefits from dedicating staff to separate enrollment periods for individuals and employees of qualified employers, rather than administering these enrollment periods concurrently.

Response: To ensure States have the flexibility to operate their State-based SHOPs in a manner that works in their small group markets, we are finalizing this provision as proposed, but limiting it to FF–SHOPs. State-based SHOPs will be able to begin their employer and employee election periods in a manner that works with their small group markets.

Comment: Some comments were received in support of the proposal to remove the 30-day minimum timeframe for the employer and employee annual election period. However, several comments were also received stating that removing this minimum timeframe would cause system and human resource strain by forcing SHOP enrollment into a more compressed timeframe. Some commenters also stated that this approach does not compare favorably with traditional small group insurance coverage. One commenter stated that employers need a minimum of 30 days to evaluate their options, costs, and budget forecasts for the upcoming year and employees would then need a similar timeframe to make a decision by the 15th of the month.

Response: We believe that removing the 30-day minimum timeframe requirement provides the most flexibility to SHOPs, employers and employees, and allows consumers to obtain SHOP coverage in a quicker timeframe. This flexibility allows employers and employees to complete their shopping in a more condensed time, if desired. We note that nothing in this final rule removes the ability of a State-based SHOP or an employer to establish enrollment periods lasting at least 30 days.

Summary of Regulatory Changes

We are finalizing the amendments proposed in § 155.725 of the proposed rule with the modification that the provision aligning the annual employer election period with the start of the start of open enrollment in the corresponding individual market Exchange for the 2015 benefit year applies only in FF–SHOPs. State-based SHOPs may start their annual employer election periods earlier than November 15, 2014.

c. SHOP Employer and Employee Eligibility Appeals Requirements (§ 155.740)

We proposed to amend § 155.740(g) by redesignating paragraphs (g)(1) through (g)(3) to more clearly delineate the requirements associated with valid appeals separately from those associated with invalid appeals.

We proposed to amend § 155.740(i)(1)(i) by cross-referencing the withdrawal standards proposed in the individual market at § 155.530(a)(1). Under current rules, an appellant who wishes to withdraw his or her appeal request must do so in writing (hard copy or electronic). The amended provision would allow an appellant to withdraw his or her appeal request in writing or by telephone, if the appeals entity is capable of accepting telephonic withdrawals.

Comment: We received a handful of comments regarding the proposed change to the SHOP appeals withdrawal procedure and all were supportive of the change. As with the individual market provision, commenters cited the benefits to having a telephonic withdrawal option, including increased efficiency for appellants to conclude the appeals process. Commenters also noted with support the importance of recording the telephonic interaction and providing written confirmation of the withdrawal along with instructions on how to request to vacate a withdrawal in order to protect the appellant's right to a hearing.

Response: We agree with commenters that incorporating this option for telephonic withdrawals for SHOP employer and employee appeals will assist appeals entities in maintaining an efficient process by providing a convenient method for appellants to end an appeal at their option. We also consider the requirements to record the appellant's telephonic withdrawal and the telephonic signature under penalty of perjury in full along with sending written confirmation of the withdrawal to be critical safeguards for appellants and appreciate the support commenters expressed for these aspects of the process. We, therefore, finalize the provision for telephonic withdrawal as proposed.

Summary of Regulatory Changes

We are finalizing the provisions proposed in § 155.740 without modification.

8. Subpart O—Quality Reporting Standards for Exchanges

In § 155.1400, we proposed that the Exchange must prominently display on its Web site, in accordance with 45 CFR 155.205(b)(1)(v), quality rating information assigned for each QHP under the QRS, as calculated by HHS and in a form and manner specified by HHS, starting in 2016. We stated our intentions to have a beta testing period in 2015 to provide early feedback to Exchanges and QHP issuers and begin public reporting of quality rating information during the 2016 open enrollment period for the 2017 coverage year. The standards for QHP issuers regarding the collection and submission of validated quality measures data for the QRS are described in Part 156, Subpart L of this final rule.

Comment: Many commenters agreed with the proposed provision and supported our approach for HHS to provide calculated quality rating information for display on an Exchange Web site on an annual basis for the open enrollment period. One commenter requested clarification as to whether HHS will select and calculate the QRS rating for both the FFE and State Exchanges, or whether the State Exchanges will be able to select and calculate their own QRS ratings independent of HHS. Commenters suggested that State Exchanges be allowed to calculate quality ratings

using the same approach as the FFE but with data for plans operating within the State's Exchange and that beta test data be used to compare QHP quality rating results from HHS with State Exchange results to determine relative comparability in national versus State approaches.

Response: We clarify that HHS will be obtaining data from all QHP issuers from all Exchanges consistent with § 156.1120(a) and using a standardized methodology to calculate QHP quality ratings for display on the FFE Web site and to provide for display to State Exchanges on their Web sites. We believe that an approach where each Exchange displays quality ratings calculated by HHS based on a standard scoring methodology allows for reliable, uniform, and comparable QHP ratings across Exchanges. The HHS-calculated scores and rating information provided to a State Exchange by HHS will be for the QHPs offered on the Exchange in that State. We anticipate sharing the validated QRS summary measure level data with State Exchanges; however State Exchanges will be required to display the HHS-calculated quality ratings for QHPs offered on the Exchange in their respective States. At the same time, we believe it is important that States have opportunity to build on this uniform strategy by displaying additional quality measures that reflect local priorities and we anticipate issuing future guidance that will include standards for States who wish to exercise this flexibility.

Comment: Many commenters urged HHS to require that State Exchanges display the data directly on their Web sites instead of linking to a Federal Web site.

Response: We understand commenters' concerns regarding providing consumers direct access to QHP quality data on the Exchange Web site where they are choosing a plan and these comments will help inform consumer testing and final guidance regarding display of quality rating information. We agree that health plan quality-related information should be provided to consumers in an easily understandable format and manner to support the comparison of plan options. We intend to provide details regarding display requirements in future technical guidance and will work with State Exchanges that do not have the technical capacity to display data directly on their Web sites during the initial implementation phase-in period.

Comment: Several commenters supported flexibility for States to display additional quality data and recommended that such data be collected and displayed consistently with the Federal measures. Other commenters expressed concern regarding States posting additional data because of the potential for conflicting measures to confuse consumers. They also expressed concern about consumer comprehension of displayed QRS data and allowing for approaches to meet diverse needs including regional, cultural, language, and demographic differences. One commenter suggested criteria for establishing governing principles for States choosing to display additional quality information, such as requiring States to only use NQF-endorsed measures or required measures for QHP accreditation. Another commenter suggested that States such as California that have implemented their own QHP quality ratings be used to inform quality reporting on the FFE.

Response: We maintain in the final rule that the Exchange must prominently display the Federal QRS rating information, as calculated by HHS, and results from the ESS for each QHP on its Web site. We believe that the Federal quality standards regarding QRS establishes a foundation for a uniform, national strategy for monitoring quality activities in the Exchanges with a core set of measures and standard approaches to health plan quality reporting. We also believe it is important that States have the opportunity to build on this uniform strategy with the display of additional measures that reflect local priorities. We anticipate issuing future guidance that will include standards for States who wish to exercise this flexibility. However, we clarify that HHS would not include any State-level data in calculations for the Federal QRS. HHS is currently conducting research and consumer testing regarding display of consumer-friendly information and terminology of health plan quality data and as we noted in the proposed rule, we intend to issue technical guidance including standardized display requirements in the near future. We will work with States to prevent display of both Federal and State-level quality measure data in a manner that confuses consumers.

Comment: Many commenters supported a five-star display for QRS ratings that would ensure consistency across commercial and Medicare markets and increase enrollee familiarity with the rating systems. One commenter recommended that CMS report QHP summary ratings at half-star levels (for example, 3.5, 4.0, 4.5) to enable consumers to better distinguish between plans, similar to the Medicare Advantage and Part D ratings.

Response: As stated in the proposed rule, we intend to display star ratings that would be similar in style and format to that of Medicare Advantage and Prescription Drug Plan ratings. These comments regarding display requirements will inform the future technical guidance that we intend to issue in the near future. For more detailed information on the proposed QRS scoring specifications approach, including the proposed process of scoring QHPs and converting scores into ratings on a five-star scale, we refer commenters to the March 28, 2014, draft QRS Scoring Specifications document available at *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/QualityInitiativesGenInfo/Downloads/QRS-Scoring-Specification.pdf*.

Comment: We also received a number of comments on quality measures for dental plans, sampling design and methodology for the ESS, quality rating and survey measure sets, QRS framework, process for selection of ESS vendors and quality reporting for QHPs offered outside the Exchange.

Response: We have not addressed such comments, and others that are not directly related to the proposed rule, because they are outside the scope of this rulemaking.

Summary of Regulatory Changes

For the reasons described above, we are finalizing the provision as proposed.

b. Enrollee Satisfaction Survey System (§ 155.1405)

In § 155.1405, we proposed that the Exchange would prominently display results from the ESS on its Web site, in accordance with § 155.205(b)(1)(iv), as calculated by HHS, and in a form and manner specified by HHS, starting in 2016. We also proposed that the display of the QRS information (which incorporates member experience data from the ESS) by an Exchange would meet the requirement of displaying the ESS information and satisfy the standard outlined in 45 CFR 155.205(b)(1)(iv). The standards for QHP issuers regarding the collection and submission of validated data for the ESS are described in Part 156, Subpart L of this final rule.

Comment: The majority of commenters supported the proposed display requirement for Exchanges in § 155.1405. Several commenters did not support the approach to provide State Exchanges the flexibility to make ESS beta test results publicly available in 2015 because these results are intended

for process improvement and not official. Some commenters supported allowing all Exchanges to make the beta test information available in 2015 to identify best practices and provide access to information to support consumer choice. One commenter suggested requiring several criteria to be met prior to publicly presenting ESS 2015 beta test results.

Response: We agree that the purpose of the 2015 ESS beta test results is primarily for process improvement. However, we also believe that if reliable QHP-level assessment scores are available in the ESS beta test results, this information could provide important early feedback to Exchanges and consumers. We intend to provide State Exchanges and QHP issuers with the ESS beta test results with appropriate disclaimers including that beta test results are not finalized and are part of the survey development process. HHS would not require nor restrict a State Exchange from posting this information on its Web site but would encourage inclusion of appropriate disclaimers to inform the consumer about the limitations of the data (for example, the information reflects beta test results that are not finalized and are part of the survey development process). HHS does not plan on posting the 2015 ESS beta test results on the FFE Web site.

Comment: Many commenters urged HHS to have a uniform policy for ESS scoring calculations and for display and require that complete ESS results, by metal-tier level, be made publicly available on all Exchange Web sites for consumers, accessible to researchers and advocates. One commenter expressed concern with displaying all ESS results including those scores not used in the QRS because of concerns that the survey may not capture information regarding a QHP's quality that are applicable to areas that a health plan can directly influence.

Response: We intend to provide the HHS standardized, calculated full ESS results to State Exchanges and to display the results at the product-level on the FFE Web site and will provide further details regarding display of the data, to consumers, in future technical guidance. As noted in the proposed rule, we believe that by displaying the QRS information (which incorporates member experience data from the ESS), an Exchange would meet the requirement, during the initial years of implementation, of displaying the ESS information and satisfy the standards outlined in 45 CFR 155.205(b)(1)(iv) and 45 CFR 155.1405. Therefore, State Exchanges will have the flexibility, in the initial years, to decide whether to display the full ESS results, as calculated by HHS. In the initial years, we believe that display of ESS results should align with the QRS and be presented at the product-level. We anticipate using the metal level data, as reported to HHS, to inform ESS implementation in future years and will re-examine the possibility of displaying the ESS results at a more granular level following an analysis of the 2015 beta test results. We believe that the ESS will provide valuable information regarding QHPs offered on Exchanges to consumers since it is largely based on the industry standard CAHPS® 5.0 Health Plan Survey that assesses commercial and Medicaid health plans. In addition, we are considering different ways to make QHP quality data, including ESS results, publicly available and accessible to consumers in a meaningful way.

Comment: A few commenters urged HHS to require State Exchanges to have a plan preview period for review of the ESS results. Some commenters requested that HHS provide access to full ESS results to issuers during a plan preview period, similar to QRS measure data. One commenter urged HHS to offer a three month plan preview period for QRS and ESS results at a different time than review of quality ratings for Medicare Advantage plans.

Response: We appreciate the comments in support of HHS imposing a requirement on State Exchanges to have a plan preview period for review of the QRS and ESS results and may consider adopting this approach in future rulemaking. We note that some State Exchanges already have instituted a plan preview process for issuers to have the opportunity to review and correct data provided for display on Exchange Web sites. HHS also intends to host a plan preview period of QRS and ESS data for all QHP issuers participating in all Exchanges. We intend to balance alignment of data collection, submission, and plan preview timeframes for the QRS and ESS with existing processes, with the goal of minimal burden to issuers and State Exchanges.

Summary of Regulatory Changes

We are finalizing this provision as proposed.

H. Part 156—Health Insurance Issuer Standards Under the Affordable Care Act, Including Standards Related to Exchanges

1. Subpart B—Essential Health Benefits Package

a. Prescription Drug Benefits (§ 156.122)

Section 156.122(c) requires issuers that provide EHB to have procedures in place that allow an enrollee to request and gain access to clinically appropriate drugs not covered by the plan. In the proposed rule, we sought comment on amending the sought comment on amending the formulary exceptions standards under § 156.122(c) to require that these processes can be expedited when necessary based on exigent circumstances, such as when an enrollee is suffering from a serious health condition or an enrollee is in a current course of treatment using a non-formulary drug. We considered, for example, whether issuers should be required to render decisions regarding formulary exceptions requests within 24 hours following the issuers' receipt of the exceptions requests, as suggested in the ''2014 Letter to Issuers on Federally-facilitated and State Partnership Exchanges'' (2014 Letter to Issuers).[31] As clarification, the prescription drug standard in § 156.122(a)(1) was not intended to discourage issuers from offering clinically appropriate drugs to enrollees, including combination drugs. We sought comment on what specific standards would be appropriate for defining this expedited exceptions process, and on all other aspects of this proposal.

Comment: Some commenters supported the proposal to add additional parameters in regulation for the exceptions process and had recommendations regarding the parameters, including the timing of the reviews and the need for expedited reviews due to exigent circumstances. Many commenters supported a general 72-hour review timeframe and a 24-hour review timeframe due to exigency when the life or immediate health of the insured is at stake. Several of these commenters recommended other standards in use today, such as the standards in the Medicare Part D program or Department of Labor standards for coverage determinations, and supported greater uniformity. Of those commenters who supported

[31] *See* Appendix C of the 2014 Letter to Issuers on Federally-facilitated and State Partnership Exchanges (April 5, 2013). Available at: *http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2014_letter_to_issuers_04052013.pdf.*

greater uniformity, the majority of commenters favored a process similar to that in Medicare Part D. Conversely, some commenters did not support any additional regulatory standards regarding the exceptions process. These commenters cited the timing of the rulemaking, potential for conflicting State law, desire for flexibility in prescription drug management practices, and desire for a better understanding of drug access issues.

Response: We have heard from several stakeholders about enrollee difficulty in accessing, understanding, and using issuers' exception processes under § 156.122(c), since there is currently no requirement for uniformity across plans. Based on comments regarding the need for a uniform standard, we are finalizing standards for a health plan's exceptions process that includes a process for exigent circumstances. Specifically, we are modifying § 156.122(c) to include a policy that allows an enrollee (or enrollee's designee) or the enrollee's prescribing physician (or other prescriber) to request an expedited exceptions process based on exigent circumstances that are defined as when an enrollee is suffering from a health condition that may seriously jeopardize the enrollee's life, health, or ability to regain maximum function or when an enrollee is undergoing a current course of treatment using a non-formulary drug. We are also finalizing a requirement that issuers must provide a decision on an exception request based on exigent circumstances and notify the enrollee (and the prescribing physician or other prescriber as appropriate) of the determination no later than 24 hours after receiving the request. We believe that this policy will better ensure enrollee access to critical medications in a timely manner. These provisions are effective for the 2015 plan year.

Comment: Commenters asked for clarification on operational considerations for implementing any specific exceptions process requirements, including a definition of ''exigent,'' when any timeframes begin, how long the enrollee has access to the medication if granted an exception, and if the enrollee is required to have access to the drug throughout the review processes.

Response: The timeframe for expedited (24-hour) review begins when the issuer or its designee receives an exception request based on exigent circumstances. An enrollee or the enrollee's prescribing physician (or other prescriber) should strive to submit a complete request; however, issuers should not fail to commence review if they have not yet received information that is largely procedural but not necessary to begin review. Further, issuers should not request irrelevant or overly burdensome information.

We believe an exigency exists when an enrollee is suffering from a health condition that may seriously jeopardize the enrollee's life, health, or ability to regain maximum function or when an enrollee is undergoing a current course of treatment using a non-formulary drug. Either the enrollee (or enrollee's designee) or prescribing physician (or other prescribing provider as appropriate) may submit the request for an expedited review based on exigent circumstances. Issuers must be equipped to intake these requests in writing, electronically, and telephonically.

As part of the request for an expedited review based on exigent circumstances, the prescribing physician or other prescriber should support the request by including an oral or written statement that (1) an exigency exists and the basis for the exigency (that is, the harm that could reasonably come to the enrollee if the requested drug were not provided within the timeframes specified by the issuer's standard drug exceptions process), and (2) a justification supporting the need for the non-formulary drug to treat the enrollee's condition, including a statement that all covered formulary drugs on any tier will be or have been ineffective, would not be as effective as the non-formulary drug, or would have adverse effects.

Following a favorable decision on the expedited request, the enrollee must be provided access to the prescribed drug without unreasonable delay. Therefore, issuers need to be prepared to communicate rapidly with pharmacies and pharmacy benefit managers, as applicable. At a minimum, we expect issuers to update certificates of coverage to reflect the availability of this process and to be able to provide instruction to enrollees or their designees and providers or their designees regarding how to use the process. While these review standards are specific to the expedited review process, we encourage issuers to have a similar type of review process in place for their non-expedited review under § 156.122(c).

While some commenters recommended that issuers be required to provide coverage of the drug in question pending the outcome of the expedited request, we are also cognizant that some commenters opposed the proposal altogether and that we are finalizing an expedited timeframe for coverage determination under this process due to exigency as no more than 24 hours. Therefore, while we encourage issuers to provide the drug pending the outcome of the exceptions request, we are not requiring it at this time.

We are also concerned about enrollees having to continue to make requests under § 156.122(c) throughout the plan year to access the same clinically appropriate drug not on the plan's formulary, whether for each refill or otherwise, and for exceptions granted pursuant to the exigent circumstance exceptions process, issuers must make the drug available to the enrollee for the duration of the exigency. We will monitor this issue to consider whether we should propose additional standards through rulemaking.

Comment: Some commenters requested clarification as to whether drugs accessed through the exceptions process under § 156.122(c) should count towards the plan's annual limit on cost sharing as established under § 156.130(a), and other commenters noted concerns about cost-sharing and tiering for drugs accessed through the exceptions process. Other commenters commented on a variety of other issues related to the EHB prescription drug policy that were not mentioned in the proposed rule.

Response: Because these issues are not specifically related to the exigent circumstance exceptions process standards for § 156.122(c) and the preamble to the proposed rule, we consider them to be outside the scope of the rulemaking but will take them under consideration for future rulemaking.

Comment: Commenters noted that there is no requirement to cover combination drugs considered first line therapy, but other commenters supported efforts to better ensure access to combination drugs, as well as requested requirements related to new drugs. Some commenters requested clarification that combination drugs do not have any special regulatory status in plans that must comply with EHB standards.

Response: The requirements at § 156.122(a)(1) were intended to be the minimum standard for an issuer providing EHB. The intention of the exceptions process at § 156.122(c) is for enrollees to request and gain access to clinically appropriate drugs that are not on the plan's formulary, which could include combination drugs considered first line therapies and new drugs, particularly when these drugs are supported by sound science and widely accepted guidelines. While there is no mandate that a health plan cover these drugs under § 156.122(a)(1), in absence of coverage under § 156.122(a)(1), combination drugs or new drugs may be

determined to be clinically appropriate for an enrollee under § 156.122(c). We do not intend for this policy to create any special regulatory status for combination drugs.

Comment: Some commenters recommended that HHS use its enforcement authority for non-compliance with the exceptions process. Some commenters also recommended that HHS collect tracking data on the use of the exceptions process and provide assistance to enrollees who were denied coverage through the exceptions process.

Response: Because States generally are the primary enforcers of the EHB prescription drug policy, we are not collecting nationwide data on the use of the exceptions process. Enrollees who are having difficulty accessing a health plan's exceptions process should first contact the issuer and then contact the State's Department of Insurance if necessary.

Summary of Regulatory Changes

Based on comments received, we are finalizing revisions to § 156.122(c) to require that a health plan's procedures include an expedited exceptions process based on exigent circumstances that is defined as when an enrollee is suffering from a health condition that may seriously jeopardize the enrollee's life, health, or ability to regain maximum function or when an enrollee is undergoing a current course of treatment using a non-formulary drug and that the health plan must make its coverage determination on such requests within no more than 24 hours after receiving them and continue to provide the drug for the duration of the exigency.

b. Cost-Sharing Requirements (§ 156.130)

Under § 156.130(a), cost sharing for 2014 for self-only coverage may not exceed the annual dollar limit described in section 223(c)(2)(A)(ii)(I) of the Code. The proposed rule also provided that under § 156.130(b), for a plan year beginning in calendar year 2014, the annual deductible for a health plan in the small group market for self-only coverage could not exceed $2,000. However, § 156.130(b) is being removed from the regulation text to comply with Public Law 113–93, which eliminated the limits on deductibles for plans in the small group market.

For 2015 and later years, the annual limitation on cost sharing is to be increased by an amount equal to the product of the annual dollar amount described in section 223(c)(2)(A)(ii)(I) of the Code and the premium adjustment percentage established pursuant to paragraph (e) of that section. (The limitation for other than self-only coverage is twice the limitation for self-only coverage.) Under § 156.130(d), any increase in these annual limits that does not result in a multiple of $50 is to be rounded to the next lowest multiple of 50 dollars.

Section 156.130(e) provides that the premium adjustment percentage is the percentage (if any) by which the average per capita premium for health insurance coverage for the preceding calendar year exceeds such average per capita premium for health insurance for 2013, and that this percentage will be published annually in the HHS notice of benefit and payment parameters. The 2015 Payment Notice established our methodology for calculating the premium adjustment percentage.

In calculating limitations on cost sharing and small group deductible in the proposed 2015 Payment Notice, we rounded these limitations *up* to the next lowest multiple of $50. However, we subsequently learned that the IRS convention for interpreting similar language for a number of longstanding tax parameters—such as indexing methodologies for the alternative minimum tax and the standard deduction—is to round *down* to the nearest applicable multiple. For example, the Department of the Treasury, in a rule on how employers should calculate average annual full-time-equivalent wages for purposes of the small employer health insurance tax credit, provides that if the result is not a multiple of $1,000, employers should round the result to the next lowest multiple of $1,000.[32]

As a result, we proposed to align our rounding rules with those used by the Department of the Treasury and the Internal Revenue Service, by amending § 156.130(d) to specify that when indexing the annual limitation on cost sharing and the annual limitation on small group deductibles for years after 2014, we will round to the multiple of 50 dollars that is lower than the number calculated by the formula.

Under the proposed amendment, using the 2015 premium adjustment percentage of 4.213431463 percent we established in the 2015 Payment Notice and the 2014 maximum annual limitation on cost sharing of $6,350 for self-only coverage, which was published by the IRS on May 2, 2013,[33] the 2015 maximum annual limitation on cost sharing would be $6,600 for self-only coverage and $13,200 for other than self-only coverage.

Similarly, under the proposed amendment to § 156.130(d), we applied the premium adjustment percentage for 2015 to calculate the annual limit on deductibles for the small group market for 2015. However, after the proposed rule was published, on April 1, 2014, the President signed into law Protecting Access to Medicare Act for 2014, which includes a provision that eliminates the annual limitation on deductibles for plans in the small group market. Therefore, there is no annual limitation on deductibles for small group plans, and the premium adjustment percentage is no longer applicable.

Comment: A number of commenters supported our proposal to round the annual limitation on cost sharing down to a lower multiple of $50, to be consistent with the practice at the Department of the Treasury. A few commenters requested that HHS use this final rule to amend the regulation to reflect new law, which eliminates the annual limit on deductibles for small group plans.

Response: We agree with the comments and are removing references to an annual limit on deductibles for plans in the small group market from our regulations. We also note that issuers do not need to make any changes to their 2014 plan cost-sharing structures as a result of this change.

Summary of Regulatory Changes

We are finalizing our proposal regarding rounding as proposed, and we are removing from our regulations references to the annual limit on deductibles for plans in the small group market under § 156.130(b) from § 156.130(c) and (d), and are removing § 156.130(b). The 2015 maximum annual limitation on cost sharing is $6,600 for self-only coverage and $13,200 for other than self-only coverage.

2. Subpart C—General Functions of an Exchange

a. QHP Issuer Participation Standards (§ 156.200)

In § 156.200(b)(5), we proposed technical amendments to clarify that implementing and reporting for the QRS and implementing a quality improvement strategy are conditions of participation in an Exchange. Specifically, we proposed to include a reference to sections 1311(c)(3) and (c)(1)(E) of the Affordable Care Act to correctly align with other quality standards listed as part of QHP certification standards, including the ESS.

[32] *See* 26 CFR 1.45R–2(f)(1).

[33] See *http://www.irs.gov/pub/irs-drop/rp-13-25.pdf.*

We also proposed to amend § 156.200 to add paragraph (h) to require that, in order to receive QHP certification, the offering issuer attest that, subsequent to receiving such certification, it will comply with all operational requirements contained in Part 156, Subparts D, E, H, K, L, and M. We proposed to add paragraph (h) to ensure that issuers seeking QHP certification understand and have fully committed to compliance with all operational requirements.

Summary of Regulatory Changes

We received comments in support of the proposed amendments and therefore are finalizing § 156.200(b)(5) and (h) as proposed.

b. Enrollment Process for Qualified Individuals (§ 156.265)

We refer readers to the preamble in connection with § 155.400 of this final rule for a discussion of comments on § 156.265.

3. Subpart G—Minimum Essential Coverage

a. Other Coverage That Qualifies as Minimum Essential Coverage (§ 156.602)

The Affordable Care Act added section 5000A of the Code, which requires all non-exempt individuals to maintain minimum essential coverage or pay the individual shared responsibility payment. Section 5000A(f) of the Code defines minimum essential coverage as any of the following: (1) Coverage under a specified government sponsored program; (2) coverage under an eligible employer-sponsored plan; (3) coverage under a health plan offered in the individual market within a State; (4) coverage under a grandfathered health plan. In addition, section 5000A(f)(1)(E) of the Code directs the Secretary, in coordination with the Secretary of the Treasury, to designate other health benefits coverage as minimum essential coverage.

The Treasury Department and the IRS published final regulations under Code section 5000A on August 30, 2013 (78 FR 53646).[34] On July 1, 2013, HHS published final regulations implementing certain functions of an Exchange for determining eligibility for and granting certain exemptions from the individual shared responsibility payment (78 FR 39494).[35] The HHS final regulations, codified in 45 CFR 156.602 and 156.604, also designate certain types of coverage as minimum essential coverage, and outline substantive and procedural requirements for other types of coverage to apply for recognition as minimum essential coverage.

We proposed to amend § 156.602 by adding paragraph (e) to designate certain types of foreign group health coverage for expatriates as minimum essential coverage. These proposed provisions would codify previous CMS guidance published on October 31, 2013,[36] with some additional detail.

We are not finalizing this section of the proposed rule at this time. We will consider finalizing the proposal in the future, and will address comments received on the proposal at that time. In the interim, stakeholders and others can rely on the published October 31, 2013 guidance.

Summary of Regulatory Changes

We are not finalizing the provision proposed in § 156.602(e) of the proposed rule at this time.

b. Requirements for Recognition as Minimum Essential Coverage for Types of Coverage Not Otherwise Designated Minimum Essential Coverage in the Statute or This Subpart (§ 156.604)

We proposed a technical correction in § 156.604 to clarify that health insurance issuers and plan administrators, in addition to sponsors of coverage and government agencies, may apply to HHS on behalf of a plan or coverage for recognition as minimum essential coverage.

Summary of Regulatory Changes

We received no comments on this proposal and are finalizing the provision as proposed.

4. Subpart I—Enforcement Remedies in Federally-Facilitated Exchanges

a. Available Remedies; Scope (§ 156.800)

In § 156.800(d), we proposed that HHS may consult and share information about QHP issuers with other Federal and State regulatory and enforcement entities to the extent that the consultation and information is necessary for HHS to determine whether an enforcement remedy under subpart I is appropriate.

Comment: We received multiple comments in support of our proposed regulation, including comments that requested we consider expanding this authority to include sharing information about QHP issuers to other State and Federal regulatory and enforcement entities that may need this information for their oversight purposes.

Response: Because we intend to share information about QHP issuers used for oversight and enforcement activities with other State and Federal regulatory and enforcement entities, and such entities have legitimate oversight and enforcement purposes for using such information, we agree that it is not necessary or appropriate for us to limit the ways in which such entities could use the information we would be sharing in a manner that would prohibit legitimate oversight and enforcement activities. We are finalizing the regulation accordingly.

Summary of Regulatory Changes

We are finalizing § 156.800(d) as proposed, with the modification of removing ''to the extent that the consultation and information is necessary for HHS to determine whether an enforcement remedy under subpart I is appropriate'' and replacing it with ''to the extent that the consultation and information is necessary for purposes of State or Federal oversight activities.''

b. Bases and Process for Imposing Civil Money Penalties in Federally-Facilitated Exchanges (§ 156.805)

We did not receive comments on the proposed addition of § 156.805(d)(3) and are finalizing the provision as proposed.

c. Notice of Non-Compliance (§ 156.806)

We proposed adding § 156.806 to explain that HHS will provide a written notice to the issuer, to include a description of the potential violation, a 30-day period for the QHP issuer to respond and to provide additional information to refute an alleged violation.

Comment: Some commenters requested that we permit extensions to the 30-day period for QHP issuers to respond and to provide additional information to refute an alleged violation. One of these commenters also requested that we allow QHP issuers to have 60 days, rather than the proposed 30 days, to respond and provide additional information.

Response: We believe that 30 days provides QHP issuers with sufficient opportunity to respond and provide

[34] Shared Responsibility Payment for Not Maintaining Minimum Essential Coverage, 78 FR 53646 (August 30, 2013).

[35] Patient Protection and Affordable Care Act; Exchange Functions: Eligibility for Exemptions; Miscellaneous Minimum Essential Coverage Provisions, 78 FR 39494 (July 1, 2013).

[36] *See* CCIIO Sub-Regulatory Guidance: Process for Obtaining Recognition as Minimum Essential Coverage (October 31, 2013). Available at: *http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/mec-guidance-10-31-2013.pdf.*

additional information to refute an alleged violation. Additionally, a QHP issuer that fails to act within the 30-day period will have an opportunity to request a hearing under Subpart J of 45 CFR Part 156. The QHP issuer will have the opportunity present its arguments and supporting documents at the time of the hearing.

Summary of Regulatory Changes

We are finalizing the provisions proposed in § 156.806 of the proposed rule without modification.

d. Bases and Process for Decertification of a QHP Offered by an Issuer Through a Federally-Facilitated Exchange (§ 156.810)

In § 156.810, we proposed several modifications to better align our bases for decertification, including bases for expedited decertifications, with regulatory provisions which have been finalized and to clarify certain regulatory text. We proposed rewording paragraph (a)(6) to clarify that the certification criteria means the standards under subpart C of this part. We also proposed in § 156.810(d) that the FFE will be able to pursue an expedited decertification for violation of paragraph (a)(6). Additionally, we proposed clarifying in paragraph (a)(9) that violation of State or Federal law relating to internal claims and appeals and external review processes are bases for decertification under this paragraph. We proposed aligning the standards set forth under subparts K and M with the bases for decertification. We proposed adding a paragraph (12) to reflect that HHS may decertify a QHP if the QHP issuer substantially fails to meet the requirements related to the cases forwarded to QHP issuers under Subpart K, and adding a paragraph (13) to reflect that HHS may decertify a QHP if the QHP issuer substantially fails to meet the requirements in Subpart M.

Comment: We received general comments supporting our modifications to § 156.810, including the inclusion of § 156.810(a)(6) as a basis for expedited decertification and clarification that HHS may pursue decertifications for violations of applicable standards under Subpart C of 45 CFR Part 156. In addition, we received comments requesting that HHS not include violations of the provisions set forth under Subparts K and M as bases for decertification because the commenters indicated that not all of the provisions proposed under these Subparts have been finalized. One of the commenters requested that we extend the good faith policy adopted for 2014 until all provisions under these Subparts have been finalized.

Response: We recognize that there may be instances in which new regulations proposed under Subparts K or M have not yet been finalized. In such instances, HHS would not enforce these regulations until they have been finalized absent a separate authority to enforce these regulations. In the meantime, there are provisions set forth under Subparts K and M that have been finalized and are enforceable, and accordingly, we believe that our proposed modification to include those provisions in § 156.810 is appropriate.[37] In the 2015 Letter to Issuers, we stated that we did not intend to extend the 2014 good faith compliance safe harbor.

Comment: One commenter requested that we expressly limit expedited decertifications to violations that put QHP enrollees' ability to access necessary medical items or services at risk or substantially compromise the operation of the Exchange.

Response: We believe there may a few rare situations in which expedited decertifications may be necessary, but which may not be resulting from violations that put QHP enrollees' ability to access necessary medical items or services at risk or substantially compromise the operation of the Exchange. For example, if a QHP issuer loses its ability offer a QHP based on an applicable State law or State action, HHS would need a mechanism to remove the QHP from the Exchange expeditiously. Recognizing that such possibility should be rare, but possible, we decline to limit expedited decertifications as requested, and finalize this section as proposed.

Summary of Regulatory Changes

We are finalizing the provisions proposed in § 156.810 of the proposed rule, correcting only the numbering of the added provisions in paragraph (a).

5. Subpart L—Quality Standards

a. Establishment of Standards for HHS-Approved Enrollee Satisfaction Survey Vendors for Use by QHP Issuers in Exchanges (§ 156.1105)

We proposed to amend § 156.1105 to include monitoring and appeals processes for HHS-approved ESS vendors that would apply for plan years beginning 2015. In paragraph (d), we proposed that HHS will monitor HHS-approved ESS vendors to ensure ongoing compliance with the application and approval standards in paragraphs (a) and (b). Further, we proposed that if HHS determines that an approved vendor is non-compliant with the standards outlined in paragraph (b), they may be removed from the approved list described in paragraph (c) and/or the submitted survey results may be ineligible to be included for ESS results. Lastly, we proposed in paragraph (e) an appeals process for an ESS vendor that submits an application to HHS for approval, as described in paragraph (a), and is not approved. Specifically, we proposed that an ESS vendor may appeal HHS's decision by notifying HHS in writing within 15 days of the notification of not being approved by HHS and submitting additional documentation demonstrating how the vendor meets the standards in paragraph (b). HHS would review the submitted documentation and make a final approval determination within 30 days from receipt of the additional documentation. An ESS vendor that becomes approved via the appeals process would be included in the approved list, described in paragraph (c).

Comment: Many commenters supported the provisions in § 156.1105 relating to the monitoring and appeals processes for ESS vendors. Several commenters requested clarification how, if HHS determines survey results ineligible to be included in ESS results because of a non-compliant vendor, the affected QHP's global quality rating would be calculated and displayed. Commenters urged HHS to minimize such circumstances when results would not be published and to have adequate disclaimers explaining the reason for ESS results that are unavailable. A few commenters urged HHS to add a hold harmless provision to mitigate the harm on compliant QHPs who should not be penalized due to vendor behavior and to have alternative processes in such circumstances such as permit use of prior year's scores.

Response: We clarify that, if HHS determines an ESS vendor to be non-compliant with the required standards and its survey results are deemed ineligible to be included in ESS results, HHS would designate those ESS measures that are included in the QRS as not being available for the current reporting year. Similar to the business relationships that issuers have with survey vendors to administer other CAHPS®-like surveys for other products (for example, Medicare Advantage), we expect issuers to work closely with their contracted vendors to mitigate harm on compliant QHPs. In such circumstances, we will work with affected QHP issuers

[37] Patient Protection and Affordable Care Act; Program Integrity: Exchange, SHOP, and Eligibility Appeals, 78 FR 54070 (August 30, 2013) (to be codified at 45 CFR parts 147, 153, 155, and 156).

and ESS vendors and consider approaches so that having unavailable ESS data is minimized (that is, opportunity to re-administer the survey using a compliant vendor). These standards and processes have been informed by our experience with the Medicare CAHPS® survey vendor program, under which it has been a rare occurrence for a vendor to be found non-complaint and its survey results deemed ineligible. We maintain and finalize the standards in 156.1105 as proposed.

Summary of Regulatory Changes

We are finalizing the provisions proposed in § 156.1105 of the proposed rule without modification.

b. Quality Rating System (§ 156.1120)

In § 156.1120, we proposed standards for QHP issuers offering coverage on Exchanges to collect and report the necessary information to implement the QRS pursuant to section 1311(c)(3) of the Affordable Care Act. In paragraph (a), we proposed data submission requirements for a QHP issuer for the information necessary to calculate the quality ratings for coverage offered on Exchanges under the QRS, and in § 156.1120(b), we proposed to direct a QHP issuer to annually submit data necessary to calculate the QHP's quality ratings to HHS and the Exchange, on a timeline and in a standardized form and manner specified by HHS. In paragraph (a)(1), we proposed that a QHP issuer must submit data to calculate quality ratings for each QHP that has been offered in an Exchange for at least one year. In paragraph (a)(2), we proposed to direct a QHP issuer to submit data that has been validated in a form and manner specified by HHS.

In paragraph (a)(3), we proposed that a QHP issuer must include information in its data submission only for those QHP enrollees at the reporting level specified by HHS that is necessary to calculate the quality ratings.

We noted that multi-State plans, as defined in § 155.1000(a), are subject to reporting QRS data for calculation of quality ratings by HHS, as described in paragraph (a). The U.S. Office of Personnel Management (OPM) will provide guidance on quality reporting to issuers with whom it holds multi-State plan contracts.

Lastly, in paragraph (c), we proposed that an issuer may reference its QHP's quality rating information in its marketing materials, in a manner specified by HHS. Similarly, in the subsequent section 156.1125 regarding the ESS, we proposed a similar marketing standard in § 156.1125(c) that a QHP issuer may reference the ESS results for its QHPs in its marketing materials, in a manner specified by HHS.

Comment: Many commenters expressed concern that the proposed data validation process provides an unfair advantage to NCQA, would lead to NCQA having a monopoly and eliminate competition among accrediting entities. Commenters also noted that the proposed approach could disadvantage those issuers seeking accreditation from the other two recognized accrediting entities. Some commenters stated that some issuers may incur additional fees for services already purchased by URAC which may increase consumer premiums and affect their ability to continue participating in Exchanges.

Response: We acknowledge that in the initial years of QRS implementation, some QHP issuers may incur additional costs and burden for data validation since the QRS measure stewards may not be aligned with their chosen accrediting entity. However, we believe that the majority of QHP issuers offering coverage through the Exchanges in the initial years already have established relationships with HEDIS (Healthcare Effectiveness Data and Information Set) compliance auditors such that there should be minimal overall costs and burdens to the health care system. We refer commenters to the relevant estimated burden and costs in the Marketplace Quality Standards PRA package that is associated with the NPRM and available at *http://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.* We believe that aligning QRS measure validation requirements with the existing processes of the measure stewards provides consistency to ensure that valid and appropriate data are used to calculate quality rating information for public reporting. HHS anticipates refining the QRS over time as we gain experience about measures that are the most appropriate to the Exchange and approaches to quality measurement and health plan reporting evolve. As the QRS matures, we intend to consider changes to measures as well as ways to minimize the burden of QRS data collection, validation and submission. In addition, we are exploring ways to further streamline and align the accreditation standards with the quality reporting requirements to reduce duplicative and overlapping requirements.

Comment: Several commenters requested clarification of the data validation process and suggested alignment and coordination with the measure stewards so that there would not be multiple, independent audit requirements. They did not support having independent third party validation and monitoring by HHS because of concerns of duplicative requirements and cost. One commenter expressed concern regarding combining the HEDIS and CAHPS® validation processes causing issues with coordination with vendors and unnecessary burden.

Response: We clarify that we intend to direct QHP issuers to follow the data validation process of the QRS measure stewards. We do not intend to combine data validation processes for HEDIS and CAHPS® or ESS measure data; however, we clarify that, consistent with § 156.1125(b)(2), the survey sample data that the QHP issuer will need to provide to their contracted ESS vendor would need to be validated in a form and manner specified by HHS. We anticipate directing QHP issuers to use an independent third party to perform this validation. We intend to allow issuers to use the same third party validator used for QRS measures for validating the ESS survey sample, similar to the HEDIS CAHPS® process. We anticipate releasing technical guidance in 2014 to provide further details regarding data validation, finalized measures and measure specifications. We agree with commenters and believe that it is important to align and coordinate with existing data validation and submission requirements.

Comment: Several commenters requested that if HHS uses proprietary measures related to one accrediting entity, that HHS require that those data sets and quality measures be made freely available to all QHP issuers and to recognized accrediting entities to avoid imposing additional regulatory costs on those issuers seeking accreditation through the other entities. Some commenters requested consideration of allowing reporting of either HEDIS or quality measure data from the other two accrediting entities.

Response: We understand commenters' concerns regarding the need to make information on the QRS measure data sets available to all QHP issuers. We intend to provide details including QRS quality measure specifications (which will include details on the underlying measures that comprise the QRS) in technical guidance to be posted on an HHS Web site. Any organization may use the QRS measure specifications to report its performance without charge, and health plans may share their results. However, to designate the results as HEDIS data,

the results must have been audited by an NCQA-Certified HEDIS Auditor. A successful audit ensures reliability and comparability of results for measures that are designated as HEDIS. We believe that requiring submission of a standard set of QRS quality measures, validated in a consistent manner as specified by the measure stewards, for all QHP issuers is critical to the goals of the QRS including the ability to provide reliable, comparable, and uniform quality data to consumers regardless of the Exchange. In addition, we considered non-HEDIS health plan quality measures during the measure selection process. However, based on the measure selection and measure set evaluation criteria, that were developed using the National Quality Forum (NQF) Measure Evaluation Criteria and the Measures Application Partnership (MAP) Measure-Selection Criteria (which factored in importance, performance gap, reliability and validity, feasibility and alignment) the majority of proposed measures to be included in the QRS for the initial years are HEDIS measures. As noted in the proposed rule, after considering public comments and review of the measures outlined in the November 19, 2013 **Federal Register** Notice with Comment [38] on the QRS framework (QRS Notice), we intend to finalize the quality measures and anticipate publishing the finalized 2015 QRS measure set in the near future on a HHS Web site. We anticipate greater availability over time of more robust, data-driven clinical quality measures specified for health plans and which provide meaningful information regarding changes in a patient's health outcome and intend to continue to seek feedback regarding evolution of the QRS. In addition, we are exploring ways to further streamline and align the accreditation standards with the quality reporting requirements to reduce duplication and minimize the burden of QRS data collection, validation and submission.

Comment: One commenter requested that the QHP rating information be accessible in an easy electronic format and that the rating methodology be released to issuers at the same time as the scores are released to allow issuers to estimate their own ratings.

Response: We agree and clarify that the QRS and ESS information will be easy to access in an electronic format. We intend to minimize burden by providing QRS and ESS information to issuers in an electronic format such as through Electronic File Transfers so that the vast majority of stakeholders would be able to easily download and view the data. Further we clarify that the 2015 beta test QRS scoring specifications and technical guidance which will include the ESS scoring methodology, would be released in 2014, in advance of the release of scores, to provide issuers ample time to estimate ratings if they so choose.

Comment: Many commenters suggested revisions to the QRS measure set. Some commenters urged CMS to incorporate all CAHPS® measures from the ESS into the QRS and not just a subset.

Response: As we noted earlier in the rule, we appreciate comments related to the QRS measure set, as well as the ESS measures, and they will inform future modifications and evolution of Exchange quality reporting; however, these comments are outside the scope of this rulemaking.

Comment: Several commenters supported the proposed approach for product-level reporting for the QRS in the initial years because more granular reporting would not be feasible due to potential sample size issues. One commenter urged CMS to clarify what it means by product-level reporting and to align the level of reporting with the process used by accreditors. Many commenters recommended collection and reporting for the QRS at the metal tier level because consumer experience will be different for plans at different metal levels and this information is critical for enrollees' ability to make informed decisions about a particular plan.

Response: Although we acknowledge that consumer experience and characteristics may be different for QHPs at different metal levels, we believe that it is necessary, in the initial years of implementation, to provide a balanced approach regarding the level of data collection and public display for the QRS and ESS. We believe that there are fewer potential sample size issues with ESS reporting versus QRS reporting based on the populations eligible to participate in the ESS (that is, most measures include the entire enrollee population) and the limitations of eligible populations for the majority of QRS clinical quality measures (that is, most measures do not include the entire patient population, rather a subset of the population for which a clinical action is being measured). We also believe it is important to align the initial reporting of QRS information with the product-level requirements for QHP accreditation requirements. While we are maintaining the requirement that ESS data be submitted at the metal tier level, we anticipate aligning the public display of the ESS results with the QRS at the product-level for consistency across the quality measures and associated accreditation standards. We will re-examine the possibility of displaying the ESS results at a more granular level following an analysis of the 2015 beta test results. HHS is currently researching implementation of a process to collect data in a way that would allow us to assess the feasibility of level of coverage (for example, platinum, gold, silver, bronze, and catastrophic) reporting for the QRS as Exchanges mature and QHP enrollment grows. We maintain in the final rule that a QHP issuer must submit data at the level that will be specified by HHS but reiterate that the level of data submission may not align with the level of public reporting during the initial implementation of the QRS and ESS to provide greater flexibility regarding calculating scores based on different factors including adequate sample sizes and reliable measurement data.

Comment: Many commenters urged HHS to review and monitor the content of marketing materials as part of ongoing compliance reviews. Some commenters did not support the proposed marketing provision without accompanying HHS guidelines and a review process for marketing materials.

Response: We are finalizing the marketing provisions for the QRS and ESS, in § 156.1120 and § 156.1125 respectively, as proposed. We believe that it is important to set initial guidelines regarding referencing the QRS ratings and ESS results in issuer marketing materials for its respective QHPs and will be issuing future technical guidance that provides details regarding use and display of QRS and ESS results in issuer marketing materials. We note that we will consider effective and streamlined approaches of reviewing marketing materials as QHP issuer monitoring and oversight activities evolve in future years. As we stated in the Exchange final rule, States have significant experience with, and existing infrastructure to support monitoring and oversight of health plan marketing activities. We encourage a streamlined approach of incorporating review of a QHP issuer's marketing materials referencing quality ratings and ESS results as part of an Exchange's monitoring and oversight activities.

Comment: Some commenters supported the proposal to allow data collection based on combined populations if the plan offerings are the

[38] Patient Protection and Affordable Care Act; Exchanges and Qualified Health Plans, Quality Rating System (QRS) Framework, Measures and Methodology; Notice with Comment, 78 FR 69418 (Nov. 19, 2013).

same inside and outside the Exchange to enhance sample size and reliability of data. Several commenters did not support the proposed approach because of potential differences that may be reflected in quality, confusion for consumers and skewed QRS results. One commenter noted that some issuers may only offer QHPs on the Exchanges and therefore may not have the ability to combine data with products offered outside the Exchange. Commenters urged HHS to reconsider the proposed approach and consider alternatives such as comparison within a peer group.

Response: We agree with commenters regarding potential differences in enrollee characteristics of QHPs offered inside and outside the Exchange that may impact QRS and ESS results. We believe that it is important for the reliability and validity of the QRS to have adequate sample sizes and have the appropriate enrollee data to reflect meaningful information and differences regarding QHP quality to consumers selecting plans in the Exchange. During the 2015 beta testing period, we will not use data from QHPs outside the Exchange. We will assess the impact that this approach has on quality ratings in the beta test and will consider the feasibility of alternative approaches to ensure appropriate sample size and reliability of data. We anticipate issuing future guidance on whether plan offerings outside the Exchange that would be considered the same as one that is certified as a QHP and offered through the Exchange, as defined in § 153.500, can be included in the QRS and ESS.

Comment: Several commenters supported alignment of accreditation standards with QRS, ESS and QIS reporting. One commenter supported continued use of HEDIS and CAHPS® measures to ensure alignment with accrediting entities.

Response: We agree with commenters and note that to minimize burden and costs, it is important that alignment of QHP accreditation standards and quality reporting in the Exchanges be achieved as much as possible. We are considering updating standards for recognized accrediting entities and QHP accreditation in the near future and will solicit comment at that time regarding the potential of deeming QHP issuers and recognized accrediting entities in compliance with the accreditation requirements related to clinical quality measures and patient experience ratings by meeting the ESS and QRS requirements. We expect to continue use of robust, evidence-based measures including HEDIS, CAHPS® and other measures that reflect the National Quality Strategy priorities.

Comment: Many commenters supported the proposed timeframes of QRS and ESS implementation including 2015 beta testing and public reporting during the 2016 open enrollment period for the 2017 coverage year. A few commenters urged HHS to finalize the QRS measures and measure specifications to provide to issuers by May 2014 at the latest so that issuers would have sufficient time to collect and submit data in time for beta testing. A few commenters expressed concern that consumers would have to wait until the 2016 open enrollment period to access quality rating information. And some commenters requested further delay for implementation because of the disproportionate financial and staff burden on new and smaller plans.

Response: We believe that the 2015 beta testing and 2016 public reporting timeframes are appropriate and consistent with QHP issuer accreditation requirements for the FFE and most State Exchanges to report clinical quality and CAHPS® data in 2016. In addition, we believe the proposed timeframes offer a balanced approach to providing consumers with meaningful, tested QHP quality information and providing issuers ample time to prepare for collection and submission of validated data. The majority of plans already have established processes and experience for similar, existing quality reporting and we acknowledge that new and smaller plans may have increased burden; however, we believe that the phase in implementation of QRS and ESS beginning in 2015 with beta testing is the appropriate approach. We anticipate publishing the finalized QRS measure set soon after the publication of this final rule.

Summary of Regulatory Changes

We are finalizing the proposed provision with the following modification: In paragraph § 156.1120(a)(3), we replace ''at the reporting level specified by HHS'' with ''at the level specified by HHS'' to better distinguish between the level at which collection of QRS data as well as the level of public display of QRS data that would be required.

c. Enrollee Satisfaction Survey (§ 156.1125)

At § 156.1125(a), we proposed to direct QHP issuers to contract with an HHS-approved ESS vendor, as identified by § 156.1105, to administer the ESS of the QHP's enrollees. We also proposed to direct a QHP issuer to authorize its contracted ESS vendor to report survey results to HHS and the Exchange on the issuer's behalf. In paragraph (b), we proposed several data requirements to clarify the standards for collection and submission of ESS data. At § 156.1125(b)(1), we proposed to direct a QHP issuer to collect data of eligible enrollees for each QHP with more than 500 enrollees in the previous year that has been offered in an Exchange for at least one year following a survey sampling methodology provided by HHS. In paragraph (b)(2), we proposed to direct a QHP issuer to submit data, necessary to conduct the ESS, that has been validated in a form and manner specified by HHS.

In paragraph (b)(3), we proposed to direct a QHP issuer to include only those QHP enrollees at the reporting level specified by HHS, for data submitted for the ESS.

In paragraph (d), we proposed to direct a QHP issuer to submit data necessary to conduct the survey to its contracted ESS vendor on a timeline and in a form and manner specified by HHS. We stated our intention to align the timeframes of the proposed reporting requirements for the ESS and the QRS.

We also noted that Multi-State Plans, as defined in 45 CFR 155.1000(a), are subject to providing the data described in paragraph (b). The OPM will provide guidance on ESS reporting to issuers with whom it holds Multi-State Plan contracts.

Comment: The majority of commenters supported the proposed approach of aligning the ESS with existing CAHPS® surveys and processes. Some commenters requested that we leverage the annual, existing CAHPS® survey to meet the ESS requirement. One commenter requested clarification of how the CAHPS® 5.0 Adult Medicaid Survey would be modified for the Exchanges.

Response: We have leveraged existing CAHPS® surveys and processes in the development of the ESS (or QHP Enrollee Survey). In addition, we are considering approaches and will seek comment in future rulemaking for further alignment of QHP issuer accreditation and quality reporting in the Exchanges, including but not limited to ESS reporting. We clarify that the QHP Enrollee Survey includes all of the CAHPS® Health Plan 5.0 (Adult Medicaid) items with additional items based on a comprehensive review of the literature and related surveys, focus groups, stakeholder discussions, and input from a technical expert panel, as we described in the PRA supporting statements available under CMS Form

Number 10488 at *http://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

Comment: One commenter urged HHS to use the term ''experience'', rather than ''satisfaction'' when describing the survey because ''experience'' is considered a more objective and relevant source of data. A few commenters sought clarification regarding enrollee eligibility for the ESS and the QHP sample size requirements. Two commenters recommended larger sample sizes to ensure adequate response rates and to align with commercial CAHPS® or other satisfaction surveys.

Response: We have used the term ESS in this rule to mirror the statutory language of section 1311(c)(4) of the Affordable Care Act. However, the name of the ESS survey that will be administered to enrollees is ''QHP Enrollee Experience Survey''. We incorporate the size requirement in 156.1125(b) to align with the statutory language in section 1311(c)(4) that requires the development of an ESS to evaluate enrollee satisfaction with QHPs offered through an Exchange, ''for each such qualified health plan that had more than 500 enrollees in the previous year.'' We agree that adequate sample sizes and response rates are needed for statistically valid measurement rates. For more information on our approach to adequate sample size and response rates for the survey, we refer commenters to the PRA supporting statements available under CMS Form Number 10488 at *http://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

Comment: A few commenters supported collecting and reporting ESS measure data at the metal tier level to provide meaningful, disaggregated information to consumers. However, several commenters acknowledged that sample sizes could be too small to ensure valid and reliable measurement, especially in the early years of the Exchanges and therefore urged HHS to follow the same approach as QRS data collection, at the product-level.

Response: We believe that, similar to the approach for QRS data collection and reporting, it is important to have a balanced approach that will allow for us to provide useful information to consumers while ensuring that the data is statistically significant and reliable. We agree with commenters and acknowledge that sample sizes may be too small to report at the metal-tier level and therefore maintain in the final rule the intention to publicly display ESS measure data at the product-level in alignment with the QRS. However, we note that we believe that there are fewer potential sample size issues with ESS reporting versus QRS reporting based on the populations eligible to participate in the ESS. Most measures for the ESS include the entire enrollee population, while the majority of QRS measures are limited because they would not extend to the entire patient population. Similar to the QRS, we clarify that we intend to require QHPs to submit data at a level specified by HHS that will allow for us to determine the feasibility of using more granular levels for data reporting and public display in the future. At this point in time, we anticipate requiring the submission of ESS data at the more granular metal tier level and will be issuing technical guidance in the near future that provides further details regarding the ESS data reporting process.

Marketplace Survey

Sections 1313 and 1321(a) of the Affordable Care Act provide the Secretary with general authority to establish standards and regulations related to Exchanges, QHPs, and other components of title I of the Affordable Care Act. In § 155.1200(b)(3), we direct State Exchanges to submit performance monitoring data on an annual basis, which would include information on consumer satisfaction. Pursuant to this legal authority, HHS proposed a consumer experience survey, or the Marketplace survey, to assess consumer experience with the Exchanges [39] including obtaining information regarding aspects such as the application and eligibility determination process for Medicaid/Children's Health Insurance Program (CHIP) coverage and the Insurance Affordability Programs.

Comment: Many commenters supported establishing the Marketplace survey and directing State Exchanges to submit survey sampling data to HHS. Commenters also urged HHS to provide full access to the public of survey results, similar to the ESS. A few commenters recommended inclusion of Medicaid eligibles and data based on various demographics such as gender, language preference, and disability status.

Response: We maintain that the purpose of the Marketplace survey is to inform the quality improvement of Exchanges; we, therefore, intend to provide Exchanges with the results of the Marketplace survey and will consider ways to make this information available to the public. We appreciate the comments regarding suggestions for sampling data criteria which will inform future years of Marketplace survey implementation and may consider directing State Exchanges to submit survey sampling data to HHS. For more information on the Marketplace Survey, we refer commenters to the PRA supporting statements available under the CMS Form Number 10488 at *http://www.cms.gov/Regulations-and-Guidance/Legislation/Paperwork ReductionActof1995/PRA-Listing.html.*

Summary of Regulatory Changes

We are finalizing the proposals for ESS and Marketplace Surveys with the following modification: In paragraph § 156.1125(b)(3), we replace ''at the reporting level specified by HHS'' with ''at the level specified by HHS'' to better distinguish between the level at which collection and submission of ESS data by QHP issuers that would be required, as opposed to the level of public display or reporting of ESS data by Exchanges that would be required.

I. Part 158—Issuer Use of Premium Revenue: Reporting and Rebate Requirements

1. Subpart A—Disclosure and Reporting

a. ICD–10 Conversion Expenses (§ 158.150)

In September 2012, the Secretary changed the date on which issuers are required to adopt ICD–10 as the standard medical code set from October 1, 2013 to October 1, 2014. Subsequently, the Protecting Access to Medicare Act of 2014 (Pub. L. 113–93), enacted on April 1, 2014, mandated that this date be further delayed to October 1, 2015. Because the ICD–10 implementation date has been postponed past 2013, issuers may incur conversion costs beyond 2013 that would otherwise have been incurred only in 2012 and 2013. Therefore, in the proposed rule, we proposed to permit issuers to continue including their ICD–10 conversion costs as activities that improve health care quality (QIA), up to 0.3 percent of an issuer's earned premium in the relevant State and market, through the MLR reporting year in which ICD–10 implementation is required by the Secretary.

Comment: We received several comments supporting inclusion of ICD–10 conversion costs in QIA past 2013, as well as several comments opposing inclusion of these costs past 2014. Some commenters supporting the extension

[39] Agency Information Collection Activities: Health Insurance Marketplace Consumer Experience Surveys: Enrollee Satisfaction Survey and Marketplace Survey Data Collection; Notice, 78 FR 65658 (Nov. 1, 2013).

also requested that the 0.3 percent cap be raised to 0.4 percent.

Response: Because data continue to show that ICD–10 expenses have not, on average, exceeded 0.3 percent of premium, we are not raising the cap to 0.4 percent. In addition, because we recognize that the recent Congressional delay of the ICD–10 implementation date to 2015 may cause issuers to continue to incur implementation costs, such as concurrently maintaining ICD–9 and ICD–10 systems and performing additional testing, we are continuing to allow inclusion of ICD–10 conversion costs in QIA through the MLR reporting year in which ICD–10 implementation is required by the Secretary.

Summary of Regulatory Changes

We are finalizing the changes to § 158.150 as proposed.

2. Subpart B—Calculating and Providing the Rebate

a. MLR and Rebate Calculations in States with Merged Individual and Small Group Markets (§§ 158.211, 158.220, 158.231)

In the proposed rule, we proposed to amend § 158.220(a) and § 158.231(a) to specify that the individual and small group market data must always be aggregated if a State requires these two markets to be merged, and to amend § 158.211 to clarify that if a State establishes a higher MLR standard for the merged market, this higher standard must be used to calculate any rebates for the merged market.

Comment: We received one comment supporting the requirement to use the higher State MLR standards in calculating rebates. We received no comments specific to the proposed data aggregation standard in States that require the individual and small group markets to be merged.

Response: We appreciate the comment regarding the higher State MLR standards.

Summary of Regulatory Changes

We are finalizing the amendments proposed in §§ 158.211, 158.220, and 158.231 of the proposed rule without modification.

b. Accounting for Special Circumstances (§ 158.221)

On November 14, 2013, the Federal government announced a policy under which, if certain conditions were met, it would decline to enforce certain specified 2014 market reforms against certain non-grandfathered health insurance coverage in the individual or small group market renewed between January 1, 2014 and October 1, 2014, and requested that States adopt a similar non-enforcement policy.[40] CMS noted in the Proposed 2015 Payment Notice (78 FR 72322) that this transitional policy would not have been anticipated by issuers in setting rates for 2014 and stated that we were exploring modifications to different programs (including but not limited to the MLR program) to help mitigate the impact of this policy.

As we explained in the proposed rule, issuers that provided transitional coverage may have incurred additional administrative costs, such as expenses related to developing and sending required consumers notices, and creating and submitting new policy and rate filings. As further stated in the proposed rule, we also recognize that issuers of QHPs in the individual and small group markets may have incurred costs due to technical issues during the launch of the State Exchanges and FFEs.

Therefore, in the proposed rule, we proposed to account for the special circumstances of plans affected by the transitional policy and plans affected by the technical issues during the launch of the State Exchanges and FFEs by amending § 158.221 to allow for an adjustment to the MLR calculation for such issuers. Specifically, we proposed to allow issuers offering transitional coverage in the individual and small group markets to multiply the incurred claims and expenses for quality improving activities incurred in 2014 in the MLR numerator by 1.0001. We also proposed to allow issuers offering coverage through the State and Federal Exchanges in the individual and small group markets to multiply the incurred claims and expenses for quality improving activities incurred in 2014 in the MLR numerator by 1.0004. These adjustments would only extend to issuers in the individual and/or small group markets that offered transitional coverage or participated in the State Exchanges and FFEs, and only for the 2014 reporting year. A transitional policy cost adjustment to the formula for calculating an issuer's MLR would not apply in States that did not implement the transitional policy, or in States that did, to issuers that did not elect to implement it. Similarly, the proposed adjustment to the formula for calculating an issuer's MLR related to the initial Exchange technical issues would not be available to issuers that did not elect to participate in the Exchanges.

Comment: Some commenters expressed support for adjustments to the MLR formula for plans affected by the transitional policy and plans affected by the technical issues during the launch of the State and Federal Exchanges. These commenters also expressed concern that the adjustments are inadequate, but none provided specific data to support this assertion or suggested specific alternative adjustments. Commenters requested that both adjustments also be provided for 2013; one of these commenters requested that the adjustment related to Exchange technical issues continue in 2015; while two of these commenters requested that the adjustment related to transitional policy continue while transitional coverage remains in force. One commenter additionally recommended that instead of multiplying the MLR numerator by an adjustment factor, CMS permit issuers to deduct actual administrative costs related to Exchange implementation from the MLR denominator. Another commenter recommended this alternative approach (that is, to permit a deduction of actual administrative expenses) for costs related to the transitional policy, and recommended that CMS waive the Exchange user fee for issuers affected by Exchange implementation problems instead of the proposed adjustment. Both these commenters argued that such alternative approaches would benefit issuers who meet or exceed the MLR standard.

In contrast, other commenters expressed concern that adjustments to the MLR formula may undermine the MLR program's effectiveness in keeping premiums down, and urged CMS not to extend the proposed adjustments beyond 2014. One commenter further requested that issuers be required to demonstrate that they in fact incurred additional administrative costs.

Response: The proposed adjustments were based on the best data available to us, and the types of expenses we considered were the types of expenses described by the commenters. Absent more specific and substantiated recommendations with accompanying supporting data, we do not have a basis for increasing the adjustments. Further, the costs issuers incurred in connection with the transitional policy are often one-time and will decline over time, and the same is true of the Exchanges-related costs as the functioning of the Exchanges improves in 2015. Lastly, we recognize that the proposed adjustments to the MLR numerator only provide relief to issuers that did not meet the MLR standard, since such adjustments would merely cause issuers meeting the

[40] Letter to Insurance Commissioners, Center for Consumer Information and Insurance Oversight, November 14, 2013. *Available at: http://www.cms.gov/CCIIO/Resources/Letters/Downloads/commissioner-letter-11-14-2013.pdf.*

MLR standard to exceed the standard by a larger percentage than they already did. However, we find that the alternative adjustments to the MLR denominator suggested by some commenters have similar limitations. In addition, such alternative adjustments would be more administratively burdensome to implement than the proposed uniform adjustments, and would be more susceptible to abuse. We believe that the proposed adjustments appropriately account for the special circumstances related to implementation of the transitional policy and initial technical problems of the Exchanges, while still requiring issuers to comply with the statutory MLR requirement.

Summary of Regulatory Changes

We are finalizing the amendments proposed in § 158.221 of the proposed rule without modification.

c. Distribution of *De Minimis* Rebates (§ 158.243)

The MLR December 7, 2011 final rule defines the threshold amounts below which rebates are considered to be *de minimis* and sets forth the provisions for distribution of such rebates. In the proposed rule, we proposed to amend the provisions for *de minimis* rebates in § 158.243 to clarify how issuers must distribute rebates where: (1) all of an issuer's rebates are *de minimis,* or (2) distribution of *de minimis* rebates to enrollee(s) whose rebates are not *de minimis* would result in an enrollee receiving a rebate that exceeds the enrollee's annual premium. In these two situations, we proposed requiring the issuer to distribute *de minimis* rebates to enrollees in the policies that generated the *de minimis* rebates, and not to aggregate such rebates and distribute them to other enrollees whose rebates are not *de minimis.*

Comment: We received several comments opposing the proposed amendments to the *de minimis* provisions. The commenters argue that requiring distribution of any *de minimis* rebates directly to enrollees is contrary to the rationale behind the MLR *de minimis* provision. The commenters assert that the administrative burden of directly distributing *de minimis* rebates would exceed the benefit to consumers. One of these commenters recommended including the total amount of *de minimis* rebates, when all of an issuer's rebates are *de minimis,* in premium rate calculations for the following year. This commenter also recommended that in cases where distribution of *de minimis* rebates to enrollee(s) whose rebate are not *de minimis* would result in an enrollee receiving a rebate that exceeds the enrollee's annual premium, the issuer be allowed to place the excess of the aggregated *de minimis* rebate over premium in a reserve fund, and use it first toward the cost of operating this fund, and second in premium rate calculations for the following year. Another commenter recommended that issuers be allowed to distribute the *de minimis* rebates to the State for use in health education.

Response: We acknowledge the commenters' concern that the administrative costs of directly distributing *de minimis* rebates may impose administrative costs in excess of the rebate amounts. At this time, few, if any, enrollees are known to be affected by the two situations described in the proposed rule. Therefore, in order to consider alternative approaches to the treatment of *de minimis* rebates in these two situations, we are not finalizing the proposed clarifications and will address this issue in future rulemaking.

Summary of Regulatory Changes

We are not finalizing the amendments proposed in § 158.243 of the proposed rule at this time.

IV. Provisions of Final Regulations

For the most part, this final rule incorporates the provisions of the proposed rule. Those provisions of this final rule that differ from the proposed rule are as follows:

Changes to § 144.103

- Adds definitions of ''product'' and ''plan'' and clarifies that standards for uniform modification related to benefits and cost sharing apply at the plan-level.

Changes to § 146.152

- Applies the definition of uniform modification of coverage and renewal notice requirements to issuers offering coverage in the small group market.
- Indicates that a State may only broaden the uniform modification standard criteria addressing cost-sharing structure and service area.
- Adds language to clarify and amend the term ''pursuant to applicable Federal or State requirements.''
- Deletes the reference to ''counties'' in the service area criterion.

Changes to § 146.180

- Adds that an opt-out election for multiple self-funded, non-Federal governmental plans subject to a single collective bargaining agreement must specify each group health plan subject to the agreement.
- Adds that a sponsor submitting opt-out elections for multiple self-funded, non-Federal governmental plans that are not subject to a collective bargaining agreement, must submit a separate opt-out election document for each such plan.
- Replaces the special rule for timely filings of opt-out elections by U.S. mail with a special rule for timely filings of opt-out elections in electronic format, and provides that if the latest filing date falls on a Saturday, Sunday, or a State or Federal holiday, CMS accepts filings submitted the next business day.

Changes to § 147.106

- Applies the definition of uniform modification of coverage and renewal notice requirements only to issuers offering coverage in the individual and small group markets.
- Adds language to clarify and amend the term ''pursuant to applicable Federal or State requirements.''
- Indicates that a State may only broaden the uniform modification standard criteria addressing cost-sharing structure and service area.
- Deletes the reference to ''counties'' in the service area criterion.
- Adds that Medicare eligibility or entitlement is not a basis for nonrenewal or termination of an individual's health insurance coverage in the individual market.

Changes to § 148.122

- Applies the definition of uniform modification of coverage and renewal notice requirements to issuers offering coverage in the individual market.
- Adds language to clarify and amend the term ''pursuant to applicable Federal or State requirements.''
- Indicates that a State may only broaden the uniform modification standard criteria addressing cost-sharing structure and service area.
- Deletes the reference to ''counties'' in the service area criterion.

Changes to § 148.220

- Aligns introductory text with the statutory language.
- Clarifies that, to be an excepted benefit, fixed indemnity insurance in the individual market can be provided only to individuals who attest in their application (1) that they have other health coverage that is minimum essential coverage; or (2). that they are treated as having minimum essential coverage due to their status as a bona fide resident of any possession of the United States pursuant to Code section 5000A(f)(4)(B).
- Clarifies that fixed indemnity insurance pays in a fixed dollar amount per period of hospitalization or illness, per service, or both.

• Requires notice to be displayed in the application for the fixed indemnity insurance (as opposed to the plan materials).

• Adds a new paragraph specifying an applicability date for the minimum essential coverage and notice requirements to policies issued on or after January 1, 2015. For policies issued before that date, this paragraph also specifies an applicability date for the notice requirement to plan years beginning on or after January 1, 2015, and for the attestation requirement, to plan years beginning on or after October 1, 2016.

Changes to the Allocation of Reinsurance Contributions

• Modifies our allocation of reinsurance collections if those collections fall short of our estimates for a particular benefit year: we will allocate the reinsurance collections for that benefit year first to the reinsurance payment pool, and second to administrative expenses and the U.S. Treasury.

Changes to § 155.120

• Makes technical revisions to § 155.120(c) to clarify that organizations must comply with other, non-Exchange, applicable non-discrimination statutes.

• Revises § 155.120(c)(2) to clarify that organizations that limit their provision of certified application counselor services to a defined population under this exception must still comply with the non-discrimination provisions in paragraph (c)(1)(ii) with respect to the provision of these services to that defined population.

Changes to § 155.206

• Clarifies that the requirements applicable to consumer assistance entities under this section refer to the applicable Federal regulatory requirements that have been implemented pursuant to section 1321(a)(1) of the Affordable Care Act, including provisions of any agreements, contracts, and grant terms and conditions between HHS and the consumer assistance entity that interpret those statutory and regulatory requirements or establish procedures for compliance with them.

• Clarifies that HHS must provide a written notice to a consumer assistance entity of its investigation, rather than requiring HHS to provide a written notice to an entity each time HHS learns of a potential violation.

• Adds a factor allowing HHS to take into consideration whether other remedies or penalties have been imposed for the same conduct or occurrence.

• Provides a six-year statute of limitations period.

Changes to § 155.210

• Removes the provision specifying non-Federal standards that prohibit any individual or entity from acting as Navigators that would be eligible to participate under standards applicable to the FFE.

• Renumbers and extends to all Exchanges the provision regarding non-Federal standards that would, as applied or implemented in a State, prevent the application of Federal requirements applicable to Navigators. Adds specification for requirements that prevent the Exchange's implementation of the Navigator program consistent with Federal requirements.

• Revises the provision specifying requirements to carry errors and omissions coverage and replaces it with ''any requirement that, in effect, would render all Navigators in the Exchange to be licensed agents and brokers.''

• Adds that in an FFE, no health care provider individual or entity shall be ineligible to operate as a Navigator solely because it receives consideration from a health insurance issuer for health care services provided.

• Adds that in an FFE, no individual or entity shall be ineligible to operate as a Navigator solely on the basis that it does not maintain its principal place of business in the Exchange service area.

• Moves the provision prohibiting compensation on a per-application, per-individual-assisted, or per-enrollment basis to § 155.215 to apply only in the FFE.

• Adds that gifts, gift cards, or cash may exceed nominal value for the purpose of providing reimbursement for legitimate expenses incurred by a consumer in effort to receive Exchange application assistance, such as, but not limited to, travel or postage expenses.

• Adds that Exchange funds cannot be used to purchase gifts or gift cards, or promotional items that market or promote the products or services of a third party.

• Adds that consumers may be solicited by going door-to-door or other unsolicited means of direct contact, including calling a consumer if there is a pre-existing relationship and other applicable laws are complied with.

• Adds that outreach and education activities may include going door-to-door or other unsolicited means of direct contact, including calling a consumer.

• Adds that automatic telephone dialing system or an artificial or prerecorded voice may be used to initiate contact consumers if there is a pre-existing relationship and other applicable laws are complied with.

• Changes the requirement to obtain authorization to access a consumer's personally identifiable information in a form and manner determined by the Secretary to a form and manner determined by the Exchange, adds that the authorization must be retained in a form and manner determined by the Exchange, and clarifies the retention period is no less than six years. Removes explicit reference to Federal regulations at 45 CFR 92.42 and 45 CFR 74.53.

• Clarifies that the duty to provide information in a fair, accurate and impartial manner includes providing fair, impartial, and accurate information that assists consumers with submitting the eligibility application, clarifying the distinctions among QHPs, and helping consumers make informed decisions during the health coverage selection process.

Changes to § 155.215

• Expressly enumerates, rather than incorporates applicable provisions under § 155.210 by reference, the provisions regarding non-Federal standards that would prevent the application of the provisions of title I of the Affordable Care Act as applied to the non-Navigator assistance personnel program subject to § 155.215.

• Removes the provision specifying non-Federal standards that prohibit any individual or entity from acting as non-Navigator assistance personnel subject to § 155.215 that would be eligible to participate under standards applicable to the FFE.

• Extends to all Exchanges the provision regarding non-Federal standards that would, as applied or implemented in a State, prevent the application of Federal requirements applicable to non-Navigator assistance personnel subject to § 155.215. Adds specification for requirements that prevent the Exchange's implementation of the non-Navigator assistance program consistent with Federal requirements.

• Adds that in an FFE, no health care provider individual or entity shall be ineligible to operate as non-Navigator assistance personnel solely because it receives consideration from a health insurance issuer for health care services provided.

• Adds that in an FFE, no individual or entity shall be ineligible to operate as non-Navigator assistance personnel solely on the basis that it does not maintain its principal place of business in the Exchange service area.

• Adds a provision prohibiting compensation on a per-application, per-individual-assisted, or per-enrollment basis to § 155.215 to apply only in the Federally-facilitated Exchange.

• Adds an effective date of November 15, 2014 for the prohibition on compensation on a per-application, per-individual-assisted, or per-enrollment basis.

• Changes the requirement to obtain and maintain authorization to access a consumer's personally identifiable information in a form and manner determined by the Secretary to a form and manner determined by the Exchange, and clarifies the retention period is no less than six years.

Changes to § 155.225

• Adds duty to provide information to individuals and employees about the full range of QHP options and insurance affordability programs for which they are eligible, which includes providing fair, impartial, and accurate information that assists consumers with submitting the eligibility application, clarifying the distinctions among QHPs, and helping consumers make informed decisions during the health coverage selection process.

• Revises provision specifying referrals to third parties not required to act in the best interest of applicants assisted to those not required to provide fair, accurate, and impartial information.

• Removes the provision specifying non-Federal standards that prohibit any individual or entity from acting as certified application counselors that would be eligible to participate under standards applicable to the FFE.

• Renumbers and extends to all Exchanges the provision regarding non-Federal standards that would, as applied or implemented in a State, prevent the application of Federal requirements applicable to certified application counselors. Adds specification for requirements that prevent the Exchange's implementation of the certified application counselor program consistent with Federal requirements.

• Adds that in an FFE, no health care provider individual or entity shall be ineligible to operate as certified application counselors solely because it receives consideration from a health insurance issuer for health care services provided.

• Removes proposed requirement to maintain a physical presence in the Exchange service area. Adds that in an FFE, no individual or entity shall be ineligible to operate as a certified application counselor solely on the basis that it does not maintain its principal place of business in the Exchange service area.

• Adds that gifts, gift cards, or cash may exceed nominal value for the purpose of providing reimbursement for legitimate expenses incurred by a consumer in effort to receive Exchange application assistance, such as, but not limited to, travel or postage expenses.

• Adds that consumers may be solicited by going door-to-door or other unsolicited means of direct contact, including calling a consumer if there is a pre-existing relationship and other applicable laws are complied with.

• Adds that outreach and education activities may include going door-to-door or other unsolicited means of direct contact, including calling a consumer.

• Adds that automatic telephone dialing system or an artificial or prerecorded voice may be used to initiate contact consumers if there is a pre-existing relationship and other applicable laws are complied with.

• Adds an effective date of November 15, 2014 for the prohibition on compensation on a per-application, per-individual-assisted, or per-enrollment basis, and limits the application of this provision to certified application counselors in FFEs.

• Adds a requirement to obtain and maintain authorization to access a consumer's personally identifiable information in a form and manner determined by the Secretary to a form and manner determined by the Exchange, and changes the retention period for the authorization to access a consumer's personally identifiable information to no less than six years.

Changes to § 155.260

• Inserts the numerical penalty amount instead of a reference to section 1411(h) of the Affordable Care Act where the maximum penalty is specified.

Changes to § 156.265

• Revises the provisions proposed in 156.265(d)(1) of the proposed rule as the entire paragraph (d), and removes all 156.265(d)(2), allowing each Exchange to establish its own premium payment dates.

Changes to § 156.270

• Directs that QHP issuers must follow the transaction rules established by the Exchange in accordance with § 155.430(e).

Changes to § 155.285

• Removes the references to sections 1411(h)(1) and (2) of the Affordable Care Act and instead inserts the numerical maximum penalty amounts.

• Adds a factor allowing HHS to take into consideration whether other remedies or penalties have been imposed for the same conduct or occurrence at § 155.285(b)(1)(viii).

Changes to § 155.410

• Clarifies that starting in 2014, the Exchange must provide written notice of annual open enrollment to each enrollee no earlier than the first day of the month before the open enrollment period begins and no later than the first day of the open enrollment period.

Changes to § 155.420

• Clarifies that later coverage effective dates for birth, adoption, placement for adoption, or placement for foster care will be effective the first of the month.

• Clarifies that earlier effective dates are allowed if all issuers in an Exchange agree to effectuate coverage only on the first day of the specified month.

• Adds that consumers may report a move in advance of the date of the move.

• Establishes a special enrollment period for individuals losing medically needy coverage.

Changes to § 155.625

• Clarifies, in paragraphs (a) and (b), that the Exchange may adopt an exemption eligibility determination made by HHS for applications submitted before the start of open enrollment for 2016.

Changes to § 155.705

• Revises the conditions under which a SHOP may permit a one-year transition to employee choice.

• Adds a time frame for submission of the State Insurance Commissioner's recommendation that employee choice not be implemented and for the SHOP's decision based on that recommendation.

• Clarifies that the transitional policy only applies in 2015.

• Revised in 155.705(b)(3)(vi) that options should be singular as one option is available for FF–SHOPs and another for State-based SHOPs

Changes to § 155.725

• Limits the annual employer and employee election period, which begins no sooner than November 15, 2014, so that it applies only in FF–SHOPs.

Changes to § 156.122

• Requires a health plan's exception process to include the ability to expedite the reviews for exigent circumstances.

Changes to § 156.130

• Removes the annual limitation on deductibles for small group plans.

Changes to § 156.1120 and § 156.1125

• Clarifies, for the QRS and the ESS, the distinction between the required level of data submission and collection by QHP issuers, specified by HHS, and the level of public reporting or display by Exchanges.

Changes to § 158.243

• Does not finalize requirements for distribution of *de minimis* rebates.

V. Waiver of Delay in Effective Date

Section 553(d) of the APA (5 U.S.C. 553(d)) requires that a final rule be effective not less than 30 days from the date of its publication in the **Federal Register** and the Congressional Review Act (5 U.S.C. 801(a)(3)), which requires a 60-day delayed effective date for major rules. This 30-day delay in effective date can be waived, however, if otherwise provided by an agency for good cause found and published with the rule. For the reasons set forth below, we find good cause to waive the 30-day delay in effective date in connection with the amendments made in this rule at § 155.705 related to employee choice, because the delay is impracticable and contrary to the public interest.

A 30-day delay in the effectiveness of the amendments made to § 155.705 in this rule would mean that, in States with an FF–SHOP, State Insurance Commissioners could not comply with the deadline to recommend that employee choice not be implemented, and for a SHOP to make a decision based on that recommendation, as set forth in the rule. Pursuant to § 155.705(b)(3)(vii), HHS requires that both the State Insurance Commissioner's recommendation and the SHOP's decision be completed prior to the end of the window within which QHPs can submit applications for QHP certification, and that in States with an FF–SHOP, the State Insurance Commissioner's recommendations must be submitted on or before June 2, 2014. The QHP certification application window for the FFE is expected to open on May 27, 2014, and is expected to close on June 27, 2014. This would mean that issuers would not know whether employee choice would be available in a State within an FF–SHOP prior to the close of the QHP application window. Accordingly, issuers would be unable to make fully informed decisions about SHOP participation and appropriate product pricing when compiling and submitting their QHP certification applications, including the rate information included in their applications. This uncertainty regarding implementation of employee choice potentially could result in fewer QHPs being offered in the State's FF–SHOP or products being unnecessarily priced higher than necessary, which would negatively affect the small employers that would participate in the FF–SHOP, as well as their employees. In order to avoid these potential harms to small employers and employees, we believe the 30-day delay in the effective date of this provision would be impracticable and contrary to the public interest.

Additionally, it was impracticable for HHS to have proposed this approach sooner. The full scope of the issuer and State concerns about implementing employee choice that motivated the amendments to § 155.705 were not made known to HHS until early 2014. HHS previously had anticipated that its 2013 decision not to require employee choice in SHOPs in 2014 would provide issuers of QHPs and SADPs with ample time to prepare to fully implement employee choice for plan years beginning in 2015. However, early in 2014, HHS learned that some issuers and State Departments of Insurance continued to be concerned about the potential effect of employee choice on State small group markets. Because employee choice is, for the most part, a relatively new concept in the small group market and because many issuers and States do not have a lot of experience in an employee choice environment, we understand that some issuers believe they do not have sufficient information to make pricing and plan design decisions for 2015 that would not adversely affect small group market consumers.

For the reasons outlined above, CMS finds good cause under the APA, 5 U.S.C. 553(d)(3) to waive the delay in effective date and proceed directly with the issuance of a final rule with an immediate effective date.

VI. Collection of Information Requirements

Under the Paperwork Reduction Act (PRA) of 1995, we are required to provide 30-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. This final rule contains information collection requirements (ICRs) that are subject to review by OMB. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 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 each of these issues, which contain ICRs. All comments received on these ICRs will be addressed at the time the 30-day notice is published to solicit public comments.

A. ICRs Regarding Recertification for Certified Application Counselors (§ 155.225)

Under § 155.225(d)(7), certified application counselors are required to be recertified on at least an annual basis after successfully completing recertification training as required by the Exchange. Each Exchange is required to establish its own recertification process and standards consistent with these requirements. We expect that establishing a process for recertification will include creating a recertification request form (or similar document) in Exchanges that directly certify certified application counselors. We estimate that up to 18 State Exchanges will develop their own recertification request form.[41] We estimate that the development of a recertification request form, as may be applicable for Exchanges that directly certify certified application counselors, will take a health policy analyst (at $49.35 labor cost per hour) up to 1 hour to create, a senior manager (at $79.08 cost per hour) up to .5 hours (30 minutes) for review, and an attorney up to .5 hours (at $90.15 labor cost per hour) for legal review. We estimate that the one-time burden will be two hours with a cost burden of $134 for each Exchange, and the total burden for 18 State Exchanges will be 36 hours with a cost burden of $2,412.

There are recordkeeping requirements associated with developing and maintaining a request form. We estimate that the time burden associated with maintaining a copy of the request form will be .016 hours (1 minute); we assume that a mid-level health policy analyst will maintain electronic copies

[41] We estimate 18 State Exchanges (which includes Utah's SHOP) will develop their own processes for recertification. HHS will establish a single process in all FFEs.

of the form at minimal cost, which we estimate as $0.79 as a one-time requirement for the Exchange. The total burden for 18 Exchanges is estimated to be 1.08 hours and the total cost burden will be $14.22.

There will also be third-party disclosure requirements for 18 State Exchanges associated with reviewing each certified application counselor's recertification request, which will require the Exchange to notify the individual of the result of its review and issue a new certificate for each individual who successfully completes recertification. This notice requirement will apply to the Exchange on an annual basis. We estimate that it will take a mid-level health policy analyst in the Exchange up to .08 hours (5 minutes) to notify an individual. The estimated cost burden is $4.11 for each individual notice, including the certificate. For purposes of this analysis, we estimate that there will be approximately 30,000 certified application counselors nationwide, or approximately 10,600 application counselors in 18 State Exchanges. The total cost burden will be approximately $2,422 for each State Exchange. The total burden for 18 State Exchanges will be approximately 883 hours and the total cost burden will be $43,593. There will be recordkeeping requirements associated with issuing each individual notice. We estimate that the time burden associated with maintaining a copy of the notice and certificate will be .016 hours (1 minute); we assume that a mid-level health policy analyst, with a labor cost of $49.35 an hour, will maintain electronic copies of the form at minimal cost, which we estimate as $0.79 per notice for each individual certified application counselor. The total recordkeeping burden for 10,600 certified application counselors in 18 State Exchanges is estimated to be 170 hours and the total cost burden will be $8,374, or $265 per Exchange.

For Exchanges that designate organizations to directly certify certified application counselors under § 155.225(b)(1), there will be requirements associated with implementing a recertification process under the applicable Exchange's standards. We expect that this process will include creating and issuing a recertification request form (or similar document) for an organization's certified application counselors to submit to indicate their intention to be recertified and provide an updated conflicts of interest disclosure or other attestations as may be required. We estimate that up to 5,000 designated organizations will develop their own recertification request form. We estimate that the development of a recertification request form will take a health policy analyst (at $49.35 labor cost per hour) up to 1 hour to create, a senior manager (at $79.08 labor cost per hour) up to .5 hours (30 minutes) for review, and an attorney (at $90.15 labor cost per hour) up to .5 hours (30 minutes) for legal review. We estimate that the one-time cost burden will be $134 for each organization. The total one-time burden for 5,000 organizations nationwide will be 10,000 hours and the total cost burden will be $670,000.

There will be recordkeeping requirements associated with developing and maintaining a request form. We estimate that the time burden associated with maintaining a copy of the request form will be .016 hours (1 minute); we assume that a mid-level health policy analyst with a labor cost of $49.35 an hour will maintain electronic copies of the form at minimal cost, which we estimate as $0.79 as a one-time requirement for each organization. The total one-time burden for 5,000 organizations nationwide is estimated to be 80 hours and the total cost burden will be $3,950.

There will also be third-party disclosure requirements for designated organizations associated with reviewing each certified application counselor's recertification request, which will require the organization to notify the individual of the result of its review and issue a new certificate as appropriate. This notice requirement will apply to the organization on an annual basis. For purposes of estimating the burden on designated organizations, we assume that of the estimated 30,000 certified application counselors nationwide, approximately 19,400 will be directly certified by designated organizations, or four certified applications counselors on average per designated organization. We estimate that it will take a mid-level health policy analyst up to .08 hours (5 minutes) to notify an individual and issue a new certificate. The estimated cost burden is $4.11 for each individual notice. For an estimated 19,400 certified application counselors nationwide, or approximately four certified application counselors on average in each organization, the total cost burden will be approximately $16.44 for each organization. The total burden for 5,000 designated organizations nationwide will be approximately 1,617 hours and the total cost burden will be approximately $79,734.

There will be recordkeeping requirements associated with issuing a certificate. We estimate that the time burden associated with maintaining a copy of each certificate issued at recertification will be .016 hours (1 minute). We assume that a mid-level health policy analyst with a labor cost of $49.35 an hour will maintain electronic copies of the form at minimal cost, which we estimate as $0.79 per certificate for each organization. The total recordkeeping cost per organization will be $3.16. The total burden for 5,000 organizations nationwide will be 323 hours and the total cost burden will be approximately $ 15,326.

There will be third-party disclosure requirements for individual certified application counselors associated with completing the requirements for recertification, whether done directly through the Exchange or through an Exchange-designated certified application counselor organization. Such recertification requirements will include completing Exchange required training and might also include satisfying other requirements consistent with the Exchange-established processes, such as providing conflicts of interest disclosures, other attestations and submitting a recertification request form (or similar document) and other attestations. These requirements will apply to certified application counselors on an annual basis. Although nothing prohibits individual certified application counselors or organizations from being funded through sources such as applicable private, State, or Federal programs, we expect that certified application counselors will not be guaranteed any specific funding. We estimate the professional wage of certified application counselors for this type of work as equivalent to that of an eligibility interviewer for assistance from government programs and agency resources. We estimate that it will take a certified application counselor with a labor cost of $26.65 an hour up to 0.17 hours (10 minutes) to complete and submit the recertification request to the organization or Exchange, as applicable. The estimated cost burden will be $4.53 for each individual seeking recertification. We estimate that there will be approximately 30,000 recertification requests provided, for a total burden of 5,000 hours and a total cost burden of $135,915 for all certified application counselors nationwide.

There will be third-party disclosure requirements associated with taking recertification training. We expect that an individual certified application counselor will provide proof to the organization or Exchange that he or she has successfully completed the recertification training, in accordance with the Exchange's process. We

estimate that it will take a certified application counselor with a labor cost of $26.65 an hour up to .03 hours (2 minutes) to provide the training certificate to the organization or Exchange, as may be required. The total estimated cost burden is $0.80 for each individual seeking recertification. We estimate that there will be approximately 30,000 training certificates provided, and the total burden will be 1,000 hours, with a total cost burden of $24,000 for all certified application counselors nationwide.

In addition, there will be recordkeeping requirements associated with the training certification. We expect each person who receives training will obtain and maintain a record of training certification. We estimate that the time burden associated with maintaining proof of training certification is .016 hours (1 minute), since we assume this proof will be maintained through electronic copies, at minimal cost. The total cost estimated for each individual to maintain proof of training certification will be $0.43. The total burden will be 500 hours and the total cost burden will be $12,900 for all certified application counselors nationwide.

B. ICRs Regarding Consumer Authorization (§§ 155.210 and 155.215)

For purposes of the ICRs associated with these provisions, we use the same labor cost estimates that were used in the final Navigator and non-Navigator assistance personnel standards rule (Patient Protection and Affordable Care Act; Exchange Functions: Standards for Navigators and Non-Navigator Assistance Personnel, July 17, 2013, 78 FR 42842). Navigator personnel and non-Navigator assistance personnel to which § 155.215 applies are estimated to have a labor cost of $20 per hour. Project leads for Navigator and non-Navigator assistance entities to which § 155.215 applies are estimated to have a labor cost of $29 per hour. Senior executives for Navigator and non-Navigator assistance entities to which § 155.215 applies are estimated to have a labor cost of $48 per hour. These are estimates commonly used for estimating paperwork burden and do not represent a recommendation or a requirement of how much Navigator and non-Navigator personnel to which § 155.215 applies are to be paid. There is nothing in the regulations that require any of these workers to be paid any specific amount.

In the ICR currently approved under OMB control number 0938–1220, we noted that there were 105 Navigator grantee organizations at that time in FFEs, including SPEs, and we estimated that there were 3,000 individuals working as Navigators. We estimated the number of non-Navigator assistance project leads to be 300 and 1,800 for personnel and we use those estimates here as well.

In accordance with § 155.210(e)(6) and § 155.215(g), Navigators, as well as those non-Navigator personnel to whom § 155.215 applies, will be required to maintain procedures to inform consumers of the functions and responsibilities of Navigators and non-Navigator assistance personnel (as applicable), and to obtain authorization for the disclosure of consumer information to the Navigator or non-Navigator assistance personnel (as applicable). This will be a one-time requirement for the organization. We estimate that it will take a Navigator or non-Navigator assistance personnel project lead up to 2 hours to create the form for providing authorization to applicants, and a Navigator or non-Navigator senior executive up to 1 hour to review the procedure, for a total time burden of up to 3 hours. We estimate the cost burden associated with creating this procedure will be $106 per organization. The total cost for all 105 Navigator grantee organizations is estimated to be $11,130. The total cost for all 300 non-Navigator assistance personnel organizations is estimated to be $31,800.

There are also recordkeeping requirements associated with developing and maintaining a model agreement and authorization form. Each organization is expected to maintain a copy of the executed forms. We estimate that the time burden associated with maintaining a copy of executed agreement and authorization forms for each consumer will be 0.016 hours (1 minute); we assume these will be maintained through electronic copies with minimal cost.

In addition, there will be burdens on individual Navigators, as well as those non-Navigator assistance personnel to whom § 155.215 applies. Under § 155.210(e)(6) and § 155.215(g), respectively, Navigators and non-Navigator assistance personnel will be required to inform consumers of the functions and responsibilities of Navigators and non-Navigator assistance personnel and obtain authorization for the disclosure of consumer information to a Navigator or non-Navigator assistance personnel prior to obtaining the consumer's personally identifiable information. In the final rule on certified application counselors (78 FR 42824, 42854–42855), we estimated that it will take a certified application counselor 0.25 hours (15 minutes) to provide consumers with information about the functions and responsibilities of a certified application counselor, obtain their authorizations, and provide any applicable conflict of interest disclosures. Because here we are only estimating the time required to provide consumers with information about the functions and responsibilities of a Navigator or non-Navigator assistance personnel and obtain their authorization, we estimate that it will take a Navigator or non-Navigator assistance personnel 0.1667 hours (10 minutes) to perform this task. The total cost estimate for the consumer authorization process for Navigators and non-Navigator assistance personnel therefore will be $3.33. The total time burden on all 3,000 Navigators is estimated to be approximately 500 hours, and the total cost burden on all 3,000 Navigators is estimated to be $9,990. The total time burden on all 1,800 non-Navigator assistance personnel is estimated to be 300 hours, and the total cost burden on all 1,800 non-Navigator assistance personnel is estimated to be $5,994.

C. ICRs Regarding Enrollee Satisfaction & Marketplace Surveys (§§ 155.1200, 156.1105 and 156.1125)

In § 156.1105 of this rule, we establish a monitoring and appeals process for HHS-approved ESS vendors. Specifically, in § 156.1105(d), we establish a process in which HHS will monitor approved vendors for ongoing compliance. HHS may require additional information from approved vendors to be periodically submitted in order to ensure continued compliance. We estimate that HHS will receive applications from approximately 40 ESS vendors. We estimate that it will take no longer than one hour for each vendor (at a cost of $24.10 per hour) to comply with any additional monitoring by HHS. Therefore, we estimate a total annual burden of 40 hours for all vendors for a total cost burden estimate of $964.00.

In § 156.1105(e) of this rule, we establish a process by which an ESS vendor that is not approved by HHS can appeal HHS's determination. It is estimated that filing an appeal with HHS will take no longer than one hour. We estimate that five survey vendors that apply may not be approved and all of those vendors will appeal HHS's determination and submit additional documentation to HHS. Therefore, we estimate five responses, for a total of five burden hours, for a total cost of $120.50.

The burden estimate associated with quality standards for QHP issuers related to the ESS outlined in

§ 156.1125 will include the time and effort required for QHP issuers to collect, submit and validate ESS data on an annual basis. The burden and cost related to the survey respondents and ESS vendors associated with the ESS has been approved under OMB Control Number 0938–1221. In addition, we estimate that each QHP will need an average of 54 hours or $1,349.60 for the ESS to be administered by mail, phone and/or by web for its QHPs. Assuming a total of 575 QHP issuers, we estimate that the annual burden will be 31,050 hours or $776,020.

The burden with the Marketplace survey under § 155.1200(b)(3) will include the time, cost and effort related to survey respondents and has been approved under OMB Control Number 0938–1221. In addition, we will revise the information collection currently approved under OMB Control Number 0938–1119 to account for any additional burden for an Exchange if sampling data is needed from State Exchanges for CMS to administer the Marketplace survey.

D. ICR Regarding Quality Rating System (§ 156.1120)

The burden and cost estimates associated with quality standards for QHP issuers related to the QRS outlined in § 156.1120 include estimates for QRS measure data collection, validation, and submission to CMS. We estimate that a total of 575 QHP issuers will collect and report QRS measure data, by product type, using administrative data sources and medical records. Using the BLS labor category estimates for a general operations manager, computer programmer, business operations specialist, registered nurse, and medical records and health information analyst, the estimated annual cost and hourly burden for a QHP issuer will be 1650 hours or $117,424, for an issuer who has performance measures data collection experience. We estimate that approximately eighty percent of all issuers, or 460 issuers, have such experience. We anticipate additional software purchases to generate measure data and rates and increased third-party data validation fees for issuers that do not have the experience in data collection and reporting for the QRS as required in § 156.1120. Therefore, we estimate that the additional cost burden for each of the remaining 115 issuers will be approximately $102,500 in the initial year as they develop their data collection systems and processes, for a total of approximately $11,787,500. We estimate 948,750 hours or $67,518,800 as the total annual burden for the anticipated 575 QHP issuers to collect and report QRS data.

E. ICRs Regarding Quality Standards for Exchanges (§§ 155.1400 and 155.1405)

In § 155.1400 and § 155.1405, we direct that each Exchange must display, on its Web site, quality rating and ESS result information for QHPs offered on the Exchange. We estimate 18 State Exchanges and the FFE will collect the relevant QRS and ESS information for display. The burden estimate associated with these standards will include collection of the necessary data by each Exchange to display on its Web site. This burden and cost for Exchanges are currently approved under OMB Control Number 0938–1156 in the total estimates related to § 155.205(b) which requires the Exchange to maintain an up-to-date Internet Web site that provides information including ESS and quality ratings, on available QHPs offered on the Exchange. The provisions of this final rule will not affect the burden.

F. ICR Regarding Medical Loss Ratio Requirements (§§ 158.150, 158.211, 158.220, 158.221, and 158.231)

This rule amends the MLR provisions regarding the treatment of ICD–10 conversion costs. This rule further provides MLR calculation adjustments for issuers affected by the transitional policy announced in the CMS letter dated November 14, 2013 and for issuers participating in the Exchanges. This rule also clarifies how issuers are to calculate their MLRs in States that require the small group market and individual market to be merged. Both MLRs and rebates are reported on the MLR annual reporting form.

The burden for the existing information collection requirement is approved under OMB Control Number 0938–1164. This includes the annual reporting form and instructions that are currently used by issuers to submit MLR information to HHS. The MLR annual reporting form collects information on all distributed and owed rebate amounts. Prior to the July 31, 2015 deadline for the submission of the annual MLR report for the 2014 MLR reporting year, and in accordance with the PRA, HHS plans to solicit public comment and seek OMB approval for an updated MLR annual form that will reflect the changes in MLR calculations. We do not anticipate that the amendments finalized in this rule will increase the burden on issuers because the changes utilize data that is a subset of information that issuers already submit to HHS.

G. ICRs Regarding Civil Money Penalties (§§ 155.206 and 155.285)

Section 155.206 describes the bases and processes HHS proposes to use to impose CMPs on noncompliant consumer assistance personnel and organizations. Section 155.285 describes the bases and processes HHS proposes to use to impose CMPs on persons who provide false or fraudulent information required under section 1411(b) of the Affordable Care Act or who knowingly and willfully use or disclose information in violation of section 1411(g) of the Affordable Care Act. The ICRs in these provisions are exempt from PRA requirements in accordance with 5 CFR 1320.4(a)(2) because this information will be collected during the conduct of an administrative action or investigation involving an agency against specific individuals or entities.

H. ICRs Regarding Fixed Indemnity Insurance, Notice of Discontinuation, Notice of Renewal, Certifications of Creditable Coverage and HIPAA Opt-Out Election Notice, (§§ 146.152, 146.180, 147.106, 148.122, 148.124, and 148.220)

In § 148.220 of this rule, we require that issuers of individual market fixed indemnity insurance provide a notice stating that the coverage is not a substitute for major medical coverage and that lack of minimum essential coverage may result in an additional payment with one's taxes. For policies issued after January 1, 2015 the notice must be included in the application for coverage and for policies issued before that date, the notice must be delivered shortly before the first renewal date occurring on or after January 1, 2015. HHS has provided the exact text of the notice and it will not need to be customized. Sections 146.152, 147.106 and 148.122 of this rule provide that issuers that discontinue a product in the group or individual market, and issuers that provide the option to renew coverage in the small group or individual market, must provide written notices to enrollees in a form and manner specified by the Secretary. HHS will provide the exact text of the notices in future guidance and they will not need to be customized. The burden associated with these notices are not subject to the Paperwork Reduction Act of 1995 in accordance with 5 CFR 1320.3(c)(2).

Certifications of creditable coverage under § 148.124 will no longer be required to be provided starting December 31, 2014. The burden is currently approved under OMB Control Number 0938–0702. In the individual

market, the anticipated reduction in annual burden hours will be 835,517, with an anticipated reduction in cost of $25,625,306. The burden for HIPAA Opt-out Election notices under § 146.180 is currently approved under OMB Control Number 0938–0702 as well. Electronic submission of opt-out election notice will also reduce costs for plans by eliminating the need for mailing paper forms.

I. Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing a summary of this proposed information collection for public comment. Interested persons are invited to send comments regarding this collection's proposed burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have also submitted to the Office of Management and Budget (OMB) the proposed information collection for their emergency review. While the collection is necessary to ensure compliance with an initiative of the Administration, we are requesting emergency review under 5 CFR 1320(a)(2)(i) because public harm is reasonably likely to result if the regular clearance procedures are followed. The approval of this data collection process is essential to ensuring that States seeking to transition to employee choice in 2015 can submit recommendations to the SHOP by the deadline established in this final rule, which, in the FF–SHOPs, is on or before June 2, 2014. Without an emergency clearance process, many States seeking to not implement employee choice in 2015 will not be able to submit their recommendation and have it reviewed in a timely manner by the SHOP. Given the short time until the QHP certification window opens and closes, it is critical that the information concerning this process be posted by the day of publication of this final rule so issuers are aware if their particular States will not be implementing employee choice in 2015 before they decide to participate and submit their final rates for certification during the initial QHP certification window. If CMS is required to delay recommendation collection and review, this will severely impede its ability to implement this transitional policy in the FF–SHOPs.

ICR Regarding 2015 Transition to Employee Choice (§ 155.705)

For the FF–SHOP States that would like to submit a recommendation that the FF–SHOP not implement employee choice in 2015, pursuant to § 155.705(b)(2), there will be a formal application process. This process will include the submission of a recommendation by the State's Insurance Commissioner. The written recommendation must adequately explain that it is the State Insurance Commissioner's expert judgment, based on a documented assessment of the full landscape of the small group market in his or her State, that not implementing employee choice would be in the best interests of small employers and their employees and dependents, given the likelihood that implementing employee choice would cause issuers to price products and plans higher in 2015 due to the issuers' beliefs about adverse selection. A State Insurance Commissioner's recommendation would need to be based on concrete evidence, including but not limited to discussions with those issuers expected to participate in the SHOP in 2015.

We estimate that the development of an application by the Insurance Commissioner will take up to 40 hours to create (at $50.00 labor cost per hour). We estimate that up to 16 States will submit the application and the one-time cost burden will be $2,000 for each State. The total burden for all States is estimated to be 640 hours or $32,000.

We are requesting OMB review and approval of this emergency collection by *May 27, 2014,* with a 180-day approval period. Written comments and recommendations for this emergency request only will be considered from the public if received by the date and address noted below.

Copies of the supporting statement and any related forms can be found at: *http://www.cms.hhs.gov/PaperworkReductionActof1995* or can be obtained by emailing your request, including your address, phone number, OMB number, and CMS document identifier, to: *Paperwork@cms.hhs.gov,* or by calling the Reports Clearance Office at: 410–786–1326.

When commenting on this proposed information collection, please reference the CMS document identifier and the OMB control number. To be assured consideration, comments and recommendations must be received in one of the following ways by *May 23, 2014:*

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address:

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier (CMS–10523), Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, and,

OMB Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, New Executive Office Building, Room 10235, Washington, DC 20503, Fax Number: 202–395–6974.

VII. Regulatory Impact Analysis

A. Summary

This final rule addresses various requirements applicable to health insurance issuers, Exchanges, Navigators, non-Navigator assistance personnel, and other entities under the Affordable Care Act. Specifically, the rule establishes standards related to product discontinuation and renewal, quality reporting, non-discrimination standards, minimum certification standards and responsibilities of QHP issuers, the SHOP, and enforcement remedies in FFEs. It also provides a number of amendments relating to the premium stabilization programs, calculation of annual limit on cost sharing, the MLR program, certified application counselor programs, affordability exemptions, standards regarding how enrollees may request access to non-formulary drugs under exigent circumstances, and guaranteed availability and renewability of coverage requirements. Additionally, it establishes the grounds for imposing CMPs on persons who provide false or fraudulent information to the Exchange and on persons improperly using or disclosing information; and modifies standards related to opt-out provisions for self-funded non-Federal

governmental plans and individual market provisions under HIPAA.

CMS has crafted this rule to implement the protections intended by Congress in an economically efficient manner. We have examined the effects of this rule as required by Executive Order 12866 (58 FR 51735, September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), Executive Order 13132 on Federalism, and the Congressional Review Act (5 U.S.C. 804(2)). In accordance with OMB Circular A–4, CMS has quantified the benefits, costs and transfers where possible, and has also provided a qualitative discussion of some of the benefits, costs and transfers that may stem from this final rule.

B. Executive Orders 13563 and 12866

Executive Order 12866 (58 FR 51735) directs 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 (76 FR 3821, January 21, 2011) is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in Executive Order 12866.

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

A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year), and a ''significant'' regulatory action is subject to review by the OMB. HHS has concluded that this rule is likely to have economic impacts of $100 million or more in any one year, and therefore meets the definition of ''significant rule'' under Executive Order 12866. Therefore, HHS has provided an assessment of the potential costs, benefits, and transfers associated with this final regulation.

1. Need for Regulatory Action

Starting in 2014, qualified individuals and qualified employers are able to obtain coverage provided through Exchanges. The provisions, amendments and clarifications in this final rule address stakeholder concerns and inquiries and help ensure smooth functioning of health insurance markets and Exchanges and ensure that individuals have access to high quality and affordable health insurance coverage. In addition, this rule amends the methodologies for calculating the MLR to address ICD–10 conversion costs, MLR and rebate calculations in States that require the individual and small group markets to be merged, and to accommodate the special circumstances of issuers affected by the transitional policy announced in the CMS letter dated November 14, 2013, and issuers participating in the State and Federal Exchanges.

2. Summary of Impacts

In accordance with OMB Circular A–4, Table VII.1 below depicts an accounting statement summarizing CMS's assessment of the benefits, costs, and transfers associated with this regulatory action. The period covered by the RIA is 2014–2018.

HHS anticipates that the provisions of this final rule will help ensure that all consumers have access to quality and affordable health care coverage and are able to make informed choices, ensure smooth operation of Exchanges, ensure that premium stabilization programs work as intended, provide flexibility to SHOPs and employers, and protect consumers from fraudulent and criminal activities and help to mitigate issuers' unexpected administrative costs and uncertainties around operations and the risk pool, and to stabilize the market as it continues to transition to full compliance with Affordable Care Act requirements. Affected entities such as QHP issuers, Navigators and non-Navigator assistance personnel, designated certified application counselor organizations, certified application counselors, survey vendors, and States may incur costs to comply with the provisions in this final rule, including administrative costs related to notices, surveys, training, and recertification requirements. In accordance with Executive Order 12866, HHS believes that the benefits of this regulatory action justify the costs.

TABLE VII.1—ACCOUNTING TABLE

Benefits:
Qualitative:
* Ensure access to affordable and quality health insurance coverage for all individuals.
* Minimize unnecessary terminations of coverage and ensure predictability and continuity for consumers.
* Allow consumers to make informed choices.
* Lower out-of-pocket costs for individuals who purchase fixed indemnity insurance.
* Possible reduction in cost sharing due to adjustment in methodology for calculating annual limitations on cost-sharing.
* Help ensure sufficiency of funds in the reinsurance payment pool.
* Ensure consumer protection and privacy and security of PII.
* Discourage fraudulent or criminal activity by consumer assistance personnel and entities.
* Provide additional flexibility to FF–SHOPs and employers and allow employers to select plans with updated rate information.
* Improve consistency of MLR calculations among issuers in States with merged individual and small group markets and improve accuracy of rebate payments.

TABLE VII.1—ACCOUNTING TABLE—Continued

Costs:	Estimate	Year dollar	Discount rate percent	Period covered
Annualized Monetized ($millions/year)	$48.78 million [1] $49.52 million [1]	2013 2013	7 3	2014–2018 2014–2018
Net annual costs to enrollees related to ESS and Marketplace survey; recertification of certified application counselors by States; costs to States to submit recommendations to not implement employee choice in 2015; administrative costs incurred by survey vendors to appeal application denials; administrative costs to QHP issuers related to data submissions for QRS and ESS administration; costs related to notice and disclosure requirements for certified application counselor recertification; consumer authorization for Navigators and non-Navigator personnel; and a reduction in costs for issuers in the individual market due to discontinuation of certification of creditable coverage.				
Qualitative: * Costs to certified application counselors to obtain required training for recertification. * Reduction in costs to consumers due to ability to make requests to dismiss appeals by telephone. * Costs to issuers to comply with the standards for expedited review of a formulary exception request based on exigent circumstances.				
Transfers:	Estimate	Year dollar	Discount rate percent	Period covered
Annualized Monetized ($millions/year)	$2.93 million $2.99 million	2013 2013	7 3	2014–2018 2014–2018
Net annual transfer of rebate dollars to enrollees from shareholders or nonprofit stakeholders, resulting from adjustment in MLR methodology for issuers in States with merged individual and small group markets.				
Qualitative: * Possible reduction in rebates paid by issuers to enrollees due to adjustment in MLR methodology for issuers affected by the November 2013 transitional policy and unexpected costs during the implementation of the Exchanges, and to account for ICD–10 conversion costs. * Possible transfer of transitional reinsurance program funds collected by the Federal government to non-grandfathered reinsurance-eligible plans in the individual market. * Possible increase in total risk corridors payment amounts made by the Federal government and decrease in total risk corridors receipts.				

[1] **Note:** Approximately $13 million in costs are estimated in the RIA below and the remaining costs related to ICRs are estimated in section VI above.

3. Anticipated Benefits, Costs and Transfers

The impacts of the existing regulations that are being amended and clarified in this final rule have already been addressed in RIAs included in previous rulemaking. This RIA only includes the impacts of new provisions and any changes to previous estimates as a result of amendments to existing provisions.

Benefits

Provisions of this final rule will help ensure that all individuals have access to affordable and quality health insurance coverage and the necessary information to make informed choices. Making quality rating and ESS information available to consumers will allow them to make informed choices and provide issuers with an incentive to improve quality of care and consumer experience. The results from the Marketplace survey will drive quality improvement in Exchanges by collecting information on the consumer experience with the Exchange. In addition, the quality rating and ESS information will also provide regulators and stakeholders with information to use for monitoring and oversight purposes. The amendments to special enrollment periods will ensure that individuals who experience loss of coverage or exceptional circumstances have continued access to healthcare. The provisions regarding the formulary exceptions process will ensure that enrollees will have continued access to necessary prescription drugs.

The provisions of this final rule also establish minimum Federal standards that determine whether coverage modifications constitute continuance of an existing product in a market within a State for products offered both through and outside of an Exchange in the individual and small group markets. This will minimize unnecessary terminations of coverage and ensure predictability and continuity for consumers, while providing issuers the flexibility to make the necessary adjustments to coverage. The notices of product discontinuance and renewal will ensure that consumers have necessary information regarding their choices and the changes in coverage.

The amendments for fixed indemnity insurance will allow such plans to be sold as secondary to other health insurance coverage that meets the definition of minimum essential coverage. Such plans may also be sold to individuals who are deemed to have minimum essential coverage based on their status as bona fide residents of U.S. territories. This will allow individuals that buy such coverage to lower their out-of-pocket costs.

The adjustments to the transitional reinsurance program will help ensure that the reinsurance payment pool is sufficient to provide the premium stabilization benefits intended by the statute. This policy may lower premiums by reducing the uncertainty associated with reinsurance payments to individual market plans eligible for reinsurance payments. The adjustments to the risk corridors formula for the 2015 benefit year will help to mitigate issuers' unexpected administrative costs and uncertainties around operations and the risk pool, and to stabilize the market as it continues to transition to full compliance with Affordable Care Act requirements.

The provisions in this final rule will ensure that non-Federal requirements do not prevent Navigators, non-Navigator assistance personnel, certified application counselors and organizations from providing information and assisting individuals to make informed choices and obtain health insurance coverage. The provisions in this rule also specify some of the standards for Navigator and certified application counselor conduct that will ensure consumer protection

and ensure that Navigators provide information and services concerning enrollment in QHPs in a fair and impartial manner and that certified application counselors act in consumers' best interests. The rule will also provide HHS with the authority to impose CMPs on Navigators, non-Navigator assistance personnel, certified application counselors, and certified application counselor organizations in the FFE who violate certain Exchange standards applicable to them. This will ensure that consumers interacting with the Exchange receive high-quality assistance and robust consumer protections. The provisions to impose CMPs for provision of false or fraudulent information, and improper use or disclosure of information will also ensure privacy and security of consumers' PII.

Aligning the start of annual employer election periods in the FF–SHOPs with the start of open enrollment in the corresponding individual market Exchange will benefit issuers. A uniform QHP filing and review timeline for both markets for 2015 will reduce confusion and provide efficiencies to scale in review, providing potential resource savings to QHP issuers. Removing the required minimum lengths of both the employer election period and the employee open enrollment period will provide additional flexibility to State-based SHOPs and employers and allow employers to select plans with the most up-to-date rate information.

The amendment to provide a one-year transition policy under which a SHOP will be permitted to not implement employee choice in 2015 will alleviate State and issuer concerns that employee choice would cause issuers to price their products and plans higher in 2015 due to issuers' beliefs about adverse selection. Allowing for this transitional policy in 2015 will provide minimal disruption to small group markets.

The amendment to our methodology for calculating the annual limitation on cost sharing may reduce cost sharing paid by some enrollees in the individual market.

The amendments to the MLR methodology in States that require the small group market and individual market to be merged will improve the consistency of MLR calculations among issuers in those States and improve the accuracy of rebate payments.

The methodology for determining the required contribution percentage will provide that determinations of affordability exemptions will take into account the rate of premium growth over the rate of income growth. We do not anticipate that this approach will significantly alter the number of individuals who are expected to enroll in health insurance plans or make shared responsibility payments.

Costs

Affected entities will incur costs to comply with the provisions of this final rule. Costs related to ICRs subject to PRA are discussed in detail in section VI and include administrative costs incurred by survey vendors to appeal application denials; costs to QHP issuers related to data submissions for QRS, ESS administration; costs related to notice and disclosure requirements for certified application counselor recertification, consumer authorization for Navigators and non-Navigator assistance personnel; costs to States to submit a recommendation for a 2015 transition to employee choice; and a reduction in costs for issuers in the individual market due to discontinuation of certification of creditable coverage. In this section, we discuss other costs related to the provisions of this rule.

Each Exchange must establish its own recertification process for certified application counselors and designated certified application counselor organizations. We expect that establishing a process for recertification will include updating recertification training materials in all Exchanges. We estimate that up to 18 State Exchanges will develop their own training materials. We expect that an Exchange will develop training materials for recertification on an annual basis. We assume that it will take a mid-level health insurance analyst (with an hourly labor cost of $49.35) 8 hours to update the training, 4 hours for a computer programmer (at $52.50 per hour) to update the online training module and 1 hour by a senior manager (at $79.08 per hour) to review. The total cost for each State Exchange is estimated to be approximately $680, and the total cost for18 State Exchanges will be approximately $12,240.

The requirement for appeals entities to dismiss an appeal if the request is received via telephonic signature (if the appeals entity is capable of accepting telephonic withdrawals) will make the process more efficient and may reduce costs to the appellant.

The ESS will impact enrollees responding to the survey, survey vendors and QHP issuers offering coverage in the Exchanges. In 2014, a psychometric test of the survey will be carried out, while in 2015 a beta test will be performed. The cost to issuers is addressed in section VI. We anticipate that in 2014, 4,200 enrollees will participate in the psychometric test and in 2015 onwards, 6,000,040 enrollees will complete the survey. The total cost in 2014 of administering the survey to enrollees is estimated to be approximately $45,549 and the total cost to enrollees and survey vendors is estimated to be approximately $6,507,964 in 2015 and future years. In 2014, only one survey vendor will conduct the psychometric test and in the following years, about 40 vendors are expected to conduct the survey.[42] In addition, each QHP issuer will have to contract with an ESS vendor. We estimate approximately $16,000 as the annual cost for a QHP issuer to contract with an ESS vendor, for a total annual cost of $9.2 million for 575 QHP issuers.

The Marketplace survey will be administered by a survey vendor under contract with HHS. A psychometric test will be conducted in 2014 with a beta test in 2015. Consumers will incur burden to respond to the survey. We estimate that each response will take 0.4 hours for a total of 3,150 responses requiring 1,260 hours in 2014 and a total of 61,200 responses requiring 24,480 hours in 2015 onwards. Total costs will be approximately $30,366 in 2014 and $589,968 in following years.[43]

Issuers that provide EHB should already have procedures in place that allow an enrollee to request and gain access to clinically appropriate drugs not covered by the plan. This final rule includes standards for a health plan's exception process that includes an expedited process for exigent circumstances. This final rule requires issuers to provide a decision on an exception request based on exigent circumstances and notify the enrollee or the enrollee's designee and the prescribing physician (or other prescriber as appropriate) of the determination no later than 24 hours after receiving the request. Depending on their current formulary exceptions processes, some issuers may incur costs to modify them to comply with these requirements.

[42] Detailed burden estimates can be found in the Supporting Statement for the Health Insurance Marketplace Consumer Experience Surveys: Enrollee Satisfaction Survey and Marketplace Survey Data Collection, found at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

[43] Detailed burden estimates can be found in the Supporting Statement for the Health Insurance Marketplace Consumer Experience Surveys: Enrollee Satisfaction Survey and Marketplace Survey Data Collection, found at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

Transfers

Previously, the MLR regulation permitted inclusion of ICD–10 conversion costs in quality improving activity expenses only through the 2013 MLR reporting year. However, the date by which issuers are required to adopt ICD–10 as the standard medical code has been postponed past 2013. Therefore, this final rule permits issuers to include their ICD–10 conversion costs through the MLR reporting year in which the Secretary requires conversion to be completed. Based on the 2012 MLR data, we estimate that the ICD–10 provision reduced total rebates for 2012 by less than 2 percent.

This final rule also accounts for the special circumstances of issuers affected by the CMS November 2013 transitional policy by allowing those issuers to multiply the incurred claims and expenses for quality improving activities incurred in 2014 in the MLR numerator by 1.0001. This adjustment is limited to issuers that provided transitional coverage in the individual or small group markets in States that adopted the transitional policy. In addition, this final rule accounts for the special circumstances of the issuers that provided coverage through the State and Federal Exchanges by allowing those issuers to multiply the incurred claims and expenses for quality improving activities incurred in 2014 in the numerator by 1.0004. This adjustment is limited to issuers offering coverage in the individual or small group markets through the Exchanges. Based on the 2012 MLR data, we estimate that the adjustment for issuers affected by the transitional policy and for issuers affected by the Exchanges rollout may reduce the total rebates by 0.5 percent for 2014.

In addition, this final rule amends the MLR methodology to clarify how issuers must calculate MLRs in States that require the small group market and individual market to be merged for MLR calculation purposes. This will improve the consistency of MLR calculations among issuers in those States and improve the accuracy of rebate payments. Currently, only Massachusetts and Vermont require the small group market and individual market to be merged Vermont requirements take effect in 2014). If an issuer met the respective MLR standards in the separate markets, then this provision will not have any impact on rebates. However, if an issuer met the MLR standards only in one market and merging the two markets results in the issuer meeting (or being unable to meet) the MLR standards in the merged market, the issuer may have to pay lower (or higher) rebates and there will be a transfer from enrollees to issuers (or from issuers to enrollees). Based on the 2012 MLR data, we anticipate that this change may result in issuers paying an additional $3.8 million in rebates.

This rule revises the allocation of reinsurance contributions collected for the 2014 and 2015 benefit years so that if reinsurance collections fall short of our estimates, reinsurance collections are allocated first to the reinsurance pool, and second to administrative expenses and the U.S. Treasury on a pro rata basis. We expect that this policy will not have a significant effect on transfers, because we estimate that we will collect the full amount of reinsurance contributions to fully fund the reinsurance payment pool. This policy may lower premiums by reducing the uncertainty associated with reinsurance payments to individual market plans eligible for reinsurance payments. The Affordable Care Act creates a temporary risk corridors program for the years 2014, 2015, and 2016 that applies to QHPs, as defined in § 153.500. The risk corridors program creates a mechanism for sharing gains and losses between the Federal government and QHP issuers. The Affordable Care Act establishes the risk corridors program as a Federal program; consequently, HHS will operate the risk corridors program under Federal rules. The risk corridors program will help protect against inaccurate rate setting in the early years of the Exchanges by limiting the extent of issuer losses and gains. For the 2015 benefit year, we are adjusting the risk corridors formula to help mitigate QHP issuers' unexpected administrative costs. Although our initial modeling suggests that this adjustment can increase the total risk corridors payment amount made by the Federal government and decrease risk corridors receipts, we believe that this temporary program will be budget neutral on the net over three years.

C. Regulatory Alternatives

Under the Executive Order, CMS is required to consider alternatives to issuing rules and alternative regulatory approaches. CMS considered the regulatory alternatives below:

1. Collecting ESS Data at the Product Level Instead of Each Product Per Metal Tier

Under this alternative, HHS would have required QHPs to collect ESS data from a single sample for each product (versus each product in each metal tier). This option would have reduced the cost for issuers who offer the same product in multiple tiers. However, collecting data at the product level would have prevented consumers from understanding differences in enrollee satisfaction at the individual product per tier level, which may vary with differences in cost sharing. This would have reduced the benefits that consumers derive from ESS data.

2. Using Medicaid CAHPS® As Is Instead of Adding Additional and New Questions to the ESS

Under this alternative, HHS would have required QHPs to collect enrollee satisfaction information using the Medicaid CAHPS® instrument without further enhancement. The ESS will include more questions than the Medicaid CAHPS®—including detailed questions about the patient's costs—that are particularly appropriate to Exchange enrollees. Eliminating these questions would have reduced the cost to issuers, but also would have reduced benefits that consumers derive from the ESS data.

3. Collecting QRS Data for Each Product Per Metal Tier Instead of at the Product Level

Under this alternative, HHS would have required QHPs to collect the QRS data at the same level (individual product per metal tier) as they collect ESS information. Assuming that QHPs offer each product in two metal tiers this option would have doubled the cost to QHPs of collecting QRS data. However, it might not have appreciably increased consumer information about QHPs in the early years of the Exchanges if the quality of care in the same product does not differ significantly within tiers (that is, the variation should only be by the configuration of cost sharing within a limited range of actuarial value). Further, a QHP's enrollment size at the product metal level may be too small in the early years of Exchange implementation to ensure reliable results.

4. Using the Medicare Advantage (MA) CAHPS® Instrument and Star System

Under this alternative, HHS would have required QHPs to collect enrollee satisfaction information from Exchange enrollees using the MA CAHPS® instrument. The ESS presently includes 29 more questions than MA CAHPS®. Use of the MA CAHPS® would have reduced the cost to consumers and also the QHP cost of data entry. However, the MA CAHPS® instrument and Star ratings are designed for a different population and are not necessarily suitable to measure experience among

Exchange enrollees. It also would have had limited applicability for use by consumers for QHP comparison and selection purposes.

CMS believes that the options adopted for this final rule will be more efficient ways to extend the protections of the Affordable Care Act to enrollees without imposing significant burden on issuers and States.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires agencies that issue a rule to analyze options for regulatory relief of small businesses if a rule has a significant impact on a substantial number of small entities. The RFA generally defines a ''small entity'' as—(1) a proprietary firm meeting the size standards of the Small Business Administration (SBA), (2) a nonprofit organization that is not dominant in its field, or (3) a small government jurisdiction with a population of less than 50,000 (States and individuals are not included in the definition of ''small entity''). HHS uses as its measure of significant economic impact on a substantial number of small entities a change in revenues of more than 3 percent to 5 percent.

As discussed in the Web Portal interim final rule with comment period published on May 5, 2010 (75 FR 24481), HHS examined the health insurance industry in depth in the RIA we prepared for the proposed rule on establishment of the Medicare Advantage program (69 FR 46866, August 3, 2004). In that analysis it was determined that there were few, if any, insurance firms underwriting comprehensive health insurance policies (in contrast, for example, to travel insurance policies or dental discount policies) that fell below the size thresholds for ''small entity'' established by the SBA. Based on data from MLR annual report submissions for the 2012 MLR reporting year,[44] out of 510 companies offering comprehensive health insurance policies nationwide, there are 58 small entities, each with less than $35.5 million in earned premiums, that offer individual or group health insurance coverage and will therefore be subject to the provisions of this final rule.[45] Forty three percent of these small entities belong to holding groups, and many if not all of these small entities are likely to have other lines of business (for example, insurance business other than health insurance, and business other than insurance) that will result in their revenues exceeding $35.5 million. Based on this analysis, HHS expects that the provisions of this final rule will not affect a substantial number of small issuers.

The amendments to the annual employer and employee election periods in the SHOPs, including removing the required minimum lengths of both the employer election period and the employee open enrollment period will benefit State-based SHOPs and employers. HHS does not anticipate that this will impose any costs on small employers.

Some of the entities that voluntarily act as Navigators and non-Navigator assistance personnel subject to § 155.215, or as designated certified application counselor organizations, may be small entities and will incur costs to comply with the provisions of this final rule. It should be noted that HHS, in its role as the operator of the FFEs, does not impose any fees on these entities for participating in their respective programs, nor are there fees for taking the Federally required training or completing continuing education or recertification in FFEs. Further, the cost burden related to continuing education and recertification, and recordkeeping will generally be considered an allowed cost that will be covered by the Navigator grants for the FFEs, and these grant funds may be drawn down as the grantee incurs such costs. The costs associated with these proposals may also be covered by other compensation provided by an Exchange, such as payments through contracts to non-Navigator assistance personnel. Though it is very likely that all costs associated with these proposals will be largely covered by affected entities' and individuals' funding sources, HHS cannot guarantee that all such costs will be covered because of the possibility of budget limitations applicable to the FFE in any given period, and because there may be variations in how State Exchanges provide funding for these programs. To the extent that all such costs will not be covered by these funding sources, other outside sources may also be available to cover unfunded costs that remain. Costs incurred by designated certified application counselor organizations related to continuing education and recertification and recordkeeping are expected to be low. In some circumstances funds from sources outside of the Exchange, including Federal funds such as Health Resources and Services Administration (HRSA) grants to health centers, or private or State funds may be available to cover certified application counselor costs.

E. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act (UMRA) of 1995 requires that agencies assess anticipated costs and benefits before issuing any final rule that includes a Federal mandate that could result in expenditure in any one year by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold level is approximately $141 million.

UMRA does not address the total cost of a final rule. Rather, it focuses on certain categories of cost, mainly those ''Federal mandate'' costs resulting from—(1) imposing enforceable duties on State, local, or tribal governments, or on the private sector; or (2) increasing the stringency of conditions in, or decreasing the funding of, State, local, or tribal governments under entitlement programs.

This final rule includes mandates on State governments and the private sector. Issuers, non-Navigator assistance personnel, certified application counselors and Exchanges are expected to incur costs of approximately $13 million in 2014 and approximately $85 million in 2015 onwards to comply with the provisions of this final rule. However, beginning in 2015, issuers in the individual market will experience a reduction in costs of approximately $26 million due to the discontinuation of the certification of creditable coverage. Consistent with policy embodied in UMRA, this final rule has been designed to be the least burdensome alternative for State, local and tribal governments, and the private sector while achieving the objectives of the Affordable Care Act.

F. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a final rule that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications.

Since States are the primary regulators of health insurance coverage, State laws will continue to apply to health insurance coverage and the business of insurance. A State's authority to pass and implement

[44] These data can be accessed at *http://www.cms.gov/CCIIO/Resources/Data-Resources/mlr.html.*

[45] The size threshold for ''small'' business established by the SBA is currently $35.5 million in annual receipts for health insurance issuers. See ''Table of Small Business Size Standards Matched To North American Industry Classification System Codes,'' effective July 23, 2013, U.S. Small Business Administration, available at *http://www.sba.gov.*

additional State requirements that affect programs established under the provisions of title I of the Affordable Care Act is not unlimited, however, but extends only to the implementation of requirements that would not prevent the application of the provisions of title I of the Affordable Care Act, including but not limited to those provisions which provide authority for functions of an Exchange, such as the application assistance provided by Navigator programs, non-Navigator programs and certified application counselor programs.

The final rule provides that non-Navigator assistance personnel subject to § 155.215, and certified application counselors must meet any licensing, certification or other standards prescribed by the State so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act, within the meaning of section 1321(d) of the Affordable Care Act. The final rule also includes a non-exhaustive list of non-Federal requirements applicable to Navigators, non-Navigator assistance personnel subject to § 155.215, and certified application counselors that, in HHS's view, prevent the application of the provisions of title I of the Affordable Care Act, within the meaning of section 1321(d) of the Affordable Care Act. They include non-Federal requirements that require referrals to entities or individuals not required to provide impartial information or act in a consumer's best interest; non-Federal requirements that prevent Navigators, non-Navigator assistance personnel subject to § 155.215, or certified application counselors from providing services to all individuals seeking assistance; non-Federal requirements that prevent these assisters from providing information regarding substantive benefits or comparative benefits of different health plans; non-Federal requirements that facially, or as applied, make it impossible to fulfill required duties; non-Federal standards that would, as applied or as implemented in a State, prevent an Exchange's implementation of the programs for Navigators, non-Navigator personnel subject to § 155.215 and certified application counselors consistent with Federal requirements; and non-Federal requirements that Navigators hold an agent or broker license or requirements that, in effect, would require all Navigators in the Exchange to be licensed agents and brokers. These provisions provide HHS's interpretation of how the preemption standard that Congress established in section 1321(d) of the Affordable Care Act applies to this non-exhaustive list of non-Federal requirements for these assister programs.

The final rule establishes Federal standards to determine whether coverage modifications constitute the continuance of an existing product in a market within a State for coverage offered both through and outside of an Exchange in the individual and small group markets. Some States may have different definitions of what changes to a health insurance product constitute modifications and what changes constitute terminations and re-filings of new products. The definitions finalized in this rule will preempt any conflicting State definitions. The guaranteed renewability sections of the PHS Act provide in pertinent part that a uniform modification of coverage must be ''consistent with State law.'' We interpret this statutory language as governing the extent or type of modifications that may legally be made under State law. As discussed in the preamble to the final rule published on February 27, 2013 under section 2703 of the PHS Act (78 FR 13419), State laws that prevent issuers from uniformly modifying coverage to comply with Federal law requirements would, in effect, prevent the application of such requirements and therefore be preempted. States, however, have the flexibility to broaden the scope of two of the criteria for what is considered a uniform modification, but not narrow its scope.

Some States already have requirements for and publicly report health plan quality and outcomes data, and we want to encourage State flexibility and innovation, consistent with the Affordable Care Act. In addition to prominently displaying quality rating information for each QHP, as calculated by HHS in accordance with the QRS, a State Exchange may display additional QHP quality-related information, as appropriate.

In compliance with the requirement of Executive Order 13132 that agencies examine closely any policies that may have Federalism implications or limit the policymaking discretion of the States, HHS has engaged in efforts to consult with and work cooperatively with affected States. HHS has consulted with stakeholders on policies related to the operation of Exchanges, including the SHOP and the premium stabilization programs. HHS has held a number of listening sessions with State representatives to gather public input. HHS consulted with State representatives through regular meetings with the NAIC and regular contact with States through the Exchange Establishment grant and Exchange Blueprint approval processes.

Throughout the process of developing this final rule, HHS has attempted to balance the States' interests in regulating health insurance issuers and other entities, such as Navigators, non-Navigator assistance personnel, and certified application counselors with creating a Federal baseline for protecting the consumers' interests. By doing so, it is HHS' view that it has complied with the requirements of Executive Order 13132. Under the requirements set forth in section 8(a) of Executive Order 13132, and by the signatures affixed to this rule, HHS certifies that the CMS Center for Consumer Information and Insurance Oversight has complied with the requirements of Executive Order 13132 for the attached final rule in a meaningful and timely manner.

G. Congressional Review Act

This final rule is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 et seq.), which specifies that before a rule can take effect, the Federal agency promulgating the rule shall submit to each House of the Congress and to the Comptroller General a report containing a copy of the rule along with other specified information, and has been transmitted to Congress and the Comptroller General for review.

List of Subjects

45 CFR part 144

Health care, Health insurance, Reporting and record keeping requirements.

45 CFR Part 146

Health care, Health insurance, Reporting and recordkeeping requirements.

45 CFR Part 147

Health care, Health insurance, Reporting and recordkeeping requirements, State regulation of health insurance.

45 CFR Part 148

Administrative practice and procedure, Health care, Health insurance, Penalties, Reporting and recordkeeping requirements.

45 CFR Part 153

Administrative practice and procedure, Adverse selection, Health care, Health insurance, Health records, Organization and functions

(Government agencies), Premium stabilization, Reporting and recordkeeping requirements, Reinsurance, Risk adjustment, Risk corridors, Risk mitigation, State and local governments.

45 CFR Part 154

Administrative practice and procedure, Claims, Health care, Health insurance, Health plans, Penalties, Reporting and recordkeeping requirements.

45 CFR Part 155

Administrative practice and procedure, Health care access, Health insurance, Reporting and recordkeeping requirements, State and local governments, Cost-sharing reductions, Advance payments of premium tax credit, Administration and calculation of advance payments of the premium tax credit, Plan variations, Actuarial value.

45 CFR Part 156

Administrative appeals, Administrative practice and procedure, Administration and calculation of advance payments of premium tax credit, Advertising, Advisory Committees, Brokers, Conflict of interest, Consumer protection, Cost-sharing reductions, Grant programs-health, Grants administration, Health care, Health insurance, Health maintenance organization (HMO), Health records, Hospitals, American Indian/Alaska Natives, Individuals with disabilities, Loan programs-health, Organization and functions (Government agencies), Medicaid, Payment and collections reports, Public assistance programs, Reporting and recordkeeping requirements, State and local governments, Sunshine Act, Technical assistance, Women, and Youth.

45 CFR Part 158

Administrative practice and procedure, Claims, Health care, Health insurance, Health plans, Penalties, Reporting and recordkeeping requirements, Premium revenues, Medical loss ratio, Rebating.

For the reasons set forth in the preamble, the Department of Health and Human Services amends 45 CFR parts 144, 146, 147, 148, 153, 154, 155, 156, and 158 as set forth below:

PART 144—REQUIREMENTS RELATING TO HEALTH INSURANCE COVERAGE

■ 1. The authority citation for part 144 continues to read as follows:

Authority: Secs. 2701 through 2763, 2791, and 2792 of the Public Health Service Act, 42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92.

■ 2. Section 144.103 is amended by adding new definitions of ''plan'' and ''product'' in alphabetical order to read as follows:

§ 144.103 Definitions.

* * * * *

Plan means, with respect to an issuer and a product, the pairing of the health insurance coverage benefits under the product with a metal tier level (as described in sections 1302(d) and (e) of the Affordable Care Act) and service area. The product comprises all plans offered within the product, and the combination of all plans offered within a product constitutes the total service area of the product.

* * * * *

Product means a discrete package of health insurance coverage benefits that a health insurance issuer offers using a particular product network type within a service area.

* * * * *

PART 146—REQUIREMENTS FOR THE GROUP HEALTH INSURANCE MARKET

■ 3. The authority citation for part 146 continues to read as follows:

Authority: Secs. 2702 through 2705, 2711 through 2723, 2791, and 2792 of the PHS Act (42 U.S.C. 300gg–1 through 300gg–5, 300gg–11 through 300gg–23, 300gg–91, and 300gg–92).

■ 4. Section 146.152 is amended by—

■ a. Revising paragraphs (b)(4), (c)(1) and (f); and

■ b. Adding new paragraph (h).

The revision and addition read as follows:

§ 146.152 Guaranteed renewability of coverage for employers in the group market.

* * * * *

(b) * * *

* * * * *

(4) *Termination of product.* The issuer is ceasing to offer coverage in the market in accordance with paragraph (c) or (d) of this section and applicable State law.

* * * * *

(c) * * *

(1) The issuer provides notice in writing, in a form and manner specified by the Secretary, to each plan sponsor provided that particular product in that market (and to all participants and beneficiaries covered under such coverage) of the discontinuation at least 90 days before the date the coverage will be discontinued;

* * * * *

(f) *Exception for uniform modification of coverage.* (1) Only at the time of coverage renewal may issuers modify the health insurance coverage for a product offered to a group health plan in the following—

(i) Large group market; and

(ii) Small group market if, for coverage available in this market (other than only through one or more bona fide associations), the modification is consistent with State law and is effective uniformly among group health plans with that product.

(2) For purposes of paragraph (f)(1)(ii) of this section, modifications made uniformly and solely pursuant to applicable Federal or State requirements are considered a uniform modification of coverage if:

(i) The modification is made within a reasonable time period after the imposition or modification of the Federal or State requirement; and

(ii) The modification is directly related to the imposition or modification of the Federal or State requirement.

(3) For purposes of paragraph (f)(1)(ii) of this section, other types of modifications made uniformly are considered a uniform modification of coverage if the health insurance coverage for the product in the small group market meets all of the following criteria:

(i) The product is offered by the same health insurance issuer (within the meaning of section 2791(b)(2) of the PHS Act);

(ii) The product is offered as the same product network type (for example, health maintenance organization, preferred provider organization, exclusive provider organization, point of service, or indemnity);

(iii) The product continues to cover at least a majority of the same service area;

(iv) Within the product, each plan has the same cost-sharing structure as before the modification, except for any variation in cost sharing solely related to changes in cost and utilization of medical care, or to maintain the same metal tier level described in sections 1302(d) and (e) of the Affordable Care Act; and

(v) The product provides the same covered benefits, except for any changes in benefits that cumulatively impact the rate for any plan within the product within an allowable variation of +/−2 percentage points (not including changes pursuant to applicable Federal or State requirements).

(4) A State may only broaden the standards in paragraphs (f)(3)(iii) and (iv) of this section.

* * * * *

(h) *Notice of renewal of coverage.* If an issuer in the small group market is renewing grandfathered coverage as described in paragraph (a) of this section, or uniformly modifying grandfathered coverage as described in paragraph (f) of this section, the issuer must provide to each plan sponsor written notice of the renewal at least 60 calendar days before the date the coverage will be renewed in a form and manner specified by the Secretary.

■ 5. Section 146.180 is revised to read as follows:

§ 146.180 Treatment of non-Federal governmental plans.

(a) *Opt-out election for self-funded non-Federal governmental plans*—(1) *Requirements subject to exemption.* The PHS Act requirements described in this paragraph are the following:

(i) Limitations on preexisting condition exclusion periods in accordance with section 2701 of the PHS Act as codified before enactment of the Affordable Care Act.

(ii) Special enrollment periods for individuals and dependents described under section 2704(f) of the PHS Act.

(iii) Prohibitions against discriminating against individual participants and beneficiaries based on health status under section 2705 of the PHS Act, except that the sponsor of a self-funded non-Federal governmental plan cannot elect to exempt its plan from requirements under section 2705(a)(6) and 2705(c) through (f) that prohibit discrimination with respect to genetic information.

(iv) Standards relating to benefits for mothers and newborns under section 2725 of the PHS Act.

(v) Parity in mental health and substance use disorder benefits under section 2726 of the PHS Act.

(vi) Required coverage for reconstructive surgery following mastectomies under section 2727 of the PHS Act.

(vii) Coverage of dependent students on a medically necessary leave of absence under section 2728 of the PHS Act.

(2) *General rule.* For plan years beginning on or after September 23, 2010, a sponsor of a non-Federal governmental plan may elect to exempt its plan, to the extent the plan is not provided through health insurance coverage (that is, it is self-funded), from one or more of the requirements described in paragraphs (a)(1)(iv) through (vii) of this section.

(3) *Special rule for certain collectively bargained plans.* In the case of a plan that is maintained pursuant to a collective bargaining agreement that was ratified before March 23, 2010, and whose sponsor made an election to exempt its plan from any of the requirements described in paragraphs (a)(1)(i) through (iii) of this section, the provisions of paragraph (a)(2) of this section apply for plan years beginning after the expiration of the term of the agreement.

(4) *Examples*—(i) *Example 1.* A non-Federal governmental employer has elected to exempt its self-funded group health plan from all of the requirements described in paragraph (a)(1) of this section. The plan year commences September 1 of each year. The plan is not subject to the provisions of paragraph (a)(2) of this section until the plan year that commences on September 1, 2011. Accordingly, for that plan year and any subsequent plan years, the plan sponsor may elect to exempt its plan only from the requirements described in paragraphs (a)(1)(iv) through (vii) of this section.

(ii) *Example 2.* A non-Federal governmental employer has elected to exempt its collectively bargained self-funded plan from all of the requirements described in paragraph (a)(1) of this section. The collective bargaining agreement applies to five plan years, October 1, 2009 through September 30, 2014. For the plan year that begins on October 1, 2014, the plan sponsor is no longer permitted to elect to exempt its plan from the requirements described in paragraph (a)(1) of this section. Accordingly, for that plan year and any subsequent plan years, the plan sponsor may elect to exempt its plan only from the requirements described in paragraphs (a)(1)(iv) through (vii) of this section.

(5) *Limitations.* (i) An election under this section cannot circumvent a requirement of the PHS Act to the extent the requirement applied to the plan before the effective date of the election.

(A) Example 1. A plan is subject to requirements of section 2727 of the PHS Act, under which a plan that covers medical and surgical benefits with respect to a mastectomy must cover reconstructive surgery and certain other services following a mastectomy. An enrollee who has had a mastectomy receives reconstructive surgery on August 24. Claims with respect to the surgery are submitted to and processed by the plan in September. The group health plan commences a new plan year each September 1. Effective September 1, the plan sponsor elects to exempt its plan from section 2727 of the PHS Act. The plan cannot, on the basis of its exemption election, decline to pay for the claims incurred on August 24.

(B) [Reserved]

(ii) If a group health plan is co-sponsored by two or more employers, then only plan enrollees of the non-Federal governmental employer(s) with a valid election under this section are affected by the election.

(6) *Stop-loss or excess risk coverage.* For purposes of this section—

(i) Subject to paragraph (a)(6)(ii) of this section, the purchase of stop-loss or excess risk coverage by a self-funded non-Federal governmental plan does not prevent an election under this section.

(ii) Regardless of whether coverage offered by an issuer is designated as ''stop-loss'' coverage or ''excess risk'' coverage, if it is regulated as group health insurance under an applicable State law, then for purposes of this section, a non-Federal governmental plan that purchases the coverage is considered to be fully insured. In that event, a plan may not be exempted under this section from the requirements described in paragraph (a)(1) of this section.

(7) *Construction.* Nothing in this part should be construed as imposing collective bargaining obligations on any party to the collective bargaining process.

(b) *Form and manner of election*—(1) *Election requirements.* The election must meet the following requirements:

(i) Be made in an electronic format in a form and manner as described by the Secretary in guidance.

(ii) Be made in conformance with all of the plan sponsor's rules, including any public hearing requirements.

(iii) Specify the beginning and ending dates of the period to which the election is to apply. This period can be either of the following periods:

(A) A single specified plan year, as defined in § 144.103 of this subchapter.

(B) The ''term of the agreement,'' as specified in paragraph (b)(2) of this section, in the case of a plan governed by collective bargaining.

(iv) Specify the name of the plan and the name and address of the plan administrator, and include the name and telephone number of a person CMS may contact regarding the election.

(v) State that the plan does not include health insurance coverage, or identify which portion of the plan is not funded through health insurance coverage.

(vi) Specify each requirement described in paragraph (a)(1) of this section from which the plan sponsor elects to exempt the plan.

(vii) Certify that the person signing the election document, including (if

applicable) a third party plan administrator, is legally authorized to do so by the plan sponsor.

(viii) Include, as an attachment, a copy of the notice described in paragraph (f) of this section.

(ix) In the case of a plan sponsor submitting one opt-out election for all group health plans subject to the same collective bargaining agreement, include a list of plans subject to the agreement.

(x) In the case of a plan sponsor submitting opt-out elections for more than one group health plan that is not subject to a collective bargaining agreement, submit a separate election document for each such plan.

(2) *''Term of the agreement'' defined.* Except as provided in paragraphs (b)(2)(i) and (ii) of this section, for purposes of this section ''term of the agreement'' means all group health plan years governed by a single collective bargaining agreement.

(i) In the case of a group health plan for which the last plan year governed by a prior collective bargaining agreement expires during the bargaining process for a new agreement, the term of the prior agreement includes all plan years governed by the agreement plus the period of time that precedes the latest of the following dates, as applicable, with respect to the new agreement:

(A) The date of an agreement between the governmental employer and union officials.

(B) The date of ratification of an agreement between the governmental employer and the union.

(C) The date impasse resolution, arbitration or other closure of the collective bargaining process is finalized when agreement is not reached.

(ii) In the case of a group health plan governed by a collective bargaining agreement for which closure is not reached before the last plan year under the immediately preceding agreement expires, the term of the new agreement includes all plan years governed by the agreement excluding the period that precedes the latest applicable date specified in paragraph (b)(2)(i) of this section.

(3) *Construction*—(i) *Dispute resolution.* Nothing in paragraph (b)(1)(ii) of this section should be construed to mean that CMS arbitrates disputes between plan sponsors, participants, beneficiaries, or their representatives regarding whether an election complies with all of a plan sponsor's rules.

(ii) *Future elections not preempted.* If a plan must comply with one or more requirements described in paragraph (a)(1) of this section for a given plan year or period of plan coverage, nothing in this section should be construed as preventing a plan sponsor from submitting an election in accordance with this section for a subsequent plan year or period of plan coverage.

(c) *Filing a timely election*—(1) *Plan not governed by collective bargaining.* Subject to paragraph (c)(4) of this section, if a plan is not governed by a collective bargaining agreement, a plan sponsor or entity acting on behalf of a plan sponsor must file an election with CMS before the first day of the plan year.

(2) *Plan governed by a collective bargaining agreement.* Subject to paragraph (d)(4) of this section, if a plan is governed by a collective bargaining agreement that was ratified before March 23, 2010, a plan sponsor or entity acting on behalf of a plan sponsor must file an election with CMS before the first day of the first plan year governed by a collective bargaining agreement, or by the 45th day after the latest applicable date specified in paragraph (b)(2)(i) of this section, if the 45th day falls on or after the first day of the plan year.

(3) *Special rule for timely filing.* If the latest filing date specified under paragraphs (c)(1) or (c)(2) of this section falls on a Saturday, Sunday, or a State or Federal holiday, CMS accepts filings submitted on the next business day.

(4) *Filing extension based on good cause.* CMS may extend the deadlines specified in paragraphs (c)(1) and (2) of this section for good cause if the plan substantially complies with the requirements of paragraph (e) of this section.

(5) *Failure to file a timely election.* Absent an extension under paragraph (c)(4) of this section, a plan sponsor's failure to file a timely election under paragraph (c)(1) or (2) of this section makes the plan subject to all requirements of this part for the entire plan year to which the election would have applied, or, in the case of a plan governed by a collective bargaining agreement, for any plan years under the agreement for which the election is not timely filed.

(d) *Additional information required*—(1) *Written notification.* If an election is timely filed, but CMS determines that the election document (or the notice to plan enrollees) does not meet all of the requirements of this section, CMS may notify the plan sponsor, or other entity that filed the election, that it must submit any additional information that CMS has determined is necessary to meet those requirements. The additional information must be filed with CMS by the later of the following dates:

(i) The last day of the plan year.

(ii) The 45th day after the date of CMS's written notification requesting additional information.

(2) *Timely response.* For submissions via hard copy via U.S. Mail, CMS uses the postmark on the envelope in which the additional information is submitted to determine that the information is timely filed as specified under paragraph (d)(1) of this section. If the latest filing date falls on a Saturday, Sunday, or a State or Federal holiday, CMS accepts a postmark on the next business day.

(3) *Failure to respond timely.* CMS may invalidate an election if the plan sponsor, or other entity that filed the election, fails to timely submit the additional information as specified under paragraph (d)(1) of this section.

(e) *Notice to enrollees*—(1) *Mandatory notification.* (i) A plan that makes the election described in this section must notify each affected enrollee of the election, and explain the consequences of the election. For purposes of paragraph (e) of this section, if the dependent(s) of a participant reside(s) with the participant, a plan need only provide notice to the participant.

(ii) The notice must be in writing and, except as provided in paragraph (e)(2) of this section with regard to initial notices, must be provided to each enrollee at the time of enrollment under the plan, and on an annual basis no later than the last day of each plan year (as defined in § 144.103 of this subchapter) for which there is an election.

(iii) A plan may meet the notification requirements of paragraph (e) of this section by prominently printing the notice in a summary plan description, or equivalent description, that it provides to each enrollee at the time of enrollment, and annually. Also, when a plan provides a notice to an enrollee at the time of enrollment, that notice may serve as the initial annual notice for that enrollee.

(2) *Initial notices.* (i) If a plan is not governed by a collective bargaining agreement, with regard to the initial plan year to which an election under this section applies, the plan must provide the initial annual notice of the election to all enrollees before the first day of that plan year, and notice at the time of enrollment to all individuals who enroll during that plan year.

(ii) In the case of a collectively bargained plan, with regard to the initial plan year to which an election under this section applies, the plan must provide the initial annual notice of the election to all enrollees before the first day of the plan year, or within 30 days after the latest applicable date specified in paragraph (b)(2)(i) of this section if

the 30th day falls on or after the first day of the plan year. Also, the plan must provide a notice at the time of enrollment to individuals who—

(A) Enroll on or after the first day of the plan year, when closure of the collective bargaining process is reached before the plan year begins; or

(B) Enroll on or after the latest applicable date specified in paragraph (b)(2)(i) of this section if that date falls on or after the first day of the plan year.

(3) *Notice content.* The notice must include at least the following information:

(i) The specific requirements described in paragraph (a)(1) of this section from which the plan sponsor is electing to exempt the plan, and a statement that, in general, Federal law imposes these requirements upon group health plans.

(ii) A statement that Federal law gives the plan sponsor of a self-funded non-Federal governmental plan the right to exempt the plan in whole, or in part, from the listed requirements, and that the plan sponsor has elected to do so.

(iii) A statement identifying which parts of the plan are subject to the election.

(iv) A statement identifying which of the listed requirements, if any, apply under the terms of the plan, or as required by State law, without regard to an exemption under this section.

(f) *Subsequent elections*—(1) *Election renewal.* A plan sponsor may renew an election under this section through subsequent elections. The timeliness standards described in paragraph (c) of this section apply to election renewals under paragraph (f) of this section.

(2) *Form and manner of renewal.* Except for the requirement to forward to CMS a copy of the notice to enrollees under paragraph (b)(1)(viii) of this section, the plan sponsor must comply with the election requirements of paragraph (b)(1) of this section. In lieu of providing a copy of the notice under paragraph (b)(1)(viii) of this section, the plan sponsor may include a statement that the notice has been, or will be, provided to enrollees as specified under paragraph (e) of this section.

(3) *Election renewal includes provisions from which plan not previously exempted.* If an election renewal includes a requirement described in paragraph (a)(1) of this section from which the plan sponsor did not elect to exempt the plan for the preceding plan year, the advance notification requirements of paragraph (e)(2) of this section apply with respect to the additional requirement(s) of paragraph (a) of this section from which the plan sponsor is electing to exempt the plan.

(4) *Special rules regarding renewal of an election under a collective bargaining agreement*—(i) If protracted negotiations with respect to a new agreement result in an extension of the term of the prior agreement (as provided under paragraph (b)(2)(i) of this section) under which an election under this section was in effect, the plan must comply with the enrollee notification requirements of paragraph (e)(1) of this section, and, following closure of the collective bargaining process, must file an election renewal with CMS as provided under paragraph (c)(2) of this section.

(ii) If a single plan applies to more than one bargaining unit, and the plan is governed by collective bargaining agreements of varying lengths, paragraph (c)(2) of this section, with respect to an election renewal, applies to the plan as governed by the agreement that results in the earliest filing date.

(g) *Requirements not subject to exemption*—(1) *Genetic information.* Without regard to an election under this section that exempts a non-Federal governmental plan from any or all of the provisions of §§ 146.111 and 146.121, the exemption election must not be construed to exempt the plan from any provisions of this part that pertain to genetic information.

(2) *Enforcement.* CMS enforces these requirements as provided under paragraph (j) of this section.

(h) *Effect of failure to comply with certification and notification requirements*—(1) *Substantial failure*—(i) *General rule.* Except as provided in paragraph (h)(1)(iii) of this section, a substantial failure to comply with paragraph (e) or (g)(1) of this section results in the invalidation of an election under this section with respect to all plan enrollees for the entire plan year. That is, the plan is subject to all requirements of this part for the entire plan year to which the election otherwise would have applied.

(ii) *Determination of substantial failure.* CMS determines whether a plan has substantially failed to comply with a requirement of paragraph (e) or (g)(1) of this section based on all relevant facts and circumstances, including previous record of compliance, gravity of the violation and whether a plan corrects the failure, as warranted, within 30 days of learning of the violation. However, in general, a plan's failure to provide a notice of the fact and consequences of an election under this section to an individual at the time of enrollment, or on an annual basis before a given plan year expires, constitutes a substantial failure.

(iii) *Exceptions*—(A) *Multiple employers.* If the plan is sponsored by multiple employers, and only certain employers substantially fail to comply with the requirements of paragraph (e) or (g)(1) of this section, then the election is invalidated with respect to those employers only, and not with respect to other employers that complied with those requirements, unless the plan chooses to cancel its election entirely.

(B) *Limited failure to provide notice.* If a substantial failure to notify enrollees of the fact and consequences of an election is limited to certain individuals, the election under this section is valid only if, for the plan year with respect to which the failure has occurred, the plan agrees not to apply the election with respect to the individuals who were not notified and so informs those individuals in writing.

(2) *Examples*—(i) *Example 1.* A self-funded, non-Federal group health plan is co-sponsored by 10 school districts. Nine of the school districts have fully complied with the requirements of paragraph (e) of this section, including providing notice to new employees at the time of their enrollment in the plan, regarding the group health plan's exemption under this section from requirements of this part. One school district, which hired 10 new teachers during the summer for the upcoming school year, neglected to notify three of the new hires about the group health plan's exemption election at the time they enrolled in the plan. The school district has substantially failed to comply with a requirement of paragraph (e) of this section with respect to these individuals. The school district learned of the oversight six weeks into the school year, and promptly (within 30 days of learning of the oversight) provided notice to the three teachers regarding the plan's exemption under this section and that the exemption does not apply to them, or their dependents, during the plan year of their enrollment because of the plan's failure to timely notify them of its exemption. The plan complies with the requirements of this part for these individuals for the plan year of their enrollment. CMS would not require the plan to come into compliance with the requirements of this part for other enrollees.

(ii) *Example 2.* Two non-Federal governmental employers cosponsor a self-funded group health plan. One employer substantially fails to comply with the requirements of paragraph (e) of this section. While the plan may limit the invalidation of the election to enrollees of the plan sponsor that is

responsible for the substantial failure, the plan sponsors determine that administering the plan in that manner would be too burdensome. Accordingly, in this example, the plan sponsors choose to cancel the election entirely. Both plan sponsors come into compliance with the requirements of this part with respect to all enrollees for the plan year for which the substantial failure has occurred.

(i) *Election invalidated.* If CMS finds cause to invalidate an election under this section, the following rules apply:

(1) CMS notifies the plan sponsor (and the plan administrator if other than the plan sponsor and the administrator's address is known to CMS) in writing that CMS has made a preliminary determination that an election is invalid, and States the basis for that determination.

(2) CMS's notice informs the plan sponsor that it has 45 days after the date of CMS's notice to explain in writing why it believes its election is valid. The plan sponsor should provide applicable statutory and regulatory citations to support its position.

(3) CMS verifies that the plan sponsor's response is timely filed as provided under paragraph (c)(3) of this section. CMS will not consider a response that is not timely filed.

(4) If CMS's preliminary determination that an election is invalid remains unchanged after CMS considers the plan sponsor's timely response (or in the event that the plan sponsor fails to respond timely), CMS provides written notice to the plan sponsor (and the plan administrator if other than the plan sponsor and the administrator's address is known to CMS) of CMS's final determination that the election is invalid. Also, CMS informs the plan sponsor that, within 45 days of the date of the notice of final determination, the plan, subject to paragraph (i)(1)(iii) of this section, must comply with all requirements of this part for the specified period for which CMS has determined the election to be invalid.

(j) *Enforcement.* To the extent that an election under this section has not been filed or a non-Federal governmental plan otherwise is subject to one or more requirements of this part, CMS enforces those requirements under part 150 of this subchapter. This may include imposing a civil money penalty against the plan or plan sponsor, as determined under subpart C of part 150.

(k) *Construction.* Nothing in this section should be construed to prevent a State from taking the following actions:

(1) Establishing, and enforcing compliance with, the requirements of State law (as defined in § 146.143(d)(1)), including requirements that parallel provisions of title XXVII of the PHS Act, that apply to non-Federal governmental plans or sponsors.

(2) Prohibiting a sponsor of a non-Federal governmental plan within the State from making an election under this section.

PART 147—HEALTH INSURANCE REFORM REQUIREMENTS FOR THE GROUP AND INDIVIDUAL HEALTH INSURANCE MARKETS

■ 6. The authority citation for part 147 continues to read as follows:

Authority: Secs. 2701 through 2763, 2791, and 2792 of the Public Health Service Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92), as amended.

■ 7. Section 147.104 is amended by revising paragraph (b)(1)(i) and adding paragraph (h) to read as follows:

§ 147.104 Guaranteed availability of coverage.

* * * * *

(b) * * *

(1) * * *

(i) *Group market.* (A) Subject to paragraph (b)(1)(i)(B) of this section, a health insurance issuer in the group market must allow an employer to purchase health insurance coverage for a group health plan at any point during the year.

(B) In the case of a group health plan in the small group market that cannot comply with employer contribution or group participation rules for the offering of health insurance coverage, as allowed under applicable State law and in the case of a QHP offered in the SHOP, as permitted by § 156.1250(c) of this subchapter, a health insurance issuer may restrict the availability of coverage to an annual enrollment period that begins November 15 and extends through December 15 of each calendar year.

(C) With respect to coverage in the small group market, and in the large group market if such coverage is offered through a Small Business Health Options Program (SHOP) in a State, coverage must become effective consistent with the dates described in § 155.725(a)(2) of this subchapter, except as provided in paragraph (b)(1)(iii) of this section.

* * * * *

(h) *Construction.* Nothing in this section should be construed to require an issuer to offer coverage otherwise prohibited under applicable Federal law.

■ 8. Section 147.106 is amended by—

■ a. Revising paragraphs (b)(4), (c)(1), and (e);

■ b. Redesignating paragraphs (f), (g), and (h) as paragraphs (h), (i) and (j), respectively; and

■ c. Adding new paragraphs (f) and (g).

The revisions and additions read as follows:

§ 147.106 Guaranteed renewability of coverage.

* * * * *

(b) * * *

(4) *Termination of product.* The issuer is ceasing to offer coverage in the market in accordance with paragraph (c) or (d) of this section and applicable State law.

* * * * *

(c) * * *

(1) The issuer provides notice in writing, in a form and manner specified by the Secretary, to each plan sponsor or individual, as applicable, provided that particular product in that market (and to all participants and beneficiaries covered under such coverage) of the discontinuation at least 90 calendar days before the date the coverage will be discontinued.

* * * * *

(e) *Exception for uniform modification of coverage.* (1) Only at the time of coverage renewal may issuers modify the health insurance coverage for a product offered to a group health plan or an individual, as applicable, in the following:

(i) Large group market.

(ii) Small group market if, for coverage available in this market (other than only through one or more bona fide associations), the modification is consistent with State law and is effective uniformly among group health plans with that product.

(iii) Individual market if the modification is consistent with State law and is effective uniformly for all individuals with that product.

(2) For purposes of paragraphs (e)(1)(ii) and (iii) of this section, modifications made uniformly and solely pursuant to applicable Federal or State requirements are considered a uniform modification of coverage if:

(i) The modification is made within a reasonable time period after the imposition or modification of the Federal or State requirement; and

(ii) The modification is directly related to the imposition or modification of the Federal or State requirement.

(3) Other types of modifications made uniformly are considered a uniform modification of coverage if the health insurance coverage for the product in the individual or small group market meets all of the following criteria:

(i) The product is offered by the same health insurance issuer (within the meaning of section 2791(b)(2) of the PHS Act);

(ii) The product is offered as the same product network type (for example, health maintenance organization, preferred provider organization, exclusive provider organization, point of service, or indemnity);

(iii) The product continues to cover at least a majority of the same service area;

(iv) Within the product, each plan has the same cost-sharing structure as before the modification, except for any variation in cost sharing solely related to changes in cost and utilization of medical care, or to maintain the same metal tier level described in sections 1302(d) and (e) of the Affordable Care Act; and

(v) The product provides the same covered benefits, except for any changes in benefits that cumulatively impact the plan-adjusted index rate (as described in § 156.80(d)(2) of this subchapter) for any plan within the product within an allowable variation of +/−2 percentage points (not including changes pursuant to applicable Federal or State requirements).

(4) A State may only broaden the standards in paragraphs (e)(3)(iii) and (iv) of this section.

(f) *Notice of renewal of coverage.* (1) If an issuer in the individual market is renewing non-grandfathered coverage as described in paragraph (a) of this section, or uniformly modifying non-grandfathered coverage as described in paragraph (e) of this section, the issuer must provide to each individual written notice of the renewal before the date of the first day of the next annual open enrollment period in a form and manner specified by the Secretary.

(2) If an issuer in the small group market is renewing coverage as described in paragraph (a) of this section, or uniformly modifying coverage as described in paragraph (e) of this section, the issuer must provide to each plan sponsor or individual, as applicable, written notice of the renewal at least 60 calendar days before the date of the coverage will be renewed in a form and manner specified by the Secretary.

(g) *Construction.* (1) Nothing in this section should be construed to require an issuer to renew or continue in force coverage for which continued eligibility would otherwise be prohibited under applicable Federal law.

(2) Medicare eligibility or entitlement is not a basis for nonrenewal or termination of an individual's health insurance coverage in the individual market.

* * * * *

PART 148—REQUIREMENTS FOR THE INDIVIDUAL HEALTH INSURANCE MARKET

■ 9. The authority citation for part 148 is revised to read as follows:

Authority: Secs. 2701 through 2763, 2791, and 2792 of the Public Health Service Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92), as amended.

■ 10. Section 148.101 is revised to read as follows:

§ 148.101 Basis and purpose.

This part implements sections 2741 through 2763 and 2791 and 2792 of the PHS Act. Its purpose is to guarantee the renewability of all coverage in the individual market. It also provides certain protections for mothers and newborns with respect to coverage for hospital stays in connection with childbirth and protects all individuals and family members who have, or seek, individual health insurance coverage from discrimination based on genetic information.

■ 11. Section 148.102 is revised to read as follows:

§ 148.102 Scope, applicability, and effective dates.

(a) *Scope and applicability.* (1) Individual health insurance coverage includes all health insurance coverage (as defined in § 144.103 of this subchapter) that is neither health insurance coverage sold in connection with an employment-related group health plan, nor short-term, limited-duration coverage as defined in § 144.103 of this subchapter.

(2) The requirements that pertain to guaranteed renewability for all individuals, to protections for mothers and newborns with respect to hospital stays in connection with childbirth, and to protections against discrimination based on genetic information apply to all issuers of individual health insurance coverage in the State.

(b) *Applicability date.* Except as provided in § 148.124 (certificate of creditable coverage), § 148.170 (standards relating to benefits for mothers and newborns), and § 148.180 (prohibition of health discrimination based on genetic information), the requirements of this part apply to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after June 30, 1997.

§ 148.103 [Removed]

■ 12. Section 148.103 is removed.

■ 13. Section 148.120 is revised to read as follows:

§ 148.120 Guaranteed availability of individual health insurance coverage to certain individuals with prior group coverage.

The rules for guaranteeing the availability of individual health insurance coverage to certain eligible individuals with prior group coverage have been superseded by the requirements of § 147.104 of this subchapter, which set forth Federal requirements for guaranteed availability of coverage in the group and individual markets.

■ 14. Section 148.122 is amended by—

■ a. Revising paragraphs (a), (c)(3), (d)(1), and (g); and

■ b. Adding new paragraph (i).

The revision and addition read as follows:

§ 148.122 Guaranteed renewability of individual health insurance coverage.

(a) *Applicability.* This section applies to non-grandfathered and grandfathered health plans (within the meaning of § 147.140 of this subchapter) that are individual health insurance coverage. *See* also § 147.106 of this subchapter for requirements relating to guaranteed renewability of coverage with respect to non-grandfathered health plans.

* * * * *

(c) * * *

(3) *Termination of product.* The issuer is ceasing to offer coverage in the market in accordance with paragraph (d) or (e) of this section and applicable State law.

* * * * *

(d) * * *

(1) Provides notice in writing, in a form and manner specified by the Secretary, to each individual provided coverage of that type of health insurance at least 90 calendar days before the date the coverage will be discontinued.

* * * * *

(g) *Exception for uniform modification of coverage.* (1) An issuer may, only at the time of coverage renewal, modify the health insurance coverage for a product offered in the individual market if the modification is consistent with State law and is effective uniformly for all individuals with that product.

(2) For purposes of paragraph (g) of this section, modifications made uniformly and solely pursuant to applicable Federal or State requirements are considered a uniform modification of coverage if:

(i) The modification is made within a reasonable time period after the imposition or modification of the Federal or State requirement; and

(ii) The modification is directly related to the imposition or modification of the Federal or State requirement.

(3) For purposes of paragraph (g) of this section, other types of modifications made uniformly are considered a uniform modification of coverage if the health insurance coverage for the product meets all of the following criteria:

(i) The product is offered by the same health insurance issuer (within the meaning of section 2791(b)(2) of the PHS Act);

(ii) The product is offered as the same product network type (for example, health maintenance organization, preferred provider organization, exclusive provider organization, point of service, or indemnity);

(iii) The product continues to cover at least a majority of the same service area;

(iv) Within the product, each plan has the same cost-sharing structure as before the modification, except for any variation in cost sharing solely related to changes in cost and utilization of medical care, or to maintain the same metal tier level described in sections 1302(d) and (e) of the Affordable Care Act; and

(v) The product provides the same covered benefits, except for any changes in benefits that cumulatively impact rate for any plan within the product within an allowable variation of +/− 2 percentage points (not including changes pursuant to applicable Federal or State requirements).

(4) A State may only broaden the standards in paragraphs (g)(3)(iii) and (iv) of this section.

* * * * *

(i) *Notice of renewal of coverage.* If an issuer is renewing grandfathered coverage as described in paragraph (b) of this section, or uniformly modifying grandfathered coverage as described in paragraph (g) of this section, the issuer must provide to each individual written notice of the renewal at least 60 calendar days before the date the coverage will be renewed in a form and manner specified by the Secretary.

■ 15. Section 148.124 is revised to read as follows:

§ 148.124 Certification and disclosure of coverage.

(a) *General rule.* The rules for providing certificates of creditable coverage and demonstrating creditable coverage have been superseded by the prohibition on preexisting condition exclusions. *See* § 147.108 of this subchapter for rules prohibiting the imposition of a preexisting condition exclusion.

(b) *Applicability.* The provisions of this section apply beginning December 31, 2014.

■ 16. Section 148.126 is revised to read as follows:

§ 148.126 Determination of an eligible individual.

The rules for guaranteeing the availability of individual health insurance coverage to certain eligible individuals with prior group coverage have been superseded by the requirements of § 147.104 of this subchapter, which set forth Federal requirements for guaranteed availability of coverage in the group and individual markets.

■ 17. Section 148.128 is revised to read as follows:

§ 148.128 State flexibility in individual market reforms—alternative mechanisms.

The rules for a State to implement an acceptable alternative mechanism for purposes of guaranteeing the availability of individual health insurance coverage to certain eligible individuals with prior group coverage have been superseded by the requirements of § 147.104 of this subchapter, which set forth Federal requirements for guaranteed availability of coverage in the group and individual markets.

■ 18. Section 148.220 is amended by—

■ a. Revising the introductory text and paragraph (b)(3);

■ b. Redesignating paragraphs (b)(4) through (6) as paragraphs (b)(5) through (7), respectively; and

■ c. Adding new paragraph (b)(4).

The revisions and additions read as follows:

§ 148.220 Excepted benefits.

The requirements of this part and part 147 of this subchapter do not apply to any individual coverage in relation to its provision of the benefits described in paragraphs (a) and (b) of this section (or any combination of the benefits).

* * * * *

(b) * * *

(3) Coverage only for a specified disease or illness (for example, cancer policies) if the policies meet the requirements of § 146.145(b)(4)(ii)(B) and (C) of this subchapter regarding noncoordination of benefits.

(4) Hospital indemnity or other fixed indemnity insurance only if—

(i) The benefits are provided only to individuals who attest, in their fixed indemnity insurance application, that they have other health coverage that is minimum essential coverage within the meaning of section 5000A(f) of the Internal Revenue Code, or that they are treated as having minimum essential coverage due to their status as a bona fide resident of any possession of the United States pursuant to Code section 5000A(f)(4)(B).

(ii) There is no coordination between the provision of benefits and an exclusion of benefits under any other health coverage.

(iii) The benefits are paid in a fixed dollar amount per period of hospitalization or illness and/or per service (for example, $100/day or $50/visit) regardless of the amount of expenses incurred and without regard to the amount of benefits provided with respect to the event or service under any other health coverage.

(iv) A notice is displayed prominently in the application materials in at least 14 point type that has the following language: ''THIS IS A SUPPLEMENT TO HEALTH INSURANCE AND IS NOT A SUBSTITUTE FOR MAJOR MEDICAL COVERAGE. LACK OF MAJOR MEDICAL COVERAGE (OR OTHER MINIMUM ESSENTIAL COVERAGE) MAY RESULT IN AN ADDITIONAL PAYMENT WITH YOUR TAXES.''

(v) The requirement of paragraph (b)(4)(iv) of this section applies to all hospital or other fixed indemnity insurance policy years beginning on or after January 1, 2015, and the requirement of paragraph (b)(4)(i) of this section applies to hospital or other fixed indemnity insurance policies issued on or after January 1, 2015, and to hospital or other fixed indemnity policies issued before that date, upon their first renewal occurring on or after October 1, 2016.

* * * * *

PART 153—STANDARDS RELATED TO REINSURANCE, RISK CORRIDORS, AND RISK ADJUSTMENT UNDER THE AFFORDABLE CARE ACT

■ 19. The authority citation for part 153 continues to read as follows:

Authority: Secs. 1311, 1321, 1341–1343, Pub. L. 111–148, 24 Stat. 119.

■ 20. Section 153.500 is amended by revising the definition of ''Adjustment percentage'' to read as follows:

§ 153.500 Definitions.

* * * * *

Adjustment percentage means, with respect to a QHP:

(1) For benefit year 2014, for a QHP offered by a health insurance issuer with allowable costs of at least 80 percent of after-tax premium in a transitional State, the percentage specified by HHS for such QHPs in the transitional State; and otherwise zero percent.

(2) For benefit year 2015, for a QHP offered by a health insurance issuer in any State, two percent.

* * * * *

PART 154—HEALTH INSURANCE ISSUER RATE INCREASES: DISCLOSURE AND REVIEW REQUIREMENTS

■ 21. The authority citation for part 154 continues to read as follows:

Authority: Section 2794 of the Public Health Service Act (42 U.S.C. 300gg–94).

■ 22. Section 154.102 is amended by revising the definition of ''Product'' to read as follows:

§ 154.102 Definitions.

* * * * *

Product means a package of health insurance coverage benefits with a discrete set of rating and pricing methodologies that a health insurance issuer offers in a State. The term product includes any product that is discontinued and newly filed within a 12-month period when the changes to the product meet the standards of § 147.106(e)(2) or (3) of this subchapter (relating to uniform modification of coverage).

* * * * *

PART 155—EXCHANGE ESTABLISHMENT STANDARDS AND OTHER RELATED STANDARDS UNDER THE AFFORDABLE CARE ACT

■ 23. The authority citation for part 155 continues to read as follows:

Authority: Title I of the Affordable Care Act, sections 1301, 1302, 1303, 1304, 1311, 1312, 1313, 1321, 1322, 1331, 1332, 1334, 1402, 1411, 1412, 1413, Pub. L. 111–148, 124 Stat. 119 (42 U.S.C. 18021–18024, 18031–18033, 18041–18042, 18051, 18054, 18071, and 18081–18083).

■ 24. Section 155.120 is amended by revising paragraph (c) to read as follows:

§ 155.120 Non-interference with Federal law and non-discrimination standards.

* * * * *

(c) *Non-discrimination.* (1) In carrying out the requirements of this part, the State and the Exchange must:

(i) Comply with applicable non-discrimination statutes; and

(ii) Not discriminate based on race, color, national origin, disability, age, sex, gender identity or sexual orientation.

(2) Notwithstanding the provisions of paragraph (c)(1)(ii) of this section, an organization that receives Federal funds to provide services to a defined population under the terms of Federal legal authorities that participates in the certified application counselor program under § 155.225 may limit its provision of certified application counselor services to the same defined population, but must comply with paragraph (c)(1)(ii) of this section with respect to the provision of certified application counselor services to that defined population. If the organization limits its provision of certified application counselor services pursuant to this exception, but is approached for certified application counselor services by an individual who is not included in the defined population that the organization serves, the organization must refer the individual to other Exchange-approved resources that can provide assistance. If the organization does not limit its provision of certified application counselor services pursuant to this exception, the organization must comply with paragraph (c)(1)(ii) of this section.

■ 25. Section 155.206 is added to read as follows:

§ 155.206 Civil money penalties for violations of applicable Exchange standards by consumer assistance entities in Federally-facilitated Exchanges.

(a) *Enforcement actions.* If an individual or entity specified in paragraph (b) of this section engages in activity specified in paragraph (c) of this section, the Department of Health and Human Services (HHS) may impose the following sanctions:

(1) Civil money penalties (CMPs), subject to the provisions of this section.

(2) Corrective action plans. In the notice of assessment of CMPs specified in paragraph (l) of this section, HHS may provide an individual or entity specified in paragraph (b) of this section the opportunity to enter into a corrective action plan to correct the violation instead of paying the CMP, based on evaluation of the factors set forth in paragraph (h) of this section. In the event that the individual or entity does not follow such a corrective action plan, HHS could require payment of the CMP.

(b) *Consumer assistance entities.* CMPs may be assessed under this section against the following consumer assistance entities:

(1) Individual Navigators and Navigator entities in a Federally-facilitated Exchange, including grantees, sub-grantees, and all personnel carrying out Navigator duties on behalf of a grantee or sub-grantee;

(2) Non-Navigator assistance personnel authorized under § 155.205(d) and (e) and non-Navigator assistance personnel entities in a Federally-facilitated Exchange, including but not limited to individuals and entities under contract with HHS to facilitate consumer enrollment in QHPs in a Federally-facilitated Exchange; and

(3) Organizations that a Federally-facilitated Exchange has designated as certified application counselor organizations and individual certified application counselors carrying out certified application counselor duties in a Federally-facilitated Exchange.

(c) *Grounds for assessing CMPs.* HHS may assess CMPs against a consumer assistance entity if, based on the outcome of the investigative process outlined in paragraphs (d) through (i) of this section, HHS has reasonably determined that the consumer assistance entity has failed to comply with the Federal regulatory requirements applicable to the consumer assistance entity that have been implemented pursuant to section 1321(a)(1) of the Affordable Care Act, including provisions of any agreements, contracts, and grant terms and conditions between HHS and the consumer assistance entity that interpret those Federal regulatory requirements or establish procedures for compliance with them, unless a CMP has been assessed for the same conduct under 45 CFR 155.285.

(d) *Basis for initiating an investigation of a potential violation.* (1) *Information.* Any information received or learned by HHS that indicates that a consumer assistance entity may have engaged or may be engaging in activity specified in paragraph (c) of this section may warrant an investigation. Information that might trigger an investigation includes, but is not limited to, the following:

(i) Complaints from the general public;

(ii) Reports from State regulatory agencies, and other Federal and State agencies; or

(iii) Any other information that indicates that a consumer assistance entity may have engaged or may be engaging in activity specified in paragraph (c) of this section.

(2) *Who may file a complaint.* Any entity or individual, or the legally authorized representative of an entity or individual, may file a complaint with HHS alleging that a consumer assistance entity has engaged or is engaging in an activity specified in paragraph (c) of this section.

(e) *Notice of investigation.* When HHS performs an investigation under this section, it must provide a written notice to the consumer assistance entity of its investigation. This notice must include the following:

(1) Description of the activity that is being investigated.

(2) Explanation that the consumer assistance entity has 30 days from the date of the notice to respond with additional information or documentation, including information or documentation to refute an alleged violation.

(3) State that a CMP might be assessed if the allegations are not, as determined by HHS, refuted within 30 days from the date of the notice.

(f) *Request for extension.* In circumstances in which a consumer assistance entity cannot prepare a response to HHS within the 30 days provided in the notice of investigation described in paragraph (e) of this section, the entity may make a written request for an extension from HHS detailing the reason for the extension request and showing good cause. If HHS grants the extension, the consumer assistance entity must respond to the notice within the time frame specified in HHS's letter granting the extension of time. Failure to respond within 30 days, or, if applicable, within an extended time frame, may result in HHS's imposition of a CMP depending upon the outcome of HHS's investigation of the alleged violation.

(g) *Responses to allegations of noncompliance.* In determining whether to impose a CMP, HHS may review and consider documents or information received or collected in accordance with paragraph (d)(1) of this section, as well as additional documents or information provided by the consumer assistance entity in response to receiving a notice of investigation in accordance with paragraph (e)(2) of this section. HHS may also conduct an independent investigation into the alleged violation, which may include site visits and interviews, if applicable, and may consider the results of this investigation in its determination.

(h) *Factors in determining noncompliance and amount of CMPs, if any.* In determining whether there has been noncompliance by the consumer assistance entity, and whether CMPs are appropriate:

(1) HHS must take into account the following:

(i) The consumer assistance entity's previous or ongoing record of compliance, including but not limited to compliance or noncompliance with any corrective action plan.

(ii) The gravity of the violation, which may be determined in part by—

(A) The frequency of the violation, taking into consideration whether any violation is an isolated occurrence, represents a pattern, or is widespread; and

(B) Whether the violation caused, or could reasonably be expected to cause, financial or other adverse impacts on consumer(s), and the magnitude of those impacts;

(2) HHS may take into account the following:

(i) The degree of culpability of the consumer assistance entity, including but not limited to—

(A) Whether the violation was beyond the direct control of the consumer assistance entity; and

(B) The extent to which the consumer assistance entity received compensation—legal or otherwise—for the services associated with the violation;

(ii) Aggravating or mitigating circumstances;

(iii) Whether other remedies or penalties have been assessed and/or imposed for the same conduct or occurrence; or

(iv) Other such factors as justice may require.

(i) *Maximum per-day penalty.* The maximum amount of penalty imposed for each violation is $100 for each day for each consumer assistance entity for each individual directly affected by the consumer assistance entity's noncompliance; and where the number of individuals cannot be determined, HHS may reasonably estimate the number of individuals directly affected by the violation.

(j) *Settlement authority.* Nothing in § 155.206 limits the authority of HHS to settle any issue or case described in the notice furnished in accordance with paragraph (e) of this section or to compromise on any penalty provided for in this section.

(k) *Limitations on penalties.* (1) *Circumstances under which a CMP is not imposed.* HHS will not impose any CMP on:

(i) Any violation for the period of time during which none of the consumer assistance entities knew, or exercising reasonable diligence would have known, of the violation; or

(ii) The period of time after any of the consumer assistance entities knew, or exercising reasonable diligence would have known, of the failure, if the violation was due to reasonable cause and not due to willful neglect and the violation was corrected within 30 days of the first day that any of the consumer assistance entities against whom the penalty would be imposed knew, or exercising reasonable diligence would have known, that the violation existed.

(2) *Burden of establishing knowledge.* The burden is on the consumer assistance entity or entities to establish to HHS's satisfaction that the consumer assistance entity did not know, or exercising reasonable diligence would have known, that the violation existed, as well as the period of time during which that limitation applies; or that the violation was due to reasonable cause and not due to willful neglect and was corrected pursuant to the elements in paragraph (k)(1)(ii) of this section.

(3) *Time limit for commencing action.* No action under this section will be entertained unless commenced, in accordance with § 155.206(l), within six years from the date on which the violation occurred.

(l) *Notice of assessment of CMP.* If HHS proposes to assess a CMP in accordance with this section, HHS will send a written notice of this decision to the consumer assistance entity against whom the sanction is being imposed, which notice must include the following:

(1) A description of the basis for the determination;

(2) The basis for the CMP;

(3) The amount of the CMP, if applicable;

(4) The date the CMP, if applicable, is due;

(5) Whether HHS would permit the consumer assistance entity to enter into a corrective action plan in place of paying the CMP, and the terms of any such corrective action plan;

(6) An explanation of the consumer assistance entity's right to a hearing under paragraph (m) of this section; and

(7) Information about the process for filing a request for a hearing.

(m) *Appeal of proposed sanction.* Any consumer assistance entity against which HHS has assessed a sanction may appeal that penalty in accordance with the procedures set forth at 45 CFR part 150, subpart D.

(n) *Failure to request a hearing.* (1) If the consumer assistance entity does not request a hearing within 30 days of the issuance of the notice of assessment of CMP described in paragraph (l) of this section, HHS may require payment of the proposed CMP.

(2) HHS will notify the consumer assistance entity in writing of any CMP that has been assessed and of the means by which the consumer assistance entity may pay the CMP.

(3) The consumer assistance entity has no right to appeal a CMP with respect to which it has not requested a hearing in accordance with paragraph (m) of this section unless the consumer assistance entity can show good cause in accordance with § 150.405(b) of this subchapter for failing to timely exercise its right to a hearing.

■ 26. Section 155.210 is amended—
■ a. By revising paragraph (c)(1)(iii);
■ b. In paragraph (d)(3) by removing ''or,'' after the semicolon;
■ c. By revising paragraph (d)(4);
■ d. By adding paragraphs (d)(5) through (9) and (e)(6) and (7); and
■ e. By revising paragraph (e)(2).

The revision and additions read as follows:

§ 155.210 Navigator program standards.

* * * * *

(c) * * *

(1) * * *

(iii) Meet any licensing, certification or other standards prescribed by the State or Exchange, if applicable, so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act. Standards that would prevent the application of the provisions of title I of the Affordable Care Act include but are not limited to the following:

(A) Except as otherwise provided under § 155.705(d), requirements that Navigators refer consumers to other entities not required to provide fair, accurate, and impartial information.

(B) Except as otherwise provided under § 155.705(d), requirements that would prevent Navigators from providing services to all persons to whom they are required to provide assistance.

(C) Requirements that would prevent Navigators from providing advice regarding substantive benefits or comparative benefits of different health plans.

(D) Requiring that a Navigator hold an agent or broker license or imposing any requirement that, in effect, would require all Navigators in the Exchange to be licensed agents or brokers.

(E) Imposing standards that would, as applied or as implemented in a State, prevent the application of Federal requirements applicable to Navigator entities or individuals or applicable to the Exchange's implementation of the Navigator program.

* * * * *

(d) * * *

(4) Receive any consideration directly or indirectly from any health insurance issuer or issuer of stop loss insurance in connection with the enrollment of any individuals or employees in a QHP or a non-QHP. Notwithstanding the requirements of this paragraph (d)(4), in a Federally-facilitated Exchange, no health care provider shall be ineligible to operate as a Navigator solely because it receives consideration from a health insurance issuer for health care services provided;

(5) Charge any applicant or enrollee, or request or receive any form of remuneration from or on behalf of an individual applicant or enrollee, for application or other assistance related to Navigator duties;

(6) Provide gifts, including gift cards or cash, unless they are of nominal value, or provide promotional items that market or promote the products or services of a third party, to any applicant or potential enrollee as an inducement for enrollment. Gifts, gift cards, or cash may exceed nominal value for the purpose of providing reimbursement for legitimate expenses incurred by a consumer in effort to receive Exchange application assistance, such as, but not limited to, travel or postage expenses;

(7) Use Exchange funds to purchase gifts or gift cards, or promotional items that market or promote the products or services of a third party, that would be provided to any applicant or potential enrollee;

(8) Solicit any consumer for application or enrollment assistance by going door-to-door or through other unsolicited means of direct contact, including calling a consumer to provide application or enrollment assistance without the consumer initiating the contact, unless the individual has a pre-existing relationship with the individual Navigator or Navigator entity and other applicable State and Federal laws are otherwise complied with. Outreach and education activities may be conducted by going door-to-door or through other unsolicited means of direct contact, including calling a consumer or

(9) Initiate any telephone call to a consumer using an automatic telephone dialing system or an artificial or prerecorded voice, except in cases where the individual Navigator or Navigator entity has a relationship with the consumer and so long as other applicable State and Federal laws are otherwise complied with.

(e) * * *

(2) Provide information and services in a fair, accurate, and impartial manner, which includes providing information that assists consumers with submitting the eligibility application; clarifying the distinctions among health coverage options, including QHPs; and helping consumers make informed decisions during the health coverage selection process. Such information must acknowledge other health programs;

* * * * *

(6) Ensure that applicants—

(i) Are informed of the functions and responsibilities of Navigators;

(ii) Provide authorization in a form and manner as determined by the Exchange prior to a Navigator's obtaining access to an applicant's personally identifiable information, and that the Navigator maintains a record of the authorization provided in a form and manner as determined by the Exchange. The Exchange must establish a reasonable retention period for maintaining these records. In Federally-facilitated Exchanges, this period is no less than six years, unless a different and longer retention period has already been provided under other applicable Federal law; and

(iii) May revoke at any time the authorization provided the Navigator pursuant to paragraph (e)(6)(ii) of this section.

(7) Maintain a physical presence in the Exchange service area, so that face-to-face assistance can be provided to applicants and enrollees. In a Federally-facilitated Exchange, no individual or entity shall be ineligible to operate as a Navigator solely because its principal place of business is outside of the Exchange service area.

* * * * *

■ 27. Section 155.215 is amended by adding paragraphs (f) through (i) to read as follows:

§ 155.215 Standards applicable to Navigators and Non-Navigator Assistance Personnel carrying out consumer assistance functions under §§ 155.205(d) and (e) and 155.210 in a Federally-facilitated Exchange and to Non-Navigator Assistance Personnel funded through an Exchange Establishment Grant.

* * * * *

(f) *State or Exchange standards.* All non-Navigator entities or individuals carrying out consumer assistance functions under § 155.205(d) and (e) in an Exchange operated by HHS during the exercise of its authority under § 155.105(f) and all non-Navigator assistance personnel funded through an Exchange Establishment Grant under section 1311(a) of the Affordable Care Act must meet any licensing, certification, or other standards prescribed by the State or Exchange, if applicable, so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act. Standards that would prevent the application of the provisions of title I of the Affordable Care Act include but are not limited to the following:

(1) Requirements that non-Navigator entities or individuals refer consumers to other entities not required to provide fair, accurate, and impartial information.

(2) Requirements that would prevent non-Navigator entities or individuals from providing services to all persons to

whom they are required to provide assistance.

(3) Requirements that would prevent non-Navigator entities or individuals from providing advice regarding substantive benefits or comparative benefits of different health plans.

(4) Imposing standards that would, as applied or as implemented in a State, prevent the application of Federal requirements applicable to non-Navigator entities or individuals or applicable to the Exchange's implementation of the non-Navigator assistance personnel program.

(g) *Consumer authorization.* All non-Navigator entities or individuals carrying out consumer assistance functions under § 155.205(d) and (e) in an Exchange operated by HHS during the exercise of its authority under § 155.105(f) and all non-Navigator assistance personnel funded through an Exchange Establishment Grant under section 1311(a) of the Affordable Care Act must establish procedures to ensure that applicants—

(1) Are informed of the functions and responsibilities of non-Navigator assistance personnel;

(2) Provide authorization in a form and manner as determined by the Exchange prior to a non-Navigator assistance personnel's obtaining access to an applicant's personally identifiable information, and that the non-Navigator assistance personnel maintains a record of the authorization provided in a form and manner as determined by the Exchange. The Exchange must establish a reasonable retention period for maintaining these records. In Federally-facilitated Exchanges, this period is no less than six years, unless a different and longer retention period has already been provided under other applicable Federal law; and

(3) May revoke at any time the authorization provided the non-Navigator assistance personnel pursuant to paragraph (g)(2) of this section.

(h) All non-Navigator entities carrying out consumer assistance functions under § 155.205(d) and (e) in an Exchange operated by HHS during the exercise of its authority under § 155.105(f) and all non-Navigator assistance personnel funded through an Exchange Establishment Grant under section 1311(a) of the Affordable Care Act must maintain a physical presence in the Exchange service area, so that face-to-face assistance can be provided to applicants and enrollees. In a Federally-facilitated Exchange, no individual or entity shall be ineligible to operate as a non-Navigator entity or as non-Navigator assistance personnel solely because its principal place of business is outside of the Exchange service area.

(i) *Prohibition on compensation per enrollment.* Beginning November 15, 2014, Navigators and Non-Navigator assistance personnel carrying out consumer assistance functions under §§ 155.205(d) and (e) and 155.210, if operating in an Exchange operated by HHS during the exercise of its authority under § 155.105(f), are prohibited from providing compensation to individual Navigators or non-Navigator assistance personnel on a per-application, per-individual-assisted, or per-enrollment basis.

■ 28. Section 155.225 is amended—

■ a. By adding paragraph (b)(3);

■ b. By revising paragraph (c)(1);

■ c. In paragraph (d)(5) by removing ''and'' after the semicolon;

■ d. In paragraph (d)(6) by removing the period at the end of the paragraph and adding a semicolon in its place;

■ e. By adding paragraphs (d)(7) and (8); and

■ f. By revising paragraphs (f)(1) and (2) and (g).

The revisions and additions read as follows:

§ 155.225 Certified application counselors.

* * * * *

(b) * * *

(3) In a Federally-facilitated Exchange, no individual or entity shall be ineligible to operate as a certified application counselor or organization designated by the Exchange under paragraph (b) of this section solely because its principal place of business is outside of the Exchange service area.

(c) * * *

(1) Provide information to individuals and employees about the full range of QHP options and insurance affordability programs for which they are eligible, which includes providing fair, impartial, and accurate information that assists consumers with submitting the eligibility application; clarifying the distinctions among health coverage options, including QHPs; and helping consumers make informed decisions during the health coverage selection process;

* * * * *

(d) * * *

(7) Is recertified on at least an annual basis after successfully completing recertification training as required by the Exchange; and

(8) Meets any licensing, certification, or other standards prescribed by the State or Exchange, if applicable, so long as such standards do not prevent the application of the provisions of title I of the Affordable Care Act. Standards that would prevent the application of the provisions of title I of the Affordable Care Act include but are not limited to the following:

(i) Requirements that certified application counselors refer consumers to other entities not required to provide fair, accurate, and impartial information.

(ii) Requirements that would prevent certified application counselors from providing services to all persons to whom they are required to provide assistance.

(iii) Requirements that would prevent certified application counselors from providing advice regarding substantive benefits or comparative benefits of different health plans.

(iv) Imposing standards that would, as applied or as implemented in a State, prevent the application of Federal requirements applicable to certified application counselors, to an organization designated by the Exchange under paragraph (b) of this section, or to the Exchange's implementation of the certified application program.

* * * * *

(f) * * *

(1) Are informed of the functions and responsibilities of certified application counselors;

(2) Provide authorization in a form and manner as determined by the Exchange prior to a certified application counselor obtaining access to an applicant's personally identifiable information, and that the organization or certified application counselor maintains a record of the authorization in a form and manner as determined by the Exchange. The Exchange must establish a reasonable retention period for maintaining these records. In Federally-facilitated Exchanges, this period is no less than six years, unless a different and longer retention period has already been provided under other applicable Federal law; and

* * * * *

(g) *Fees, consideration, solicitation, and marketing.* Organizations designated by the Exchange under paragraph (b) of this section and certified application counselors must not—

(1) Impose any charge on applicants or enrollees for application or other assistance related to the Exchange;

(2) Receive any consideration directly or indirectly from any health insurance issuer or issuer of stop-loss insurance in connection with the enrollment of any individuals in a QHP or a non-QHP. In a Federally-facilitated Exchange, no health care provider shall be ineligible

to operate as a certified application counselor or organization designated by the Exchange under paragraph (b) of this section solely because it receives consideration from a health insurance issuer for health care services provided;

(3) Beginning November 15, 2014, if operating in a Federally-facilitated Exchange, provide compensation to individual certified application counselors on a per-application, per-individual-assisted, or per-enrollment basis;

(4) Provide gifts, including gift cards or cash, unless they are of nominal value, or provide promotional items that market or promote the products or services of a third party, to any applicant or potential enrollee as an inducement for enrollment. Gifts, gift cards, or cash may exceed nominal value for the purpose of providing reimbursement for legitimate expenses incurred by a consumer in effort to receive Exchange application assistance, such as, but not limited to, travel or postage expenses.

(5) Solicit any consumer for application or enrollment assistance by going door-to-door or through other unsolicited means of direct contact, including calling a consumer to provide application or enrollment assistance without the consumer initiating the contact, unless the individual has a pre-existing relationship with the individual certified application counselor or designated organization and other applicable State and Federal laws are otherwise complied with. Outreach and education activities may be conducted by going door-to-door or through other unsolicited means of direct contact, including calling a consumer; or

(6) Initiate any telephone call to a consumer using an automatic telephone dialing system or an artificial or prerecorded voice, except in cases where the individual certified application counselor or designated organization has a relationship with the consumer and so long as other applicable State and Federal laws are otherwise complied with.

■ 29. Section 155.240 is amended by adding paragraph (e) to read as follows:

§ 155.240 Payment of premium.

* * * * *

(e) *Premium calculation.* The Exchange may establish one or more standard processes for premium calculation.

(1) For a Federally-facilitated Exchange, the premium for coverage lasting less than one month must equal the product of—

(i) The premium for one month of coverage divided by the number of days in the month; and

(ii) The number of days for which coverage is being provided in the month described in paragraph (e)(1)(i) of this section.

(2) [Reserved]

■ 30. Section 156.260 is amended by revising paragraph (g) to read as follows:

§ 155.260 Privacy and security of personally identifiable information.

* * * * *

(g) *Improper use and disclosure of information.* Any person who knowingly and willfully uses or discloses information in violation of section 1411(g) of the Affordable Care Act will be subject to a CMP of not more than $25,000 per person or entity, per use or disclosure, consistent with the bases and process for imposing civil penalties specified at § 155.285, in addition to other penalties that may be prescribed by law.

■ 31. Section 155.285 is added to subpart C to read as follows:

§ 155.285 Bases and process for imposing civil penalties for provision of false or fraudulent information to an Exchange or improper use or disclosure of information.

(a) *Grounds for imposing civil money penalties.* (1) HHS may impose civil money penalties on any person, as defined in paragraph (a)(2) of this section, if, based on credible evidence, HHS reasonably determines that a person has engaged in one or more of the following actions:

(i) Failure to provide correct information under section 1411(b) of the Affordable Care Act where such failure is attributable to negligence or disregard of any rules or regulations of the Secretary with negligence and disregard defined as they are in section 6662 of the Internal Revenue Code of 1986:

(A) ''Negligence'' includes any failure to make a reasonable attempt to provide accurate, complete, and comprehensive information; and

(B) ''Disregard'' includes any careless, reckless, or intentional disregard for any rules or regulations of the Secretary.

(ii) Knowing and willful provision of false or fraudulent information required under section 1411(b) of the Affordable Care Act, where knowing and willful means the intentional provision of information that the person knows to be false or fraudulent; or

(iii) Knowing and willful use or disclosure of information in violation of section 1411(g) of the Affordable Care Act, where knowing and willful means the intentional use or disclosure of information in violation of section 1411(g). Such violations would include, but not be limited to, the following:

(A) Any use or disclosure performed which violates relevant privacy and security standards established by the Exchange pursuant to § 155.260;

(B) Any other use or disclosure which has not been determined by the Secretary to be in compliance with section 1411(g)(2)(A) of the Affordable Care Act pursuant to § 155.260(a); and

(C) Any other use or disclosure which is not necessary to carry out a function described in a contract with a non-Exchange entity executed pursuant to § 155.260(b)(2).

(2) For purposes of this section, the term ''person'' is defined to include, but is not limited to, all individuals; corporations; Exchanges; Medicaid and CHIP agencies; other entities gaining access to personally identifiable information submitted to an Exchange to carry out additional functions which the Secretary has determined ensure the efficient operation of the Exchange pursuant to § 155.260(a)(1); and non-Exchange entities as defined in § 155.260(b) which includes agents, brokers, Web-brokers, QHP issuers, Navigators, non-Navigator assistance personnel, certified application counselors, in-person assistors, and other third party contractors.

(b) *Factors in determining the amount of civil money penalties imposed.* In determining the amount of civil money penalties, HHS may take into account factors which include, but are not limited to, the following:

(1) The nature and circumstances of the conduct including, but not limited to:

(i) The number of violations;

(ii) The severity of the violations;

(iii) The person's history with the Exchange including any prior violations that would indicate whether the violation is an isolated occurrence or represents a pattern of behavior;

(iv) The length of time of the violation;

(v) The number of individuals affected or potentially affected;

(vi) The extent to which the person received compensation or other consideration associated with the violation;

(vii) Any documentation provided in any complaint or other information, as well as any additional information provided by the individual to refute performing the violation; and

(viii) Whether other remedies or penalties have been imposed for the same conduct or occurrence.

(2) The nature of the harm resulting from, or reasonably expected to result

from, the violation, including but not limited to:

(i) Whether the violation resulted in actual or potential financial harm;

(ii) Whether there was actual or potential harm to an individual's reputation;

(iii) Whether the violation hindered or could have hindered an individual's ability to obtain health insurance coverage;

(v) The actual or potential impact of the provision of false or fraudulent information or of the improper use or disclosure of the information; and

(vi) Whether any person received a more favorable eligibility determination for enrollment in a QHP or insurance affordability program, such as greater advance payment of the premium tax credits or cost-sharing reductions than he or she would be eligible for if the correct information had been provided.

(3) No penalty will be imposed under paragraph (a)(1)(i) of this section if HHS determines that there was a reasonable cause for the failure to provide correct information required under section 1411(b) of the Affordable Care Act and that the person acted in good faith.

(c) *Maximum penalty.* The amount of a civil money penalty will be determined by HHS in accordance with paragraph (b) of this section.

(1) The following provisions provide maximum penalties for a single ''plan year,'' where ''plan year'' has the same meaning as at § 155.20:

(i) Any person who fails to provide correct information as specified in paragraph (a)(1)(i) of this section may be subject to a maximum civil money penalty of $25,000 for each application, as defined at paragraph (c)(1)(iii) of this section, pursuant to which a person fails to provide correct information.

(ii) Any person who knowingly and willfully provides false information as specified in paragraph (a)(1)(ii) of this section may be subject to a maximum civil money penalty of $250,000 for each application, as defined at paragraph (c)(1)(iii) of this section, on which a person knowingly and willfully provides false information.

(iii) For the purposes of this subsection, ''application'' is defined as a submission of information, whether through an online portal, over the telephone through a call center, or through a paper submission process, in which the information is provided in relation to an eligibility determination; an eligibility redetermination based on a change in an individual's circumstances; or an annual eligibility redetermination for any of the following:

(A) Enrollment in a qualified health plan;

(B) Premium tax credits or cost sharing reductions; or

(C) An exemption from the individual shared responsibility payment.

(2) Any person who knowingly or willfully uses or discloses information as specified in paragraph (a)(1)(iii) of this section may be subject to the following civil money penalty:

(i) A civil money penalty for each use or disclosure described in paragraph (a)(1)(iii) of this section of not more than $25,000 per use or disclosure.

(ii) For purposes of paragraph (c) of this section, a use or disclosure includes one separate use or disclosure of a single individual's personally identifiable information where the person against whom a civil money penalty may be imposed has made the use or disclosure.

(3) These penalties may be imposed in addition to any other penalties that may be prescribed by law.

(d) *Notice of intent to issue civil money penalty.* If HHS intends to impose a civil money penalty in accordance with this part, HHS will send a written notice of such intent to the person against whom it intends to impose a civil money penalty.

(1) This written notice will be either hand delivered, sent by certified mail, return receipt requested, or sent by overnight delivery service with signature upon delivery required. The written notice must include the following elements:

(i) A description of the findings of fact regarding the violations with respect to which the civil money penalty is proposed;

(ii) The basis and reasons why the findings of fact subject the person to a penalty;

(iii) Any circumstances described in paragraph (b) of this section that were considered in determining the amount of the proposed penalty;

(iv) The amount of the proposed penalty;

(v) An explanation of the person's right to a hearing under any applicable administrative hearing process;

(vi) A statement that failure to request a hearing within 60 calendar days after the date of issuance printed on the notice permits the assessment of the proposed penalty; and

(vii) Information explaining how to file a request for a hearing and the address to which the hearing request must be sent.

(2) The person may request a hearing before an ALJ on the proposed penalty by filing a request in accordance with the procedure to file an appeal specified in paragraph (f) of this section.

(e) *Failure to request a hearing.* If the person does not request a hearing within 60 calendar days of the date of issuance printed on the notice described in paragraph (d) of this section, HHS may impose the proposed civil money penalty.

(1) HHS will notify the person in writing of any penalty that has been imposed, the means by which the person may satisfy the penalty, and the date on which the penalty is due.

(2) A person has no right to appeal a penalty with respect to which the person has not timely requested a hearing in accordance with paragraph (d) of this section.

(f) *Appeal of proposed penalty.* Subject to paragraph (e)(2) of this section, any person against whom HHS proposed to impose a civil money penalty may appeal that penalty in accordance with the rules and procedures outlined at 45 CFR part 150, subpart D, excluding §§ 150.461, 150.463, and 150.465.

(g) *Enforcement authority.* (1) *HHS.* HHS may impose civil money penalties up to the maximum amounts specified in paragraph (d) of this section for any of the violations described in paragraph (a) of this section.

(2) *OIG.* In accordance with the rules and procedures of 42 CFR part 1003, and in place of imposition of penalties by CMS, the OIG may impose civil money penalties for violations described in paragraph (a)(1)(ii) of this section.

(h) *Settlement authority.* Nothing in this section limits the authority of HHS to settle any issue or case described in the notice furnished in accordance with § 155.285(d) or to compromise on any penalty provided for in this section.

(i) *Limitations.* No action under this section will be entertained unless commenced, in accordance with § 155.285(d), within 6 years from the date on which the violation occurred.

■ 32. Section 155.320 is amended by revising the section heading to read as follows and by removing paragraph (d)(4).

§ 155.320 Verification process related to eligibility for insurance affordability programs.

* * * * *

■ 33. Section 155.330 is amended by revising paragraph (d)(2)(ii) to read as follows:

§ 155.330 Eligibility redetermination during a benefit year.

* * * * *

(d) * * *

(2) * * *

(ii) Comply with the standards specified in paragraph (e)(2) of this section.

* * * * *

■ 34. Section 155.400 is amended by adding paragraphs (e) and (f) to read as follows:

§ 155.400 Enrollment of qualified individuals into QHPs.

* * * * *

(e) *Premium payment.* Exchanges may, and the Federally-facilitated Exchange will, require payment of the first month's premium to effectuate an enrollment.

(f) *Processing enrollment transactions.* The Exchange may provide requirements to QHP issuers regarding the instructions for processing electronic enrollment-related transactions.

■ 35. Section 155.410 is amended by revising paragraph (d) to read as follows:

§ 155.410 Initial and annual open enrollment periods.

* * * * *

(d) *Notice of annual open enrollment period.* Starting in 2014, the Exchange must provide a written annual open enrollment notification to each enrollee no earlier than the first day of the month before the open enrollment period begins and no later than the first day of the open enrollment period.

* * * * *

■ 36. Section 155.420 is amended by revising paragraphs (b)(2)(i) through (iii), (c), (d)(1), (d)(6)(iii), and (e) heading and introductory text to read as follows:

§ 155.420 Special enrollment periods.

* * * * *

(b) * * *

(2) * * *

(i) In the case of birth, adoption, placement for adoption, or placement in foster care as described in paragraph (d)(2) of this section, the Exchange must ensure that coverage is effective for a qualified individual or enrollee on the date of birth, adoption, placement for adoption, or placement in foster care, or it may permit the qualified individual or enrollee to elect a coverage effective date of the first day of the month following the date of birth, adoption, placement for adoption, or placement in foster care. If the Exchange permits the qualified individual or enrollee to elect a coverage effective date of the first day of the month following the date of birth, adoption, placement for adoption, or placement in foster care, the Exchange must ensure coverage is effective on such date elected by the qualified individual or enrollee.

(ii) In the case of marriage as described in paragraph (d)(2) of this section the Exchange must ensure that coverage is effective for a qualified individual or enrollee on the first day of the month following plan selection.

(iii) In the case of a qualified individual or enrollee eligible for a special enrollment period as described in paragraphs (d)(4), (d)(5), (d)(9), or (d)(10) of this section, the Exchange must ensure that coverage is effective on an appropriate date based on the circumstances of the special enrollment period.

(iv) In a case where a consumer loses coverage as described in paragraph (d)(1) or (d)(6)(iii) of this section, if the plan selection is made before or on the day of the loss of coverage, the Exchange must ensure that the coverage effective date is on the first day of the month following the loss of coverage. If the plan selection is made after the loss of coverage, the Exchange must ensure that coverage is effective in accordance with paragraph (b)(1) of this section or on the first day of the month following plan selection in accordance with paragraph (b)(2) of this section, at the option of the Exchange;

* * * * *

(c) *Availability and length of special enrollment periods.* (1) *General rule.* Unless specifically stated otherwise herein, a qualified individual or enrollee has 60 days from the date of a triggering event to select a QHP.

(2) *Advance availability.* (i) A qualified individual or his or her dependent who is described in paragraph (d)(1) of this section has 60 days before and after the loss of coverage to select a QHP.

(ii) A qualified individual or his or her dependent who is described in paragraph (d)(6)(iii) of this section has 60 days before and after the loss of eligibility for qualifying coverage in an eligible employer-sponsored plan to select a QHP.

(3) *Special rule.* In the case of a qualified individual or enrollee who is eligible for a special enrollment period as described in paragraphs (d)(4), (d)(5), (d)(9), or (d)(10) of this section, the Exchange may define the length of the special enrollment period as appropriate based on the circumstances of the special enrollment period, but in no event shall the length of the special enrollment period exceed sixty (60) days.

(d) * * *

(1) The qualified individual or his or her dependent either:

(i) Loses minimum essential coverage. The date of the loss of coverage is the last day the consumer would have coverage under his or her previous plan or coverage.

(ii) Is enrolled in any non-calendar year health insurance policy that will expire in 2014 as described in § 147.104(b)(2) of this subchapter, even if the qualified individual or his or her dependent has the option to renew the expiring non-calendar year individual health insurance policy. The date of the loss of coverage is the date in 2014 of the expiration of the non-calendar year policy;

(iii) Loses pregnancy-related coverage described under section 1902(a)(10)(A)(i)(IV) and (a)(10)(A)(ii)(IX) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)(IV), (a)(10)(A)(ii)(IX)). The date of the loss of coverage is the last day the consumer would have pregnancy-related coverage; or

(iv) Loses medically needy coverage as described under section 1902(a)(10)(C) of the Social Security Act only once per calendar year. The date of the loss of coverage is the last day the consumer would have medically needy coverage.

* * * * *

(6) * * *

(iii) A qualified individual or his or her dependent who is enrolled in an eligible employer-sponsored plan is determined newly eligible for advance payments of the premium tax credit based in part on a finding that such individual is ineligible for qualifying coverage in an eligible-employer sponsored plan in accordance with 26 CFR 1.36B–2(c)(3), including as a result of his or her employer discontinuing or changing available coverage within the next 60 days, provided that such individual is allowed to terminate existing coverage.

* * * * *

(e) *Loss of coverage.* Loss of coverage described in paragraph (d)(1) of this section includes those circumstances described in 26 CFR 54.9801–6(a)(3)(i) through (iii) and in paragraphs (d)(1)(ii) through (iv) of this section. Loss of coverage does not include voluntary termination of coverage or other loss due to—

* * * * *

■ 37. Section 155.430 is amended by revising paragraph (d)(6) and adding paragraph (e) to read as follows:

§ 155.430 Termination of coverage.

* * * * *

(d) * * *

(6) In the case of a termination in accordance with paragraph (b)(2)(v) of this section, the last day of coverage in an enrollee's prior QHP is the day before the effective date of coverage in his or her new QHP, including any retroactive enrollments effectuated under § 155.420(b)(2)(iii). In cases of retroactive terminations dates, the Exchange will ensure that appropriate actions are taken to make necessary adjustments to advance payments of the premium tax credit, cost-sharing reductions, premiums, and claims.

* * * * *

(e) *Termination, cancellation, and reinstatement.* The Exchange may establish operational instructions as to the form, manner, and method for addressing each of the following:

(1) *Termination.* A termination is an action taken after a coverage effective date that ends an enrollee's coverage through the Exchange for a date after the original coverage effective date, resulting in a period during which the individual was covered by the issuer.

(2) *Cancellation.* A cancellation is specific type of termination action that ends a qualified individuals' enrollment on the date coverage became effective resulting in coverage never having been effective with the QHP.

(3) *Reinstatement.* A reinstatement is a correction of an erroneous termination or cancellation action and results in restoration of an enrollment with no break in coverage.

§ 155.505 [Amended]

■ 38. Section 155.505 is amended in paragraph (b)(4) by removing ''; and'' at the end of the paragraph and adding a period in its place.

■ 39. Section 155.530 is amended by revising paragraph (a)(1) to read as follows:

§ 155.530 Dismissals.

(a) * * *

(1) Withdraws the appeal request in writing or by telephone, if the appeals entity is capable of accepting telephonic withdrawals.

(i) Accepting telephonic withdrawals means the appeals entity—

(A) Records in full the appellant's statement and telephonic signature made under penalty of perjury; and

(B) Provides a written confirmation to the appellant documenting the telephonic interaction.

(ii) [Reserved]

* * * * *

■ 40. Section 155.555 is amended by—

■ a. Redesignating paragraphs (d) introductory text, (d)(1), (d)(2) introductory text, (d)(2)(i), (ii), (iii), (d)(3), and (d)(4) as paragraphs (d)(1) introductory text, (d)(1)(i), (d)(1)(ii) introductory text, (d)(1)(ii)(A), (B), (C), (d)(1)(iii), and (d)(2), respectively; and

■ b. Revising new paragraph (d)(2) introductory text.

The revision reads as follows:

§ 155.555 Employer appeals process.

* * * * *

(d) * * *

(2) Upon receipt of an invalid appeal request, the appeals entity must promptly and without undue delay send written notice to the employer that the appeal request is not valid because it fails to meet the requirements of this section. The written notice must inform the employer—

* * * * *

■ 41. Section 155.600(a) is amended by adding a definition of ''Required contribution percentage'' in alphabetical order to read as follows:

§ 155.600 Definitions and general requirements.

(a) * * *

Required contribution percentage means the product of eight percent and the rate of premium growth over the rate of income growth for the calendar year, rounded to the nearest one-hundredth of one percent.

* * * * *

■ 42. Section 155.605 is amended by revising paragraph (g)(5) to read as follows:

§ 155.605 Eligibility standards for exemptions.

* * * * *

(g) * * *

(5) *Self-only coverage in an eligible employer-sponsored plan.* The IRS may allow an applicant to claim an exemption for a calendar year if he or she, as well as one or more employed members of his or her family, as defined in 26 CFR 1.36B–1(d), has been determined eligible for affordable self-only employer-sponsored coverage pursuant to section 5000A(e)(1) of the Code through their respective employers for one or more months during the calendar year, but the aggregate cost of employer-sponsored coverage for all the employed members of the family exceeds the required contribution percentage of household income for that calendar year; or

* * * * *

■ 43. Section 155.625 is revised to read as follows:

§ 155.625 Options for conducting eligibility determinations for exemptions.

(a) *Options for conducting eligibility determinations.* The Exchange may satisfy the requirements of this subpart—

(1) Directly or through contracting arrangements in accordance with § 155.110(a); or

(2) For an application submitted before the start of open enrollment for 2016, through the approach described in paragraph (b) of this section.

(b) *Use of HHS service.* Notwithstanding the requirements of this subpart, for an application submitted before the start of open enrollment for 2016, the Exchange may adopt an exemption eligibility determination made by HHS, provided that—

(1) The Exchange adheres to the eligibility determination made by HHS;

(2) The Exchange furnishes to HHS any information available through the Exchange that is necessary for an applicant to utilize the process administered by HHS; and

(3) The Exchange call center and Internet Web site specified in § 155.205(a) and (b), respectively, provide information to consumers regarding the exemption eligibility process.

■ 44. Section 155.705 is amended by—

■ a. Revising paragraphs (b)(2) and (b)(3)(ii) introductory text and (b)(3)(iv) introductory text; and

■ b. Adding paragraphs (b)(3)(vi) and (vii).

The revisions and addition read as follows:

§ 155.705 Functions of a SHOP.

* * * * *

(b) * * *

(2) *Employer choice requirements.* With regard to QHPs offered through the SHOP for plan years beginning on or after January 1, 2015, the SHOP must allow a qualified employer to select a level of coverage as described in section 1302(d)(1) of the Affordable Care Act, in which all QHPs within that level are made available to the qualified employees of the employer, unless the SHOP makes an election pursuant to paragraph (b)(3)(vi) of this section.

(3) * * *

(ii) Unless the SHOP makes an election pursuant to paragraph (b)(3)(vi) of this section, for plan years beginning on or after January 1, 2015, a SHOP:

* * * * *

(iv) Unless the Secretary makes an election pursuant to paragraph (b)(3)(vi) of this section, for plan years beginning on or after January 1, 2015, a Federally-facilitated SHOP will provide a qualified employer a choice of two methods to make QHPs available to qualified employees:

* * * * *

(vi) For plan years beginning in 2015 only, the SHOP may, elect to provide employers only with the option set forth at paragraph (b)(3)(ii)(B) of this section, or in the case of a Federally-facilitated SHOP, only with the option set forth at paragraph (b)(3)(iv)(B) of this section, only if the State Insurance Commissioner submits a written recommendation to the SHOP adequately explaining that it is the State Insurance Commissioner's expert judgment, based on a documented assessment of the full landscape of the small group market in his or her State, that not implementing employee choice would be in the best interests of small employers and their employees and dependents, given the likelihood that implementing employee choice would cause issuers to price products and plans higher in 2015 due to the issuers' beliefs about adverse selection. A State Insurance Commissioner's recommendation must be based on concrete evidence, including but not limited to discussions with those issuers expected to participate in the SHOP in 2015.

(vii) For plan years beginning in 2015 only, a State Insurance Commissioner should submit the recommendation specified in paragraph (b)(3)(vi) of this section, and the SHOP should make a decision based on that recommendation sufficiently in advance of the end of the QHP certification application window such that issuers can make informed decisions about whether to participate in the SHOP. In a Federally-facilitated-SHOP, State Insurance Commissioners must submit to HHS the recommendation specified in paragraph (b)(3)(vi) of this section on or before June 2, 2014, and HHS will make a decision based on any recommendations submitted by that deadline before the close of the QHP certification application window.

* * * * *

■ 45. Section 155.725 is amended by revising paragraphs (c) and (e) to read as follows:

§ 155.725 Enrollment periods under SHOP.

* * * * *

(c) *Annual employer election period.* (1) Notwithstanding any other paragraph in this section, for coverage beginning in 2015, in a Federally-facilitated SHOP a qualified employer's annual election period may begin no sooner than November 15, 2014.

(2) The SHOP must provide qualified employers with a standard election period prior to the completion of the employer's plan year and before the annual employee open enrollment period, in which the qualified employer may change its participation in the SHOP for the next plan year, including—

(i) The method by which the qualified employer makes QHPs available to qualified employees pursuant to § 155.705(b)(2) and (3);

(ii) The employer contribution towards the premium cost of coverage;

(iii) The level of coverage offered to qualified employees as described in § 155.705(b)(2) and (3); and

(iv) The QHP or QHPs offered to qualified employees in accordance with § 155.705.

* * * * *

(e) *Annual employee open enrollment period.* The SHOP must establish a standardized annual open enrollment period for qualified employees prior to the completion of the applicable qualified employer's plan year and after that employer's annual election period.

* * * * *

■ 46. Section 155.740 is amended by—

■ a. Redesignating paragraphs (g) introductory text, (g)(1) introductory text, (g)(1)(i), (g)(1)(ii), (g)(2), and (g)(3) as paragraphs (g)(1) introductory text, (g)(1)(i) introductory text, (g)(1)(i)(A), (g)(1)(i)(B), (g)(1)(ii), and (g)(2), respectively; and

■ b. Revising paragraph (i)(1)(i).

The revision read as follows:

§ 155.740 SHOP employer and employee eligibility appeals requirements.

* * * * *

(i) * * *

(1) * * *

(i) Withdraws the request in accordance with the standards set forth in § 155.530(a)(1); or

* * * * *

■ 47. Subpart O is added to read as follows:

Subpart O—Quality Reporting Standards for Exchanges

Sec.

155.1400 Quality rating system.

155.1405 Enrollee satisfaction survey system.

Subpart O—Quality Reporting Standards for Exchanges

§ 155.1400 Quality rating system.

The Exchange must prominently display the quality rating information assigned to each QHP on its Web site, in accordance with § 155.205(b)(1)(v), as calculated by HHS and in a form and manner specified by HHS.

§ 155.1405 Enrollee satisfaction survey system.

The Exchange must prominently display results from the Enrollee Satisfaction Survey for each QHP on its Web site, in accordance with § 155.205(b)(1)(iv), as calculated by HHS and in a form and manner specified by HHS.

PART 156—HEALTH INSURANCE ISSUER STANDARDS UNDER THE AFFORDABLE CARE ACT, INCLUDING STANDARDS RELATED TO EXCHANGES

■ 48. The authority citation for part 156 is revised to read as follows:

Authority: Title I of the Affordable Care Act, sections 1301–1304, 1311–1313, 1321–1322, 1324, 1334, 1342–1343, 1401–1402, Pub. L. 111–148, 124 Stat. 119 (42 U.S.C. 18021–18024, 18031–18032, 18041–18042, 18044, 18054, 18061, 18063, 18071, 18082, 26 U.S.C. 36B, and 31 U.S.C. 9701).

■ 49. Section 156.122 is amended by revising paragraph (c) to read as follows:

§ 156.122 Prescription drug benefits.

* * * * *

(c) A health plan providing essential health benefits must have procedures in place that allow an enrollee to request and gain access to clinically appropriate drugs not covered by the health plan.

(1) Such procedures must include a process for an enrollee, the enrollee's designee, or the enrollee's prescribing physician (or other prescriber) to request an expedited review based on exigent circumstances.

(i) Exigent circumstances exist when an enrollee is suffering from a health condition that may seriously jeopardize the enrollee's life, health, or ability to regain maximum function or when an enrollee is undergoing a current course of treatment using a non-formulary drug.

(ii) A health plan must make its coverage determination on an expedited review request based on exigent circumstances and notify the enrollee or the enrollee's designee and the prescribing physician (or other prescriber, as appropriate) of its coverage determination no later than 24 hours after it receives the request.

(iii) A health plan that grants an exception based on exigent circumstances must provide coverage of the non-formulary drug for the duration of the exigency.

(2) [Reserved]

■ 50. Section 156.130 is amended by removing and reserving paragraph (b) and revising paragraphs (c) and (d) to read as follows:

§ 156.130 Cost-sharing requirements.

* * * * *

(c) *Special rule for network plans.* In the case of a plan using a network of

providers, cost-sharing paid by, or on behalf of, an enrollee for benefits provided outside of such network shall not count toward the annual limitation on cost-sharing (as defined in paragraph (a) of this section).

(d) *Increase annual dollar limits in multiples of 50.* For a plan year beginning in a calendar year after 2014, any increase in the annual dollar limits described in paragraph (a) of this section that does not result in a multiple of 50 dollars will be rounded down, to the next lowest multiple of 50 dollars.

* * * * *

51. Section 156.200 is amended by revising paragraph (b)(5) and adding paragraph (h) to read as follows:

§ 156.200 QHP issuer participation standards.

* * * * *

(b) * * *

(5) Implement and report on a quality improvement strategy or strategies described in section 1311(c)(1)(E) of the Affordable Care Act consistent with the standards of section 1311(g) of the Affordable Care Act, disclose and report information on health care quality and outcomes described in sections 1311(c)(1)(H), (c)(1)(I), and (c)(3) of the Affordable Care Act, and implement appropriate enrollee satisfaction surveys consistent with section 1311(c)(4) of the Affordable Care Act;

* * * * *

(h) *Operational requirements.* As a condition of certification of a QHP, an issuer must attest that it will comply with all QHP operational requirements described in subparts D, E, H, K, L, and M of this part.

■ 52. Section 156.265 is amended by revising paragraph (d) to read as follows:

§ 156.265 Enrollment process for qualified individuals.

* * * * *

(d) *Premium payment.* A QHP issuer must follow the premium payment process established by the Exchange in accordance with § 155.240 of the subchapter.

* * * * *

■ 53. Section 156.270 is amended by adding a new paragraph (j) to read as follows:

§ 156.270 Termination of coverage for qualified individuals.

* * * * *

(j) *Operational instructions.* QHP issuers must follow the transaction rules established by the Exchange in accordance with § 155.430(e) of this subchapter.

■ 54. Section 156.604 is amended by revising paragraphs (a)(2) heading and introductory text and (d) to read as follows:

§ 156.604 Requirements for recognition as minimum essential coverage for types of coverage not otherwise designated minimum essential coverage in the statute or this subpart.

(a) * * *

(2) *Procedural requirements for recognition as minimum essential coverage.* To be considered for recognition as minimum essential coverage, the sponsor of the coverage, government agency, health insurance issuer, or plan administrator must submit the following information to HHS:

* * * * *

(d) *Notice.* Once recognized as minimum essential coverage, the sponsor of the coverage, government agency, health insurance issuer, or plan administrator must provide notice to all enrollees of its minimum essential coverage status and must comply with the information reporting requirements of section 6055 of the Internal Revenue Code and implementing regulations.

■ 55. Section 156.800 is amended by adding paragraph (d) to read as follows:

§ 156.800 Available remedies; Scope.

* * * * *

(d) *Information sharing.* HHS may consult and share information about QHP issuers with other Federal and State regulatory and enforcement entities to the extent that the consultation and information is necessary for purposes of State or Federal oversight and enforcement activities.

■ 56. Section 156.805 is amended—

■ a. By adding paragraph (d)(3); and

■ b. By revising paragraph (e)(2).

The revisions and additions read as follows:

§ 156.805 Bases and process for imposing civil money penalties in Federally-facilitated Exchanges.

* * * * *

(d) * * *

(3) HHS will deliver notice under this paragraph by either hand delivery, certified mail, return receipt requested, or by overnight delivery service with signature upon delivery required.

(e) * * *

(2) HHS will notify the issuer in writing of any penalty that has been assessed under this subpart and of the means by which the QHP issuer or another responsible entity may satisfy the CMP assessment.

* * * * *

■ 57. Section 156.806 is added to read as follows:

§ 156.806 Notice of non-compliance.

If HHS learns of a potential violation described in § 156.805 or if a State informs HHS of a potential violation, prior to imposing any CMPs, HHS must provide a written notice to the issuer, to include the following:

(a) Describe the potential violation.

(b) Provide 30 days from the date of the notice for the QHP issuer to respond and to provide additional information to refute an alleged violation.

(c) State that a civil money penalty may be assessed if the allegations are not, as determined by HHS, refuted.

■ 58. Section 156.810 is amended—

■ a. By revising paragraph (a)(6);

■ b. In paragraph (a)(9) by removing ''or'' after the semicolon;

■ c. In paragraphs (a)(10) and (11) by removing the period and adding a semicolon in its place;

■ d. By adding new paragraphs (a)(12) and (13); and

■ e. By revising paragraph (d) introductory text.

The revisions and additions read as follows:

§ 156.810 Bases and process for decertification of a QHP offered by an issuer through a Federally-facilitated Exchange.

(a) * * *

(6) The QHP no longer meets the applicable standards set forth under subpart C of this part.

* * * * *

(12) The QHP issuer substantially fails to meet the requirements related to the cases forwarded to QHP issuers under subpart K of this part; or

(13) The QHP issuer substantially fails to meet the requirements related to the offering of a QHP under subpart M of this part.

* * * * *

(d) *Expedited decertification process.* For decertification actions on grounds described in paragraphs (a)(6), (7), (8), or (9) of this section, HHS will provide written notice to the QHP issuer, enrollees, and the State department of insurance in the State in which the QHP is being decertified. The written notice must include the following:

* * * * *

■ 59. Section 156.1105 is amended by adding paragraphs (d) and (e) to read as follows:

§ 156.1105 Establishment of standards for HHS-approved enrollee satisfaction survey vendors for use by QHP issuers in Exchanges.

* * * * *

(d) *Monitoring.* HHS will periodically monitor HHS-approved enrollee satisfaction survey vendors to ensure ongoing compliance with the standards in paragraph (b) of this section. If HHS determines that an HHS-approved enrollee satisfaction survey vendor is non-compliant with the standards required in paragraph (b) of this section, the survey vendor may be removed from the approved list described in paragraph (c) of this section and/or the submitted survey results may be ineligible to be included for ESS results.

(e) *Appeals.* An enrollee satisfaction survey vendor that is not approved by HHS after submitting the application described in paragraph (a) of this section may appeal HHS's decision by notifying HHS in writing within 15 days from receipt of the notification of not being approved and submitting additional documentation demonstrating how the vendor meets the standards in paragraph (b) of this section. HHS will review the submitted documentation and make a final approval determination within 30 days from receipt of the additional documentation.

■ 60. Section 156.1120 is added to subpart L to read as follows:

§ 156.1120 Quality rating system.

(a) *Data submission requirement.* (1) A QHP issuer must submit data to HHS and Exchanges to support the calculation of quality ratings for each QHP that has been offered in an Exchange for at least one year.

(2) In order to ensure the integrity of the data required to calculate the QRS, a QHP issuer must submit data that has been validated in a form and manner specified by HHS.

(3) A QHP issuer must include in its data submission information only for those QHP enrollees at the level specified by HHS.

(b) *Timeline.* A QHP issuer must annually submit data necessary to calculate the QHP's quality ratings to HHS and Exchanges, on a timeline and in a standardized form and manner specified by HHS.

(c) *Marketing requirement.* A QHP issuer may reference the quality ratings for its QHPs in its marketing materials, in a manner specified by HHS.

(d) *Multi-State plans.* Issuers of multi-State plans, as defined in § 155.1000(a) of this subchapter, must provide the data described in paragraph (a) of this section to the U.S. Office of Personnel Management, in the time and manner specified by the U.S. Office of Personnel Management.

■ 61. Section 156.1125 is added to subpart L to read as follows:

§ 156.1125 Enrollee satisfaction survey system.

(a) *General requirement.* A QHP issuer must contract with an HHS-approved enrollee satisfaction survey (ESS) vendor, as identified by § 156.1105, in order to administer the Enrollee Satisfaction Survey of the QHP's enrollees. A QHP issuer must authorize its contracted ESS vendor to report survey results to HHS and the Exchange on the issuer's behalf.

(b) *Data requirement.* (1) A QHP issuer must collect data for each QHP, with more than 500 enrollees in the previous year that has been offered in an Exchange for at least one year and following a survey sampling methodology provided by HHS.

(2) In order to ensure the integrity of the data required to conduct the survey, a QHP issuer must submit data that has been validated in a form and manner specified by HHS, and submit this data to its contracted ESS vendor.

(3) A QHP issuer must include in its data submission information only for those QHP enrollees at the level specified by HHS.

(c) *Marketing requirement.* A QHP issuer may reference the survey results for its QHPs in its marketing materials, in a manner specified by HHS.

(d) *Timeline.* A QHP issuer must annually submit data necessary to conduct the survey to its contracted ESS vendor on a timeline and in a standardized form and manner specified by HHS.

(e) *Multi-State plans.* Issuers of multi-State plans, as defined in § 155.1000(a) of this subchapter, must provide the data described in paragraph (b) of this section to the U.S. Office of Personnel Management, in the time and manner specified by the U.S. Office of Personnel Management.

PART 158—ISSUER USE OF PREMIUM REVENUE: REPORTING AND REBATE REQUIREMENTS

■ 62. The authority citation for part 158 is revised to read as follows:

Authority: Section 2718 of the Public Health Service Act (42 U.S.C. 300gg–18), as amended.

■ 63. Section 158.150 is amended by revising paragraph (b)(2)(i)(A)(*6*) to read as follows:

§ 158.150 Activities that improve health care quality.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(A) * * *

(*6*) Commencing with the 2012 reporting year and extending through the first reporting year in which the Secretary requires ICD–10 as the standard medical data code set, implementing ICD–10 code sets that are designed to improve quality and are adopted pursuant to the Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. 1320d-2, as amended, limited to 0.3 percent of an issuer's earned premium as defined in § 158.130.

* * * * *

■ 64. Section 158.211 is amended by revising paragraph (a) to read as follows:

§ 158.211 Requirement in States with a higher medical loss ratio.

(a) *State option to set higher minimum loss ratio.* For coverage offered in a State whose law provides that issuers in the State must meet a higher MLR than that set forth in § 158.210, the State's higher percentage must be substituted for the percentage stated in § 158.210. If a State requires the small group market and individual market to be merged and also sets a higher MLR standard for the merged market, the State's higher percentage must be substituted for the percentage stated in § 158.210 for both the small group and individual markets.

* * * * *

■ 65. Section 158.220 is amended by revising paragraph (a) to read as follows:

§ 158.220 Aggregation of data in calculating an issuer's medical loss ratio.

(a) *Aggregation by State and by market.* In general, an issuer's MLR must be calculated separately for the large group market, small group market and individual market within each State. However, if a State requires the small group market and individual market to be merged, then the data reported separately under subpart A of this part for the small group and individual market in that State must be merged for purposes of calculating an issuer's MLR and any rebates owing.

* * * * *

■ 66. Section 158.221 is amended by adding paragraphs (b)(6) and (7) to read as follows:

§ 158.221 Formula for calculating an issuer's medical loss ratio.

* * * * *

(b) * * *

(6) The numerator of the MLR in the individual and small group markets in States that adopted the transitional policy outlined in the CMS letter dated November 14, 2013 must be the amount specified in paragraph (b) of this section, except that issuers that provided transitional coverage may

multiply the total incurred claims and expenditures for activities that improve health care quality incurred in 2014 in the respective State and market by a factor of 1.0001.

(7) The numerator of the MLR in the individual and small group markets for issuers participating in the State and Federal Exchanges (sometimes referred to as ''Marketplaces'') must be the amount specified in paragraph (b) of this section, except that the total incurred claims and expenditures for activities that improve health care quality incurred in 2014 in the respective State and market may be multiplied by a factor of 1.0004.

* * * * *

■ 67. Section 158.231 is amended by revising paragraph (a) to read as follows:

§ 158.231 Life-years used to determine credible experience.

(a) The life-years used to determine the credibility of an issuer's experience are the life-years for the MLR reporting year plus the life-years for the two prior MLR reporting years. If a State requires the small group market and individual market to be merged, then life-years used to determine credibility must be the life-years from the small group market and the individual market for the MLR reporting year plus the life-years from the small group market and the individual market for the two prior MLR reporting years.

* * * * *

Dated: May 12, 2014.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

Approved: May 14, 2014.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

[FR Doc. 2014–11657 Filed 5–16–14; 5:00 pm]

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Part III

Department of Homeland Security

U.S. Customs and Border Protection

Department of the Treasury

19 CFR Parts 10, 163, and 178

African Growth and Opportunity Act (AGOA) and Generalized System of Preferences and Trade Benefits Under AGOA; Final Rule

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 10, 163, and 178

[CBP Dec. 14–07]

RIN 1515–AD47 (former RIN 1505–AB26) and RIN 1515–AD50 (former RIN 1505–AB38)

African Growth and Opportunity Act (AGOA) and Generalized System of Preferences and Trade Benefits Under AGOA

AGENCIES: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with some changes, interim amendments to the U.S. Customs and Border Protection (CBP) regulations which were published in the **Federal Register** on October 5, 2000, as T.D. 00–67, and later amended by T.D. 03–15 published in the **Federal Register** on March 21, 2003, to implement the trade benefit provisions for sub-Saharan Africa contained in Title I of the Trade and Development Act of 2000, as amended. The trade benefits under Title I, also referred to as the African Growth and Opportunity Act (AGOA), apply to sub-Saharan African countries designated by the President and involve: The extension of duty-free treatment under the Generalized System of Preferences (GSP) to non-textile articles normally excluded from GSP duty-free treatment that are not import-sensitive; and the entry of specific textile and apparel articles free of duty and free of any quantitative limits.

The regulatory amendments adopted as a final rule in this document reflect and clarify the statutory standards for preferential tariff treatment under the AGOA, as amended by section 3108 of the Trade Act of 2002 and include other amendments necessitated by passage of the AGOA Acceleration Act of 2004 and the Africa Investment Incentive Act of 2006. This final rule includes specific documentary, procedural and other related requirements that must be met in order to obtain preferential treatment. This document also adopts as a final rule interim amendments to the CBP regulations implementing the GSP which were included in T.D. 00–67 to conform those regulations to previous amendments to the GSP statute. Moreover, this document adopts as a final rule other changes to the AGOA implementing regulations made by T.D. 03–15 to clarify several issues that arose after their original publication.

DATES: Effective June 26, 2014.

FOR FURTHER INFORMATION CONTACT:

Operational issues regarding textiles: Jacqueline Sprungle, Trade Policy and Programs, Office of International Trade (202–863–6517).

Other operational issues: Seth Mazze, Trade Policy and Programs, Office of International Trade (202–863–6567).

Legal issues: Cynthia Reese, Regulations and Rulings, Office of International Trade (202–325–0046).

SUPPLEMENTARY INFORMATION:

Background

African Growth and Opportunity Act

On May 18, 2000, the President signed into law the Trade and Development Act of 2000, Public Law 106–200, 114 Stat. 251. Title I of the Trade and Development Act of 2000 (Act of 2000) is referred to as the African Growth and Opportunity Act (AGOA) and authorizes the President to extend certain trade benefits to designated countries in sub-Saharan Africa.

Subtitle A of Title I of the Trade and Development Act of 2000 concerns trade policy for sub-Saharan Africa. Subtitle A is codified at 19 U.S.C. 3701–3706 and includes section 104 (19 U.S.C. 3703) which (1) authorizes the President to designate a sub-Saharan African country as an ''eligible'' sub-Saharan African country if the President determines that the country meets specified eligibility requirements and (2) requires that the President terminate a designation if the President determines that an eligible country is not making continual progress in meeting those requirements. Subtitle A also includes section 107 (19 U.S.C. 3706) which, for purposes of Title I, defines the terms ''sub-Saharan Africa'' and ''sub-Saharan African country'' and variations of those terms with reference to 48 listed countries.

Subtitle B of Title I of the Trade and Development Act of 2000 concerns trade benefits under the AGOA. The provisions within Subtitle B to which this document relates are sections 111, 112 and 113. These sections will be discussed in detail below.

On October 2, 2000, the President signed Proclamation 7350 to implement the provisions of the AGOA. The Proclamation, which was published in the **Federal Register** (65 FR 59321) on October 4, 2000, designated certain countries as beneficiary sub-Saharan African countries and modified the Harmonized Tariff Schedule of the United States (HTSUS) as set forth in the Annex to the Proclamation by, among other things, the addition of a new Subchapter XIX to Chapter 98 to address the majority of the textile and apparel provisions of the AGOA.

On October 5, 2000, U.S. Customs and Border Protection (CBP) published in the **Federal Register** (65 FR 59668) as T.D. 00–67 an interim rule setting forth amendments to the CBP regulations to implement the trade benefit provisions of the AGOA. Sections 10.211 through 10.217 of the CBP regulations (19 CFR 10.211 through 10.217) set forth the legal requirements and procedures that apply for purposes of obtaining preferential treatment of certain textile and apparel articles pursuant to sections 112 and 113 of the AGOA. In addition, T.D. 00–67 included interim amendments to the existing CBP regulations implementing the Generalized System of Preferences (GSP) program to conform those regulations to previous statutory amendments or other changes involving the GSP program. Furthermore, on November 9, 2000, a correction document pertaining to T.D. 00–67 was published in the **Federal Register** (65 FR 67260). Action to adopt those interim regulations as a final rule was withheld pending anticipated action on the part of Congress to amend the underlying statutory provisions.

Trade Act of 2002

On August 6, 2002, the President signed into law the Trade Act of 2002 (Act of 2002), Public Law 107–210, 116 Stat. 933. Sections 3108(a) and (b) of the Act of 2002 amended section 112(b) of the AGOA (codified at 19 U.S.C. 3721(b)) which specifies the textile and apparel articles to which preferential treatment applies under the AGOA. The majority of the provisions of section 112 of the AGOA are reflected for tariff purposes in Subchapter XIX, Chapter 98, HTSUS.

On November 13, 2002, the President signed Proclamation 7626 (published in the **Federal Register** at 67 FR 69459 on November 18, 2002) which, among other things, in Annex II set forth modifications to the HTSUS to implement the changes to section 112(b) of the AGOA made by sections 3108(a) and (b) of the Act of 2002. The Proclamation provided that the HTSUS modifications that implement the changes made by section 3108(a) of the Act of 2002 are effective with respect to eligible articles entered, or withdrawn from warehouse for consumption, on or after August 6, 2002. The Proclamation

further provided that the HTSUS modifications that implement the changes made by section 3108(b) are effective with respect to eligible articles entered, or withdrawn from warehouse for consumption, on or after October 1, 2002.

On March 21, 2003, CBP published in the **Federal Register** (68 FR 13820) as T.D. 03–15 an interim rule document setting forth amendments to the CBP regulations that implement the trade benefits for sub-Saharan African countries contained in the AGOA. T.D. 03–15 involved the textile and apparel provisions of the AGOA and in part reflected the changes made to those statutory provisions by section 3108 of the Act of 2002.

AGOA Acceleration Act of 2004

On July 13, 2004, the President signed into law the AGOA Acceleration Act of 2004 (Act of 2004), Public Law 108–274, 118 Stat. 820. Section 7(a)(1) of the Act of 2004 amended Title V of the Trade Act of 1974 (the Generalized System of Preferences, or GSP, statute) at section 506B (codified at 19 U.S.C. 2466b) by extending GSP duty-free treatment through September 30, 2015, in the case of a beneficiary sub-Saharan African country as defined in section 506A(c) of the GSP statute (codified at 19 U.S.C. 2466a(c)).

Section 7(a)(2)(A) of the Act of 2004 amended section 506A(b)(2)(B) of the GSP statute (codified at 19 U.S.C. 2466a(b)(2)(B)) by providing for the inclusion of the cost or value of materials produced in one or more ''former beneficiary sub-Saharan African countries'' in determining whether the GSP 35% value-content rule has been satisfied in regard to an article described in section 506A(b)(1) (non-textiles). Section 7(a)(2)(B) of the Act of 2004 amended section 506A(c) to include a definition of ''former beneficiary sub-Saharan African country.''

Sections 7(b), (c) and (d) of the Act of 2004 amended section 112(b) of the AGOA (codified at 19 U.S.C. 3721(b)) which specifies the textile and apparel articles to which preferential treatment applies under the AGOA. These amendments to section 112(b) were as follows:

1. The article description in the introductory text of paragraph (b)(1) was amended by inserting the words ''or both'' immediately before the parenthetical matter. The effect of this change is to clarify that the apparel articles described in this paragraph may be made both from fabrics wholly formed and cut in the United States and from components knit-to-shape in the United States.

2. The portion of the article description in the introductory text of paragraph (b)(3) relating to the origin of the yarns from which the article is made was amended by replacing the words ''either in the United States or one or more beneficiary sub-Saharan African countries'' each place they appear with the words ''in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries, or both.'' The introductory text of paragraph (b)(3) was further amended by inserting the words ''whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (1) or (2) (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (1) or (2))'' immediately before the words ''subject to the following.'' The effect of the latter amendment is to extend preferential treatment under this paragraph to include apparel articles made in part from fabrics, fabrics components or knit-to-shape components that meet the production requirements set forth in paragraph (b)(1) or (b)(2).

3. Paragraph (b)(3)(A)(i) was amended by replacing the words ''in the 1-year period beginning on October 1, 2000, and in each of the seven succeeding 1-year periods'' with the words ''in the 1-year period beginning October 1, 2003, and in each of the 11 succeeding 1-year periods.'' Paragraph (b)(3)(A)(ii) was amended by increasing the ''applicable percentage'' used for determining the quantitative limits that apply to apparel articles under this paragraph. Neither of these changes affects the AGOA implementing regulations.

4. The article description in paragraph (b)(3)(B) [now paragraph (c)(1)] , which sets forth a special rule for lesser developed beneficiary sub-Saharan African countries, was amended by extending the applicability of the rule through September 30, 2007, and by establishing a separate ''applicable percentage'' for use in determining the quantitative limits that apply to apparel articles subject to this special rule. The articles described in paragraph (b)(3)(B) [now paragraph (c)(1)] previously were subject to the ''applicable percentage'' set forth in paragraph (b)(3)(A)(ii). Neither of these changes affects the AGOA implementing regulations.

5. The article description in paragraph (b)(5)(A) was amended by removing the words ''from fabric or yarn that is not formed in the United States or a beneficiary sub-Saharan African country.'' As a result of this change, apparel articles of fabric or yarn that was formed in the United States or a beneficiary sub-Saharan African country will not be precluded from receiving preferential treatment under this paragraph, assuming all applicable production requirements are met.

6. The article description in paragraph (b)(6) was amended by adding a reference to ''ethnic printed fabric'' and by including a description of the ''ethnic printed fabrics'' that qualify for preferential treatment under this paragraph.

7. The article description in paragraph (b)(7) was amended by adding a reference to ''or former beneficiary sub-Saharan African countries'' after the words ''and one or more beneficiary sub-Saharan African countries'' each place they appear. This change would permit the cutting and knitting-to-shape of fabric components to be performed in former beneficiary sub-Saharan African countries (if any).

Section 7(e)(1) of the Act of 2004 amended section 112(d) of the AGOA (codified at 19 U.S.C. 3721(d)), which sets forth certain special rules regarding the preferential treatment of eligible textile and apparel articles, by adding a new paragraph (d)(3) entitled ''Certain components.'' This new rule provides that an article otherwise eligible for preferential treatment under section 112 will not be ineligible for such treatment because the article contains certain specified components that do not meet the requirements set forth in the applicable paragraph under section 112(b), regardless of the country of origin of the component.

Section 7(e)(2) of the Act of 2004 amended the *de minimis* rule in section 112(d)(2) by adding a reference to ''or former beneficiary sub-Saharan African countries'' after the words ''beneficiary sub-Saharan African countries,'' and by increasing the applicable *de minimis* percentage from 7 to 10 percent.

Finally, section 7(f) of the Act of 2004 amended section 112(e) of the AGOA (codified at 19 U.S.C. 3721(e)), by adding a definition of ''Former sub-Saharan African country'' in new paragraph (e)(4).

On September 7, 2004, the President signed Proclamation 7808 (published in the **Federal Register** on September 9, 2004, at 69 FR 54739) which, among other things, in Annex II set forth modifications to the HTSUS to implement the changes to sections 506A and 506B of the GSP statute and section 112 of the AGOA made by section 7 of the Act of 2004. The Proclamation provided that the HTSUS modifications that implement the changes made by section 7 of the Act of 2004 are effective

with respect to goods entered, or withdrawn from warehouse for consumption, on or after July 31, 2004.

As described above, the Act of 2004 made various technical amendments to the GSP statute as well as the AGOA which require amendments to the GSP and AGOA implementing regulations. Because these regulatory changes are not interpretative in nature but closely reflect the language of the statute, they are included in this final rule without need for comment.

Africa Investment Incentive Act of 2006

On December 20, 2006, the President signed into law the Tax Relief and Health Care Act of 2006 (Act of 2006), Public Law 109–432, 120 Stat. 2922. Title VI of the Act of 2006 is referred to as the ''Africa Investment Incentive Act of 2006''. Section 6002 of the Act of 2006 amended section 112 of the AGOA (19 U.S.C. 3721) by transferring the existing special rule for lesser developed beneficiary sub-Saharan African countries from paragraph (b)(3)(B) of section 112 to new paragraph (c) of section 112, by extending the applicability of the rule through September 30, 2012, and by revising the ''applicable percentage'' for use in determining the quantitative limits that apply to apparel articles subject to this special rule. None of these changes affects the AGOA implementing regulations.

Section 6002 of the Act of 2006 further amended section 112 of the AGOA by adding a new paragraph (b)(8) to create a new category of textile and textile articles to which preferential treatment applies under the AGOA. This new paragraph encompasses textile and textile articles classifiable under Chapters 50 through 60 or Chapter 63 of the HTSUS that are products of a lesser developed beneficiary sub-Saharan African country and are wholly formed in one or more such countries from fibers, yarns, fabrics, fabric components, or components knit-to-shape that are the product of one or more of such countries. The changes to the AGOA implementing regulations necessitated by this statutory change are not interpretative in nature but closely reflect the language of the statute. Therefore, these regulatory changes are included in this final rule without need for comment.

On March 19, 2007, the President signed Proclamation 8114 (published in the **Federal Register** on March 22, 2007 (72 FR 13655)) which, in Annex II, set forth modifications to the HTSUS to implement the changes to section 112 of the AGOA made by section 6002 of the Act of 2006. The HTSUS provisions proclaimed in Proclamation 8114 were modified by Proclamation 8157 of June 28, 2007 (72 FR 35895), and Proclamation 8240 of April 17, 2008 (73 FR 21515) to provide the tariff treatment authorized by the Act of 2006. The HTSUS provisions were further modified by Proclamation 8323 of November 25, 2008 to implement the changes to section 112(c) of the AGOA made by section 3 of the Extension of Andean Trade Preference Act, Public Law 110–436, 122 Stat. 4976.

Current AGOA Statutory Trade Benefit Provisions

Sections 111, 112 and 113 of Subtitle B of Title I of the Trade and Development Act of 2000, including amendments to the AGOA trade benefit provisions made by section 3108(a) of the Trade Act of 2002 and section 7 of the AGOA Acceleration Act of 2004, provide as follows:

Section 111

Subsection (a) of section 111 of the Act of 2000 amended Title V of the Trade Act of 1974 (the GSP statute which previously consisted of sections 501–507, codified at 19 U.S.C. 2461–2467) by inserting after section 506 a new section 506A entitled ''Designation of sub-Saharan African countries for certain benefits'' and codified at 19 U.S.C. 2466a.

Subsection (a) of new section 506A authorizes the President, subject to referenced eligibility requirements and criteria, to designate a country listed in section 107 of the Act as a beneficiary sub-Saharan African country eligible for the benefits described in subsection (b). This subsection (a) also requires that the President terminate a designation if the President determines that a beneficiary sub-Saharan African country is not making continual progress in meeting the requirements for designation.

Subsection (b) of new section 506A concerns preferential tariff treatment for certain articles and consists of the following two paragraphs:

1. Paragraph (1) authorizes the President to provide duty-free treatment for any article described in section 503(b)(1)(B) through (G) of the GSP statute that is the growth, product, or manufacture of a beneficiary sub-Saharan African country. A beneficiary sub-Saharan African country is a country listed in section 107 of the Act of 2000 that has been designated by the President as eligible under subsection (a) of new section 506A. The President is authorized to provide duty-free treatment for an article if, after receiving the advice of the International Trade Commission in accordance with section 503(e) of the GSP statute, the President determines that the article is not import-sensitive in the context of imports from beneficiary sub-Saharan African countries. The articles described in section 503(b)(1)(B) through (G) of the GSP statute are those that are normally excluded from duty-free treatment under the GSP and consist of the following:

a. Watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions;

b. Import-sensitive electronic articles;

c. Import-sensitive steel articles;

d. Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of the GSP on January 1, 1995, as the GSP was in effect on that date;

e. Import-sensitive semimanufactured and manufactured glass products; and

f. Any other articles which the President determines to be import-sensitive in the context of the GSP.

2. Paragraph (2), as amended by section 7(a)(2)(A) of the Act of 2004, provides that the duty-free treatment under paragraph (1) will apply to any article described in that paragraph that meets the requirements of section 503(a)(2) (that is, the basic GSP origin and related rules). Paragraph (2) also makes application of those basic rules in this context subject to the following two additional rules:

a. If the cost or value of materials produced in the customs territory of the United States is included with respect to that article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to that United States cost or value may be applied toward determining the percentage referred to in subparagraph (A) of section 503(a)(2); and

b. The cost or value of the materials included with respect to that article that are produced in one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries shall be applied in determining that percentage.

Thus, in order for an article described in paragraph (1) to receive duty-free treatment, that article must meet the basic origin and related rules that apply to all eligible articles from any GSP-eligible country, but subject to two additional rules. In other words, (1) the article must have become the growth,

product, or manufacture of a beneficiary sub-Saharan African country by some process other than a simple combining or packaging operation or the mere dilution with water or the mere dilution with another substance that does not materially alter the characteristics of the article; (2) the article must be imported directly from a beneficiary sub-Saharan African country into the customs territory of the United States; (3) the article must have at least 35 percent of its appraised value attributed to the sum of the direct costs of processing operations performed in the beneficiary sub-Saharan African country or in any two or more beneficiary sub-Saharan African countries that are members of the same association of countries and are treated as one country under section 507(2) of the GSP statute, plus the cost or value of the materials produced in the beneficiary sub-Saharan African country or in any two or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries; and (4) as variations from the general GSP 35 percent value-content rule (the two additional rules): The cumulation of the cost or value of materials from different beneficiary countries (or former beneficiary countries) is not dependent on those countries being members of an association of countries; and the cost or value of materials produced in the customs territory of the United States (the 50 States, the District of Columbia, and Puerto Rico) may be counted toward the 35 percent requirement to a maximum of 15 percent of the article's appraised value.

Subsection (c) of new section 506A defines the terms ''beneficiary sub-Saharan African country'' and ''beneficiary sub-Saharan African countries'' for purposes of the AGOA as a country or countries listed in section 107 of the Act that the President has determined is eligible under subsection (a) of new section 506A. In addition, pursuant to an amendment by section 7(a)(2)(B) of the Act of 2004, subsection (c) defines the term ''former beneficiary sub-Saharan African country'' as a country that, after being designated as a beneficiary sub-Saharan African Country under the AGOA, ceased to be designated as such a country by reason of its entering into a free trade agreement with the United States.

Subsection (b) of section 111 of the Act of 2000 revised section 503(c)(2)(D) of the GSP statute in order to accommodate inclusion of a reference to ''any beneficiary sub-Saharan African country.'' The effect of this amendment is to preclude the withdrawal of GSP duty-free treatment from a beneficiary sub-Saharan African country by application of the GSP competitive need limitation provisions. This amendment is not addressed in the regulatory changes adopted as a final rule in this document.

Section 114 of the Act of 2000 also amended the GSP statute by inserting after new section 506A another new section 506B, codified at 19 U.S.C. 2466b and entitled ''Termination of benefits for sub-Saharan African countries.'' This new section, as amended by section 7(a)(1) of the Act of 2004, provides for the continuation of GSP duty-free treatment through September 30, 2015, in the case of a beneficiary sub-Saharan African country as defined in section 506A(c). The provisions of section 506B also are not addressed in the regulatory changes adopted as a final rule in this document.

Section 112

Section 112 of the Act of 2000 set forth rules that provide for the preferential treatment of certain textile and apparel products. These rules are codified at 19 U.S.C. 3721 and thus are outside the GSP statutory framework. Moreover, these rules in effect operate as an exception to the approach under the GSP because section 503(b)(1)(A) of the GSP statute excludes most textile and apparel articles from preferential (that is, duty-free) treatment under the GSP.

Subsection (a) of section 112 contains the basic preferential treatment statement. It provides that textile and apparel articles described in subsection (b) that are imported directly into the customs territory of the United States from a beneficiary sub-Saharan African country described in section 506A(c) of the GSP statute shall enter the United States free of duty and free of any quantitative limitations in accordance with the provisions set forth in subsection (b), if the country has satisfied the requirements set forth in section 113 of the Act of 2000.

Subsection (b) of section 112 lists the specific textile and apparel products to which the preferential treatment described in subsection (a) applies. The textile and apparel products described in section 112(b), as amended by section 3108(a) of the Act of 2002, section 7(b), (c) and (d) of the Act of 2004, and section 6002 of the Act of 2006, are as follows:

1. Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States (HTSUS) and are wholly formed and cut in the United States) that are entered under subheading 9802.00.80 of the HTSUS [paragraph (b)(1)(A)];

2. Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed and cut in the United States) that are entered under Chapter 61 or 62 of the HTSUS, if, after that assembly, the articles would have qualified for entry under subheading 9802.00.80 of the HTSUS but for the fact that the articles were embroidered or subjected to stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing, screen printing, or other similar processes [paragraph (b)(1)(B)];

3. Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed in the United States) [paragraph (b)(2)];

4. Apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or more beneficiary sub-Saharan African countries from yarns originating in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries, or both (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed in one or more beneficiary sub-Saharan African countries), or from components knit-to-shape in one or more beneficiary sub-Saharan African countries from yarns originating in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries, or both, whether or not the apparel articles are also made from any of the fabrics, fabric

components formed, or components knit-to-shape described in paragraph (b)(1) or (b)(2) (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (b)(1) or (b)(2)), subject to the application of certain quantitative limits [paragraph (b)(3)];

5. Apparel articles wholly formed on seamless knitting machines in a beneficiary sub-Saharan African country from yarns originating in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries, or both, whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (b)(1) or (b)(2) (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (b)(1) or (b)(2)), subject to the application of certain quantitative limits [paragraph (b)(3)];

6. Cashmere sweaters, that is, sweaters in chief weight of cashmere, knit-to-shape in one or more beneficiary sub-Saharan African countries and classifiable under subheading 6110.10 of the HTSUS [paragraph (b)(4)(A)];

7. Wool sweaters containing 50 percent or more by weight of wool measuring 21.5 microns in diameter or finer, knit-to-shape in one or more beneficiary sub-Saharan African countries [paragraph (b)(4)(B)];

8. Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabric or yarn, under Annex 401 to the North American Free Trade Agreement (NAFTA). (This AGOA provision in effect applies to apparel articles that are entitled to preferential duty treatment under the NAFTA based on the fact that the fabrics or yarns used to produce them were determined to be in short supply in the context of the NAFTA. The subject fabrics and yarns include fine count cotton knitted fabrics for certain apparel, linen, silk, cotton velveteen, fine wale corduroy, Harris Tweed, certain woven fabrics made with animal hairs, certain lightweight, high thread count poly-cotton woven fabrics, and certain lightweight, high thread count broadwoven fabrics used in the production of men's and boys' shirts. *See* House Report 106–606, 106th Congress, 2d Session, at page 77.) [paragraph (b)(5)(A)];

9. Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries, from fabric or yarn that is not described in paragraph (b)(5)(A), to the extent that the President has determined that the fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner and has proclaimed the treatment provided under paragraph (b)(5)(A) [paragraph (b)(5)(B)];

10. A handloomed, handmade, or folklore article or an ethnic printed fabric of a beneficiary sub-Saharan African country or countries that is certified as such by the competent authority of the beneficiary country or countries, subject to a determination by the President regarding which, if any, particular textile and apparel goods of the country or countries will be treated as being handloomed, handmade, or folklore articles or an ethnic printed fabric [paragraph (b)(6)];

11. Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from components cut in the United States and one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries from fabric wholly formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States and one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTSUS) [paragraph (b)(7)].

12. Textile and textile articles classifiable under Chapters 50 through 60 or Chapter 63 of the HTSUS that are products of a lesser developed beneficiary sub-Saharan African country and are wholly formed in one or more such countries from fibers, yarns, fabrics, fabric components, or components knit-to-shape that are the product of one of more such countries [paragraph (b)(8)]; and

13. Apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more lesser developed beneficiary sub-Saharan African countries regardless of the country of origin of the fabric or yarn used to make the articles, subject to the application of certain quantitative limits [paragraph (c)];

Subsection (d) of section 112 concerns the elimination of existing quotas on textile and apparel articles imported into the United States from Kenya and Mauritius. This provision is not addressed in the regulatory changes adopted as a final rule in this document.

Subsection (e) of section 112, as amended by section 7(e) of the Act of 2004, sets forth special rules that apply for purposes of determining the eligibility of articles for preferential treatment under section 112. These special rules are as follows:

1. Paragraph (e)(1)(A) sets forth a special rule regarding the treatment of findings and trimmings. It provides that an article otherwise eligible for preferential treatment under section 112 will not be ineligible for that treatment because the article contains findings or trimmings of foreign origin, if the value of those foreign findings and trimmings does not exceed 25 percent of the cost of the components of the assembled article. This provision specifies the following as examples of findings and trimmings: Sewing thread, hooks and eyes, snaps, buttons, ''bow buds,'' decorative lace trim, elastic strips (but only if they are each less than 1 inch in width and used in the production of brassieres), zippers (including zipper tapes), and labels. However, as an exception to the paragraph (e)(1)(A) general rule, paragraph (e)(1)(C) provides that sewing thread will not be treated as findings or trimmings in the case of an article described in paragraph (b)(2) of section 112 (because that paragraph specifies that the thread used in the assembly of the article must be formed in the United States and thus cannot be of ''foreign'' origin).

2. Paragraph (e)(1)(B) sets forth a special rule regarding the treatment of specific interlinings, that is, a chest type plate, a ''hymo'' piece, or ''sleeve header,'' of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments. Under this rule, an article otherwise eligible for preferential treatment under section 112 will not be ineligible for that treatment because the article contains interlinings of foreign origin, if the value of those interlinings (and any findings and trimmings) does not exceed 25 percent of the cost of the components of the assembled article. The paragraph also provides for the termination of this treatment of interlinings if the President makes a determination that United States manufacturers are producing those interlinings in the United States in commercial quantities.

3. Paragraph (e)(2) sets forth a *de minimis* rule which provides that an article otherwise eligible for preferential

treatment under section 112 will not be ineligible for that treatment because the article contains fibers or yarns not wholly formed in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries if the total weight of all those fibers and yarns is not more than 10 percent of the total weight of the article.

4. Paragraph (e)(3) sets forth a special rule regarding the treatment of certain specified components, namely collars and cuffs (cut or knit-to-shape), drawstrings, shoulder pads or other padding, waistbands, belt attached to the article, straps containing elastic, and elbow patches. Under this rule, an article otherwise eligible for preferential treatment under section 112 will not be ineligible for that treatment because the article contains a specified component that fails to meet the requirements set forth in section 112(b), regardless of the country of origin of the component.

Subsection (f) of section 112 defines certain terms for purposes of sections 112 and 113 of the Act of 2000 and, in paragraph (e)(2), states that the terms ''beneficiary sub-Saharan African country'' and ''beneficiary sub-Saharan African countries'' have the same meaning as those terms have under new section 506A(c) discussed above.

Finally, subsection (g) of section 112 provides that section 112 takes effect on October 1, 2000, and will remain in effect through September 30, 2015.

Section 113

Section 113 of the Act of 2000 sets forth standards and conditions for the designation of beneficiary sub-Saharan African countries and for the granting of preferential treatment to textile and apparel articles under section 112. These provisions are primarily intended to avoid transshipment situations and thus ensure that preferential treatment is applied to goods as intended by Congress.

Subsection (a) of section 113 sets forth various terms and conditions that a potential beneficiary sub-Saharan African country must satisfy for purposes of preferential treatment under section 112. These terms and conditions involve enforcement and related actions to be taken by, and within, those potential beneficiary sub-Saharan African countries and thus, except in the case of paragraphs (a)(1)(F) and (a)(2), do not relate to matters that require regulatory action by CBP. Paragraph (a)(1)(F) requires a country to agree to report, on a timely basis, at the request of the CBP, documentation establishing the country of origin of covered articles as used by that country in implementing an effective visa system. For purposes of paragraph (a)(1)(F), paragraph (a)(2) states that documentation regarding the country of origin of the covered articles includes documentation such as production records, information relating to the place of production, the number and identification of the types of machinery used in production, the number of workers employed in production, and certification from both the manufacturer and the exporter.

Subsection (b) of section 113 sets forth regulatory standards for purposes of preferential treatment under section 112, prescribes a specific factual determination that the President must make regarding the implementation of certain procedures and requirements by each beneficiary sub-Saharan African country, prescribes a penalty that the President must impose on an exporter if the President determines that the exporter has engaged in transshipment, specifies when transshipment occurs for purposes of the subsection, and sets forth responsibilities of CBP regarding monitoring and reporting to Congress on actions taken by countries in sub-Saharan Africa. The specific provisions under subsection (b) that require regulatory action by CBP are the following:

1. Paragraph (b)(1)(A) provides that any importer that claims preferential treatment under section 112 must comply with customs procedures similar in all material respects to the requirements of Article 502(1) of the NAFTA as implemented pursuant to United States law, in accordance with regulations promulgated by the Secretary of the Treasury. The NAFTA provision referred to in paragraph (b)(1)(A) concerns the use of a Certificate of Origin and specifically requires that the importer (1) make a written declaration, based on a valid Certificate of Origin, that the imported good qualifies as an originating good, (2) have the Certificate in its possession at the time the declaration is made, (3) provide the Certificate to CBP on request, and (4) promptly make a corrected declaration and pay any duties owing where the importer has reason to believe that a Certificate on which a declaration was based contains information that is not correct.

2. Paragraph (b)(2) provides that the Certificate of Origin that otherwise would be required pursuant to the provisions of paragraph (b)(1)(A) will not be required in the case of an article imported under section 112 if that Certificate of Origin would not be required under Article 503 of the NAFTA (as implemented pursuant to United States law), if the article were imported from Mexico. Article 503 of the NAFTA sets forth, with one general exception, three specific circumstances in which a NAFTA country may not require a Certificate of Origin.

Finally, subsection (c) of section 113 requires CBP to provide technical assistance to the beneficiary sub-Saharan African countries and to send production verification teams to at least four beneficiary sub-Saharan African countries each year, and subsection (d) of section 113 contains an appropriation authorization to carry out these duties. These provisions are not addressed in the regulatory changes adopted as a final rule in this document.

Interim Regulatory Amendments in T.D. 00–67

The interim amendments to the CBP regulations set forth in T.D. 00–67 to implement the trade benefit provisions of the Act of 2000 consisted of the following: (1) The addition of a new § 10.178a (19 CFR 10.178a) reflecting the non-textile duty-free treatment provisions of new section 506A of the GSP statute as added by section 111(a) of the Act of 2000; (2) the addition of new §§ 10.211 through 10.217 (19 CFR 10.211 through 10.217) to implement those textile and apparel preferential treatment provisions within sections 112 and 113 of the Act of 2000 that relate to U.S. import procedures; and (3) the addition of a reference in the list of entry records in the Appendix (the interim ''(a)(1)(A) list'') to Part 163 (19 CFR Part 163) to cover AGOA textile documentation.

T.D. 00–67 also included a number of interim amendments to the existing CBP regulations concerning the Generalized System of Preferences (GSP) program (19 CFR 10.171–10.178) to implement previous statutory and other changes to that program and to correct several out-of date statutory references. The specific GSP regulations affected were §§ 10.171(a), 10.175(e), 10.176(a), and 10.176(c) (19 CFR 10.171(a), 10.175(e), 10.176(a), and 10.176(c)). For more detailed information concerning these regulatory changes, please see T.D. 00–67.

Although the interim regulatory amendments were promulgated without prior public notice and comment procedures and took effect on October 1, 2000, T.D. 00–67 nevertheless provided for the submission of public comments which would be considered before adoption of the interim regulations as a final rule, and the prescribed public comment period closed on December 4, 2000. A discussion of the comments received by CBP is set forth below.

Interim Regulatory Amendments in T.D. 03–15

As a consequence of the statutory changes made by section 3108 of the Act of 2002 and the modifications to the HTSUS made by Proclamation 7626, T.D. 00–67 no longer fully reflected the state of the law. Accordingly, T.D. 03–15 set forth interim amendments involving the textile and apparel provisions in the AGOA and, in part, reflected changes made to those statutory provisions by section 3108 of the Act of 2002. The specific statutory changes addressed in T.D. 03–15 involved the amendment of several AGOA regulatory provisions to clarify the status of apparel articles assembled from knit-to-shape components, the inclusion of a specific reference to apparel articles formed on seamless knitting machines, a change of the wool fiber diameter specified in one provision and the addition of a new provision to cover additional production scenarios involving the United States and AGOA beneficiary countries. T.D. 03–15 also included a number of other changes to the AGOA implementing regulations to clarify a number of issues that arose after their original publication. For further details regarding these regulatory provisions, *see* T.D. 03–15.

The interim regulatory amendments promulgated by T.D. 03–15 became effective on March 21, 2003. However, public comments on the interim amendments were solicited, and a discussion of the comments received during the comment period, which closed on May 20, 2003, is set forth below.

Regulatory Amendments To Reflect Changes Made by the Acts of 2004 and 2006

This final rule incorporates in the regulatory text statutory changes made to the AGOA by section 7 of the Act of 2004 (and the modifications to the HTSUS made by Proclamation 7808) and by section 6002 of the Act of 2006 (and the modifications to the HTSUS made by Proclamation 8114). As stated earlier, because these changes to the interim regulatory texts, as described below, are not interpretative in nature but closely reflect the language of the statute, they are included in this final rule without need for comment.

1. In § 10.178a, paragraphs (d)(2) and (d)(4)(ii) are revised to reflect the amendment to section 506A(b)(2)(B) of the GSP statute providing for the inclusion of the cost or value of materials produced in ''former beneficiary sub-Saharan African countries'' toward satisfying the GSP 35% value-content requirement.

2. In § 10.178a, a new paragraph (d)(5) is added to reflect the definition of ''former beneficiary sub-Saharan African country'' set forth in amended section 506A(c) of the GSP statute.

3. In § 10.212, a definition of ''ethnic printed fabric'' is added as new paragraph (d) to reflect the inclusion of references to, and description of, ''ethnic printed fabric'' in paragraph (b)(6) of section 112 of the AGOA.

4. In § 10.212, a definition of ''former beneficiary country'' is added as new paragraph (f) to reflect the inclusion of references to this term in paragraphs (b)(3), (b)(7) and (e)(2) of section 112 of the AGOA as well as the definition of this term set forth in new paragraph (f)(4) of section 112 of the AGOA.

5. In § 10.212, a definition of ''lesser developed beneficiary country'' is added as new paragraph (j) to reflect the inclusion of references to this term in paragraphs (b)(8) and (c) of section 112 of the AGOA.

6. In § 10.213, paragraphs (a)(1) and (a)(2) are revised to conform to the amendment of the product description in the introductory text of paragraph (b)(1) of section 112 of the AGOA.

7. In § 10.213, paragraph (a)(4) is revised to conform to the amendment of the product description in the introductory text of paragraph (b)(3) of section 112 of the AGOA.

8. In § 10.213, paragraph (a)(8) is revised to conform to the amendment of the product description in paragraph (b)(5)(A) of section 112 of the AGOA.

9. In § 10.213, paragraph (a)(10) is revised to conform to the amendment of the product description in paragraph (b)(6) of section 112 of the AGOA.

10. In § 10.213, paragraph (a)(11) is revised to conform to the amendment of the product description in paragraph (b)(7) of section 112 of the AGOA.

11. In § 10.213, a new paragraph (a)(12) is added to reflect the addition of paragraph (b)(8) to section 112 of the AGOA.

12. In § 10.213, the *de minimis* rule set forth in re-designated paragraph (c)(1)(iv) (formerly paragraph (b)(1)(iv)) is revised to conform to the amendments made to section 112(d)(2) of the AGOA (now section 112(e)(2)). An explanation for the re-designation of former paragraph (b) of the interim regulatory texts as paragraph (c) is set forth below in the discussion of comments in response to T.D. 00–67.

13. In § 10.213, re-designated paragraph (c) (formerly paragraph (b)), entitled ''Special rules for certain component materials,'' is revised by adding a new paragraph (c)(1)(v) to reflect the inclusion of an additional special rule relating to certain specified components in new paragraph (d)(3) of section 112 of the AGOA (now section 112(e)(3)).

14. The preference group descriptions on the Certificate of Origin set forth under paragraph (b) of § 10.214 are revised to reflect the amended product descriptions in section 112(b) of the AGOA. The instructions for completion of the Certificate in paragraph (c) of § 10.214 are also revised as appropriate to reflect the changes made to the Certificate.

CBP is now publishing one document that (1) addresses both the comments submitted on the interim regulations published in T.D. 00–67 and T.D. 03–15, and (2) adopts, as a final rule, the AGOA implementing regulations contained in the two interim rule documents with changes reflecting the statutory amendments made by the Acts of 2004 and 2006 as well as other changes identified and discussed below.

Discussion of Comments in Response to T.D. 00–67

A total of 19 commenters responded to the solicitation of public comments in the October 5, 2000, interim rule document referred to above. One commenter addressed the interim conforming amendments to the GSP regulations, and the other 18 commenters made a variety of observations or suggestions regarding the interim AGOA implementing regulations.

It should be noted that the comments received in response to T.D. 00–67 were received prior to the subsequent statutory changes effected by section 3108 of the Act of 2002, the regulatory interim amendments made by T.D. 03–15, and the statutory changes effected by section 7 of the Act of 2004 and section 6002 of the Act of 2006. To the extent that the comments received were unaffected by these subsequent changes, CBP has responded.

I. Conforming GSP Regulations Changes

Comment:

The comment on the interim conforming amendments to the existing GSP regulations concerned specifically the revision of paragraph (a) of § 10.176. This commenter asserted that, in view of the decision in *Uniden America Corp. v. United States,* 120 F.Supp. 2d 1091, 24 CIT 1191 (2000), revised § 10.176(a) does not adequately implement the changes made to the GSP statute by section 226 of the Customs and Trade Act of 1990 in two respects. First, the revised regulation should provide that the ''substantial transformation'' test

applies to the ''eligible article'' rather than each of its detachable elements. Second, the revised regulation should clarify that ''simple combining or packaging operations'' do not include complex manufacturing operations that also involve the combining or packaging of foreign components.

CBP's Response:

The commenter seeks a change to revised § 10.176(a) based on the decision in *Uniden,* rather than the language of section 226 of the Customs and Trade Act of 1990. In *Uniden,* the Court of International Trade determined that a cordless phone assembled in a GSP eligible country and packaged with an A/C adapter imported from a non-GSP eligible country was a product of the GSP eligible country and entitled to GSP preferential tariff treatment when imported into the United States.

CBP does not agree that the changes to revised § 10.176(a) suggested by the commenter should be implemented as part of this final rule document. Section 226 of the Customs and Trade Act of 1990 (Public Law 101–382, 104 Stat. 660) amended the GSP statute (19 U.S.C. 2463) to include explicit country of origin language nearly identical to that found in the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2703). As the legislative history of section 226 indicates that the GSP and CBERA ''growth, product or manufacture'' requirements should be applied identically (*see* House Report 101–650, 101st Congress, 2d Session, at page 137), revised § 10.176(a) was drafted to closely follow the corresponding CBERA regulatory provision (19 CFR 10.195(a)). Consistent with this legislative intent, CBP believes that it would be inappropriate to alter § 10.176(a) in the manner suggested by the commenter.

II. AGOA Implementing Regulations

All of the comments received on the interim AGOA implementing regulations were directed to the textile and apparel provisions of sections 112 and 113 of the AGOA, and thus there were no comments pertaining to the expanded GSP provisions contained in section 111 of the AGOA. The comments submitted by these 18 commenters are summarized and responded to below.

General Comments Regarding Scope of Intended Benefits

Four commenters expressed views regarding the scope of the AGOA, particularly in regard to its intended beneficiaries.

Comment:

Three commenters asserted that because the Congressional intent behind the AGOA was to encourage two-way trade between the United States and the countries of sub-Saharan Africa with no other third country participation, CBP must bar preferential entry of any merchandise under the AGOA that has undergone any processing or been advanced in value or improved in condition in any way other than in the United States or a designated beneficiary country, except for one specific provision involving lesser developed beneficiary countries. Accordingly, these commenters stated that CBP must ensure that the final regulations maximize trade benefits to the beneficiary countries and to producers in the United States.

CBP's Response:

CBP agrees that the AGOA was intended to promote the creation of a climate conducive to greater levels of trade and investment and to foster a growing economic partnership between the United States and sub-Saharan African countries (*see* the discussion of the beneficiary country eligibility criteria in the Conference Report relating to the Act of 2000, House Report 106–606, 106th Congress, 2d Session, at p. 68).

CBP also agrees that under the statutory scheme, the processing of textile and apparel articles entitled to preferential treatment under the AGOA is specified to occur either in the United States or in the AGOA beneficiary countries (and in certain instances, in former beneficiary countries, if any), except as regards the sourcing of fabric or yarn in the case of certain lesser developed beneficiary countries. In addition, the direct importation requirement set forth in the statute and regulations operates as a practical matter to limit the feasibility of operations in countries other than the United States or AGOA beneficiary countries.

Comment:

One commenter complained that the AGOA textile and clothing provisions substantially dilute the benefits of the NAFTA for Canadian textile producers and their United States customers and suppliers. This commenter noted in this regard that the AGOA provisions impair the ability of United States fabric and apparel producers to source yarns and fabrics from all the available competitive suppliers in the NAFTA region, because they are limited to buying from United States suppliers. The commenter argued that this runs contrary to the textile/apparel infrastructure that has emerged under the NAFTA. Another commenter expressed regret that Canadian and NAFTA yarns and fabrics are excluded from eligibility under the AGOA.

CBP's Response:

Although CBP agrees that the provisions provide limited benefits to Canadian textile producers, CBP believes this to be consistent with the language and intent of the legislation. The intent of the legislation was to foster increased opportunities for the United States and countries in the sub-Saharan African region. Thus, where the legislation requires that yarns and fabric for certain apparel articles be wholly formed in the United States, it does not allow for the sourcing of yarns and fabric from other NAFTA countries. CBP notes that the ''wholly formed'' requirement would not preclude the sourcing of fibers from NAFTA countries (or any other countries) so long as those fibers are spun into yarns and used to form qualifying fabric in the United States.

Definition of ''Apparel Articles''

Comment:

One commenter stated that within the § 10.212 definition of ''apparel articles'' the reference to HTSUS subheading ''6406.99'' is incorrect because that subheading includes rubber/plastic footwear parts. This commenter suggested that the correct reference should be to subheading ''6406.99.15.''

CBP's Response:

CBP agrees with the commenter that the reference to HTSUS subheading 6406.99 is incorrect. In 2000, the reference should have been to subheading 6406.99.15 so as to limit the articles to those made of textile materials. In 2012, the subheading was changed from 6406.99.15, HTSUS to 6406.90.15, HTSUS. Since the definition of ''apparel articles'' in § 10.212 was directed to textile apparel articles, the reference to subheading 6406.99 in this definition (now § 10.212(a)) has been replaced in this final rule document by a reference to subheading 6406.90.15, HTSUS.

Definitions of ''Knit-To-Shape'' and ''Major Parts''

Comment:

One commenter noted with regard to § 10.212 that definitions of ''knit-to-shape'' and ''major parts'' already appear in § 102.21 of the CBP regulations (19 CFR 102.21). The commenter argued that those definitions should not be repeated in § 10.212 because meanings are presumed to be consistent throughout the regulations.

CBP's Response:

CBP does not agree with this commenter. While there may be cases in

which definitions or meanings might have broad regulatory application (*see, for example,* § 101.1 of the CBP regulations (19 CFR 101.1) which sets forth various definitions that generally apply throughout the CBP regulations), no presumption of consistency can operate where, as in the case of both §§ 10.212 and 102.21, the introductory text of the definitions provision expressly limits application of the definitions to the specific regulatory context in which the definitions appear. CBP also believes that, for the convenience of the reader, it is generally preferable for a regulatory text to repeat a text that is the same as one used in another regulatory context rather than to use a cross-reference to that other text, particularly when repeating the text will not add significant length to the regulations as a whole.

Meaning of ''Wholly Assembled''

Comment:

One commenter took issue with what it believes is an assumption or interpretation of CBP that the words ''wholly assembled'' in the regulatory texts would preclude partial assembly in the United States. This commenter argued that Congress neither intended to penalize goods that include value added in the United States nor wanted to discourage apparel companies from maximizing the use of U.S. inputs involving partial assembly in the United States.

CBP's Response:

CBP disagrees with the commenter's view of the intent of Congress. Certain of the categories of textile and apparel products entitled to preferential treatment under the AGOA specify that the affected articles must be ''sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries.'' *See, for example,* section 112(b)(1) and (b)(2) of the AGOA. [It is noted that the words ''sewn or otherwise'' were added to these provisions by section 3108(a) of the Act of 2002.] However, section 112(b)(3) of the AGOA specifies that the affected apparel articles must be ''wholly assembled in one or more beneficiary sub-Saharan African countries.'' CBP believes that adding the word ''wholly'' prior to ''assembled'' in the latter provision was purposeful and a clear indication of the intent of Congress that, as a prerequisite to receiving benefits under this provision, all assembly operations must be performed in one or more of the AGOA beneficiary countries. In provisions such as those cited above in which the word ''assembled'' is not prefaced by ''wholly,'' CBP believes that Congress intended to permit prior partial assembly operations to be performed in the United States. The definitions of ''sewn or otherwise assembled in one or more beneficiary countries'' and ''wholly assembled in'' in § 10.212 of the regulations give effect to this intent.

Definition of ''Wholly Formed''

Fourteen commenters submitted observations on the § 10.212 definition of ''wholly formed'' which was drafted with reference to yarns, thread and fabric.

Comment:

Two commenters indicated that the reference to ''thread'' in the definition was inappropriate because the word ''wholly'' does not appear in the statute in the context of thread formation. Rather, these commenters noted that the statute merely refers to ''thread formed in the United States.'' They therefore suggested that the definition be amended to ensure consistency with the wording of the statute.

CBP's Response:

CBP agrees. In this regard, it is noted that in T.D. 03–15, CBP replaced the original interim § 10.212 definition of ''wholly formed'' with two definitions, one covering ''wholly formed'' as it relates to fabrics and the other covering ''wholly formed'' as it relates to yarns (*see* the comment discussion relating to wholly formed yarns below). This was done to reflect the separate fabric and yarn contexts under the statute. The separate definition for wholly formed yarns was further revised by removing the words ''or thread'' to reflect the fact that, as the commenters correctly point out, the statute does not use the word ''wholly'' in the context of thread formation.

Wholly Formed Fabrics

Comment:

With regard to fabrics, eight commenters expressed the view that the concept of ''wholly formed'' encompasses dyeing, printing and finishing operations and that, consequently, any requirement that a fabric be ''wholly formed in the United States'' means that any dyeing, printing or finishing of the fabric also must be performed in the United States. Some of the commenters further recommended that the regulatory texts be modified to clearly reflect this principle or to set forth all processing steps necessary to result in ''wholly formed'' fabric.

Six commenters took the position that dyeing, printing and finishing operations do not fall within the concept of ''wholly formed'' and that, consequently, a requirement that a fabric be ''wholly formed in the United States'' does not mean that any dyeing, printing or finishing of the fabric must be restricted to the United States. Some of the commenters further recommended that the regulatory texts be modified to clearly reflect the principle that U.S. fabric may be dyed and finished outside the United States.

CBP's Response:

The comments regarding the meaning of ''wholly formed'' as it applies to fabric fall on both sides of the issue of whether dyeing, printing and/or finishing should be included within the scope of the term. Some argue strenuously that dyeing, printing and/or finishing must be encompassed within the definition of ''wholly formed'', while others argue just as strenuously that these processes clearly are not part of fabric formation. Both sides argue that their view reflects the intent of Congress.

CBP agrees with the latter position. ''Form'' refers to shape, being, existence. ''Wholly'' refers to completeness. Fabric is completely shaped, or wholly formed, prior to finishing. CBP disagrees with those who argue that any definition of ''wholly formed'' that does not include dyeing, printing and finishing would render the term ''wholly'' meaningless. It has meaning as it applies to the term ''formed;'' that is, it refers to all of the processes that contribute to the formation of the fabric. *See* also the response to the next comment.

Comment:

CBP is correct in interpreting that dyeing, printing and similar finishing operations may be performed on fabrics in the United States or in the beneficiary country. Consistent with the Breaux-Cardin rules, CBP has not included such dyeing, printing and finishing operations (or similar procedures) in the definition of operations that occur under the term ''wholly formed.'' As a result, the interim regulations do not prohibit such dyeing and finishing operations from being performed in beneficiary countries.

CBP's Response:

CBP believes it would be inconsistent with the plain language of the AGOA to conclude that printing and/or dyeing is part of the fabric formation process. In drafting the interim regulations, CBP crafted a definition of ''wholly formed'' which was based in part on the definition of ''fabric-making process'' contained in § 102.21(b)(2) of the CBP regulations (19 CFR 102.21(b)(2)) and which was also intended to reflect the common meanings of the words ''wholly'' and ''formed.'' ''Form'' is defined, in part, in *Webster's Third New International Dictionary* (1993), at 893, as: ''1a. to give form or shape to: . . . 2.a.

to give a particular shape to: shape, mold, or fashion into a certain state or condition or after a particular model.'' ''Wholly'' is defined in *Webster's Third New International Dictionary* (1993), at 2612, as: ''1. To the full or entire extent: without limitation or diminution or reduction: ALTOGETHER, COMPLETELY, TOTALLY. 2. to the exclusion of other things: solely.'' Similar definitions of both terms may be found in various lexicographic sources.

''Finishing'' is defined in *Webster's Third New International Dictionary* (1993), at 854, as: ''the act or process of completing: the final work upon or ornamentation of a thing. *specif* : the processing applied to cloth after it is taken from the loom.'' *Fairchild's Dictionary of Textiles,* (7th ed. 1996), at 220, defines finishing as a ''[s]equence of treatments (excluding coloration) worked on greige fabric intended for sale to consumers or downstream users prior to that sale.'' In the 6th edition of *Fairchild's Dictionary of Textiles,* (1979), at 238, ''finishing'' is defined as: ''[a] process through which fabric passes after being removed from the loom. (1) To improve appearance. . . . (2) To affect stiffness, weight, elasticity, softness. . . . (3) To facilitate care. . . . (4) To protect the wearer. . . .'' In the *Dictionary of Fiber & Textile Technology* (KoSa, 1999), at 86, ''finishing'' is defined as: ''All the processes through which fabric is passed after bleaching, dyeing, or printing in preparation for the market or use. Finishing includes such operations as heat-setting, napping, embossing, pressing, calendering, and the application of chemicals that change the character of the fabric. The term finishing is also sometimes used to refer collectively to all processing operations above, including bleaching, dyeing, printing, etc.'' In *Fairchild's Dictionary of Textiles* (Second printing, 1970), at 230, ''finishing'' is defined as: ''All processes through which fabric passes after being taken from loom. This covers bleaching, dyeing, sizing, and processes which give the desired surface effect, e.g., napping, calendering, embossing, etc. . . .'' CBP's review of the above definitions reveals that the definition of ''finishing'' found in the cited technical sources is consistent with the common meaning of the term as defined in general lexicographic sources. Thus, ''finishing'' in regard to fabric has been understood in the textile industry, as reflected by the various definitions cited above, as referring to processes which occur to fabric after it has been formed.

Absent evidence of a different commercial meaning or a legislative intent to the contrary, the terms of a tariff statute are to be given their common meaning. Based on the common meaning of the terms ''wholly'' and ''formed,'' the position of CBP is that dyeing, printing and finishing of fabric are not part of the fabric formation process and thus do not fall within the scope of ''wholly formed'' as it relates to fabric.

As to the reference in the comment to the Breaux-Cardin rules (the textile and apparel country of origin rules set forth in section 334 of the Uruguay Round Agreements Act (URAA), and implemented in § 102.21 of the CBP regulations (19 CFR 102.21)), CBP notes that the AGOA is a preferential tariff treatment program which is based, for textile apparel, upon specified manufacturing processes; it is not a program based upon origin.

Comment:

Processes such as bleaching, dyeing and printing that are commonly recognized as ''finishing operations'' are separate from the forming of the materials and it is therefore appropriate that those processes should not affect the definition of ''wholly formed.'' The final rule should clarify the distinction between formation and finishing.

CBP's Response:

Based on the definitions cited above in this comment discussion, CBP agrees with the comment, including the suggestion that the final regulations should contain a clarification regarding the fact that the processes of dyeing, printing and finishing are distinct from fabric formation. *See* the description of the regulatory text changes at the end of this wholly formed fabric comment discussion.

Comment:

In the terminology of the textile industry, ''finishing'' is necessary before fabric can be used, and without it the fabric is ''unfinished,'' the opposite of ''wholly formed.'' Apparel is not made of ''unfinished'' fabric, and ''unfinished'' cannot be stretched to mean ''complete,'' ''entire'' or ''whole.''

CBP's Response:

CBP disagrees with this comment. As already stated, CBP believes that finishing and formation are separate processes. ''Unfinished'' is not the opposite of ''wholly formed,'' and CBP also notes that unfinished fabric is still fabric. The statute requires formation of fabric. Based upon the language of the statute and the common meaning of the terms chosen by Congress to express its intent in the statute, ''wholly formed'' as used in the AGOA speaks to formation of fabric and does not include finishing.

Comment:

The common definition of ''formed'' as it relates to fabric is that once the yarn is spun and fabric is woven or knit, it is considered formed. Printing, dyeing and finishing (or similar processes) are irrelevant and not essential to the fabric formation process and thus should be allowable operations in the United States and/or beneficiary countries. It should be made clear that one can export greige fabric to the AGOA beneficiary country and then dye, cut and assemble there.

CBP's Response:

Based on the definitions cited earlier in this wholly formed fabric comment discussion, CBP agrees that printing, dyeing and finishing are not part of the fabric formation process. CBP also agrees that dyeing, printing and finishing operations may occur in the United States or in the AGOA beneficiary countries except in the case of provisions subject to the restrictions under subheading 9802.00.80, HTSUS.

Comment:

The plain meaning of the term ''wholly formed'' when applied to fabric refers not only to the basic greige goods but also to any dyeing, printing and other finishing operations prior to cutting of the apparel components, since otherwise the word ''wholly'' would be essentially meaningless.

CBP's Response:

As discussed above, ''wholly'' has meaning as it applies to ''formed.'' Congress is presumed to use words according to their common, ordinary meaning in drafting legislation unless some other intent is evident. Nothing in the AGOA or in the Conference Report relating to the Act leads CBP to believe that Congress intended a meaning other than the plain meaning of the words ''wholly'' and ''formed.'' Therefore, based on the common meanings of ''wholly'' and ''formed,'' CBP disagrees with the commenter's assertion that ''wholly formed'' as it refers to fabric includes dyeing, printing and finishing operations.

Comment:

If Congress had intended to limit the phrase ''wholly formed'' to the formation of the greige goods, there would have been no need to include the word ''wholly'' in the statute. There is no circumstance in which greige goods may be ''partially'' formed in one country and ''partially'' formed in another country. Since language in a statute must be read to give effect to all of its terms, the use of the word ''wholly'' was evidently intended to reference dyeing, printing and finishing operations.

CBP's Response:

As already discussed above, ''wholly'' is an adverb that applies to ''formed.'' An examination of the common meanings of the terms, which Congress

is presumed to have intended, leads to the conclusion that ''wholly formed'' as it pertains to fabric means the fabric is completely shaped or formed. CBP is giving effect to all the terms of the statute according to their context. Although CBP agrees with the commenter's assertion that ordinarily greige fabric is not ''partially'' formed in one country and ''partially'' formed in another country, CBP disagrees with the commenter's underlying premise that fabric cannot be ''wholly formed'' in the greige state.

Comment:

In sections 112(b)(1) and (b)(2) of the AGOA, ''wholly'' means fabrics which have been processed up to the point at which they are ready to be transformed into a new and different article of commerce, that is, apparel. Before fabric can be transformed into apparel through cutting and assembly, it must first be scoured and bleached or dyed or printed and finished. Therefore, ''fabrics wholly formed'' means fabrics which have been formed from their constituent yarns by knitting, weaving, etc. and subsequently scoured or bleached or dyed or printed and finished in the United States only (the word ''wholly'' makes it clear that none of these processes may be carried out on the fabric in any other country).

CBP's Response:

This comment asserts that dyeing, printing and finishing must be within the meaning of ''fabrics wholly formed'' without offering support for the assertion other than an argument that such processing must occur before fabric is cut and assembled into apparel. Although fabric is normally dyed or printed and finished before being cut and assembled into goods, that is not always the case. Some garments are garment-dyed, a process recognized by Congress in section 112(b)(1)(B) of the AGOA which requires apparel to be assembled in one or more AGOA beneficiary countries from ''fabrics wholly formed'' and cut in the United States. If ''fabrics wholly formed'' meant that a greige fabric could not be ''wholly formed'' and that to be ''wholly formed'' a fabric had to be dyed or printed and finished in the United States, it would be incongruous for Congress to provide for garment-dyeing in the beneficiary countries in section 112(b)(1)(B) of the AGOA as it did. CBP is not persuaded by this comment and for reasons already stated maintains that dyeing, printing and finishing are operations separate and apart from the formation of fabric and thus do not fall within the scope of ''wholly formed'' as it pertains to fabric.

Comment:

Longstanding practice has made a distinction between ''formed'' (that is, knitted, woven, tufted, etc.) and ''wholly formed'' (meaning formed and subject to further processing to complete its identity, that is, preparation, dyeing or printing, and finishing). Congress clearly intended to make this distinction in the AGOA.

CBP's Response:

CBP disagrees with the assertion made in the comment which is offered without support. The term ''wholly formed'' appears in subheading 9802.00.90, HTSUS, which is the provision created under the NAFTA to succeed the Special Regime program and which covers textile and apparel goods assembled in Mexico from fabric components wholly formed and cut in the United States. The term ''wholly formed'' has been interpreted by CBP in numerous rulings under this provision as referring to fabric that is woven or milled in the United States. *See, for example,* HQ 558708 of June 14, 1995, and HQ 559411 of April 7, 1997. The assertion of a ''longstanding practice'' is refuted by these rulings.

Comment:

In order to be consistent with the Special Access Program, as Congress intended, CBP must define the ''forming'' of fabric in the AGOA regulations to include the processes of dyeing, printing and finishing in addition to the processes of weaving and knitting. The Special Access Program clearly applies to goods that only undergo the overseas process of assembly and do not undergo other fabrication processes overseas, including dyeing, printing and finishing in the beneficiary country. Manifestly, fabric components exported from the United States under the Special Access Program could only be ''in condition ready for assembly with no further fabrication'' if one of the two exclusive steps undertaken before export from the United States (that is, ''forming'' and ''cutting'' the fabric) included the processes of dyeing, printing and finishing, and those processes would most sensibly be placed within the category of fabric formation.

CBP's Response:

CBP agrees that Congress wanted the AGOA to be administered in a manner similar to the way in which the Special Access program is administered. This desire is evident in the Conference Report relating to the Act of 2000. However, CBP finds nothing in the **Federal Register** notices regarding that program or in the language of the tariff provision providing for implementation of the program which supports the argument that ''wholly formed'' in reference to fabric requires the inclusion of finishing operations. In fact, notices regarding the Special Access program support the opposite conclusion. In the initial notice announcing the implementation of the Special Access program, published in the **Federal Register** (51 FR 21208) on June 11, 1986, the Committee for the Implementation of Textile Agreements (CITA) referred to the requirement that fabric be ''entirely U.S. formed'' or ''entirely formed in the United States.'' In discussing this requirement, the notice stated that ''[f]abric which . . . would have to be labeled 'Imported cloth, finished in the USA' or 'Made in (foreign country), finished in USA' does not qualify as U.S. formed and cut fabric. . . .'' A later notice by CITA to clarify requirements and procedures for the Special Access program, published in the **Federal Register** (52 FR 26057) on July 10, 1987, stated the following in regard to the definition of U.S.-formed and cut parts: (1) greige goods imported into the United States and then finished in the United States do not qualify under the program because that fabric is foreign-formed; and (2) fabric that is woven or knitted in the United States from foreign yarn is considered U.S.-formed for the purposes of this program. Similar language is found in the notice announcing the requirements for participation in the Special Regime program, published in the **Federal Register** (53 FR 15724) on May 3, 1988, which stated that greige goods imported into the United States and then finished in the United States do not qualify under the Special Regime program because that fabric is foreign-formed.

Thus, CITA recognized a distinction between fabric formation and fabric finishing and viewed dyeing and printing as being in the latter category. There is no discussion of finishing of fabrics as being considered part of fabric formation in the notices regarding the Special Access and Special Regime programs.

Comment:

In order to qualify under section 112(b)(1) of the AGOA, the apparel articles must be either ''entered under subheading 9802.00.80'' or ''qualified for entry'' under that subheading but for the fact of certain operations performed on the assembled articles, and, in order to qualify under subheading 9802.00.80, the components exported to the foreign country must be ''ready for assembly without further fabrication.'' This means that in order to qualify under subheading 9802.00.80, neither the fabric nor the fabric components could be sent to the foreign country and subjected to operations such as dyeing, printing and other finishing operations (in other words, any operations such as

dyeing, printing and other finishing operations must be done in the United States prior to the export of the fabric components).

CBP's Response:

CBP agrees that fabric formed and cut in the United States and used in the assembly of apparel articles described in § 10.213(a)(1) and (a)(2) (which corresponds to § 112(b)(1) of the Act) cannot be subject to dyeing, printing or most other finishing operations in an AGOA beneficiary country. The apparel described in § 10.213(a)(1) is entered under subheading 9802.00.80, HTSUS, which precludes processing of the U.S. components outside the United States other than by assembly operations or operations incidental to assembly. The apparel described in § 10.213(a)(2) are goods which would have qualified for entry under subheading 9802.00.80, HTSUS, but for the performance of certain enumerated operations. The regulations implementing subheading 9802.00.80, HTSUS (*see,* in particular, 19 CFR 10.16(c) which delineates what will not be considered ''incidental'' to assembly), preclude bleaching, dyeing and similar processing of the fabric components abroad. However, there is no requirement that these processes be performed in the United States prior to the foreign assembly. Thus, for instance, a U.S. importer wishing to garment dye his goods in the United States after assembly in an AGOA beneficiary country would be able to do so after entry of the assembled goods under subheading 9802.00.80, HTSUS.

Comment:

There are close parallels between the two special access rules contained in Appendix 2.4 of NAFTA Annex 300–B and the first two categories of goods afforded preferential treatment under the AGOA. As regards the second special access rule (which is implemented in HTSUS subheading 9802.00.90) and the second AGOA category, each contains the same two core requirements, that is, (1) that all the fabric components must be formed and cut in the United States and (2) that those fabric components must, by virtue solely of those forming and cutting processes, be in condition ready for assembly overseas (certain specified post-assembly dyeing and washing operations are permitted under each provision); thus, a ''fabric component'' is produced by the operations of forming and cutting, and only by those operations. However, in the case of the first special access rule and the first AGOA category (which are both covered by HTSUS subheading 9802.00.80 and thus include two identical core requirements, that is, that the components must be fabricated in the United States and must be exported in a condition ready for assembly without further fabrication), the two core requirements could only be met if the fabric components were fully dyed, printed, and finished in the United States, because there is no provision for post-assembly dyeing, printing, and finishing overseas. Therefore, if the phrase ''wholly formed and cut'' in the AGOA does not include dyeing, printing and finishing operations, the first AGOA category would become meaningless because its terms could not be met as a technological matter.

CBP's Response:

CBP disagrees with the premise of the argument in the comment that the limitations or requirements set forth in subheading 9802.00.80, HTSUS, and applicable to the goods described in § 10.213(a)(1) and (a)(2) (section 112(b)(1)(A) and (B) of the AGOA) impact upon the meaning of ''wholly formed and cut'' as used in the AGOA. The same terms, ''wholly formed'' and ''cut,'' appear in § 10.213(a)(3) (section 112(b)(2) of the AGOA), albeit in a different order but, in CBP's view, with the same meaning. ''Wholly formed'' is used in all three paragraphs in regard to fabric. The limitations associated with subheading 9802.00.80, HTSUS, are clearly tied to section 112(b)(1)(A) and (B) of the AGOA because Congress specifically required, in the case of goods described in section 112(b)(1)(A) of the AGOA, that the goods be entered under subheading 9802.00.80, HTSUS, and, in the case of goods described in section 112(b)(1)(B) of the AGOA, that the goods would have qualified for entry under subheading 9802.00.80, HTSUS, but for the performance of certain enumerated operations. However, section 112(b)(2) of the AGOA, which requires the use of fabric ''wholly formed'' in the United States, contains no mention of subheading 9802.00.80, HTSUS. If CBP were to adopt the reasoning set forth in the comment, CBP would impose a restriction under section 112(b)(2) of the AGOA that Congress clearly intended to apply in the case of goods described in section 112(b)(1)(A) and (B) of the AGOA but just as clearly did not include in section 112(b)(2) of the AGOA.

Comment:

Similar use of the word ''wholly'' is found in subheading 9802.00.90, HTSUS, which confers duty-free entry under the NAFTA for certain goods imported from Mexico, that is, textile and apparel goods ''assembled in Mexico in which all fabric components were wholly formed and cut in the United States. . . .'' Clearly, the intent of Congress in that provision as well as in the AGOA was to go beyond those processes by which yarns are manufactured into fabric and to include fabric finishing operations in the United States.

CBP's Response:

CBP disagrees that the words ''assembled in Mexico in which all fabric components were wholly formed and cut in the United States'' in subheading 9802.00.90, HTSUS, and CBP rulings construing that subheading support a conclusion that, for purposes of the AGOA, dyeing, printing and finishing operations must occur in the United States for fabric to be ''wholly formed.'' There is nothing in the language of subheading 9802.00.90, HTSUS, or in the rulings issued by CBP interpreting that provision that would compel that conclusion. On the contrary, subheading 9802.00.90, HTSUS, and § 10.213(a)(2) of the regulations (section 112(b)(1)(B) of the AGOA) expressly permit garment dyeing and other finishing operations after assembly. The inclusion of references to those post-assembly operations supports the conclusion that dyeing or finishing of fabric prior to cutting and exportation of the components for assembly is not required for the fabric to be ''wholly formed.'' In fact, a requirement to dye the fabric prior to exportation of the cut components would be counterproductive in the case of a producer planning to garment dye his apparel after assembly.

Comment:

Rulings issued by CBP construing HTSUS subheading 9802.00.90 support the conclusion that the references to fabrics ''wholly formed'' in the United States require that any dyeing, printing and other finishing operations prior to cutting take place in the United States rather than in the sub-Saharan African country or anywhere else.

CBP's Response:

As already stated, CBP believes the rulings construing subheading 9802.00.90, HTSUS, support a conclusion opposite to the one asserted by this commenter. The terminology in subheading 9802.00.90, HTSUS, is different from that used in the various textile provisions of the AGOA. Although the term ''wholly formed'' appears in subheading 9802.00.90, HTSUS, and in the AGOA, in subheading 9802.00.90, HTSUS, it applies to ''fabric components'' whereas in the AGOA it is used with reference to ''fabric'' and ''yarns.'' In subheading 9802.00.90, fabric components which have been ''wholly formed and cut'' are exported to Mexico for assembly. The

language of subheading 9802.00.90, HTSUS, imposes certain limitations on the processing that the fabric components may undergo in Mexico. These limitations include the requirement that the fabric components, in whole or in part, not be advanced in value or improved in condition abroad except by being assembled and except by operations incidental to the assembly process. This is the limitation the commenter seeks to impose upon all apparel produced in accordance with those provisions of the AGOA that provide for the use of ''fabric wholly formed'' in the United States. However, no such limitation appears in, or applies under, the AGOA in section 112(b)(2) of the AGOA. In regard to section 112(b)(1) of the AGOA, because this provision specifically references subheading 9802.00.80, HTSUS, the restrictions set forth in subheading 9802.00.80, HTSUS, apply to the apparel articles described in this section. CBP previously addressed in this comment discussion the effect of referencing subheading 9802.00.80, HTSUS, in the AGOA texts.

As CBP has already noted in this comment discussion, the inclusion of references to post-assembly operations in subheading 9802.00.90, HTSUS, supports the conclusion that dyeing or finishing of fabric prior to cutting and exportation of the components for assembly is not required for the fabric to be ''wholly formed'' because a requirement to dye the fabric prior to exportation of the cut components would be counterproductive in the case of a producer planning to garment dye his apparel after assembly.

Comment:

The definition of ''wholly formed'' included in the interim regulations is fundamentally inadequate because it could be interpreted to limit this concept (in the case of fabrics) to the circumstance where a greige good is produced, without referencing the addition of any dyeing, printing and other finishing operations that take place before the fabric for the apparel is cut into the component parts. Accordingly, under section 112(b)(2) of the AGOA, the interim regulations could be interpreted to permit the AGOA preference to apply to apparel made from greige goods produced in the United States and subjected to dyeing, printing and other finishing operations in the beneficiary country. However, although section 112(b)(2) of the AGOA expressly permits the cutting of fabric in the beneficiary country, it does not permit additional operations such as dyeing, printing and finishing prior to the cutting of the fabric to be conducted in the beneficiary country (or anywhere else other than the United States).

CBP's Response:

CBP disagrees with the underlying premise of this comment, that is, that ''wholly formed'' as it pertains to fabric includes dyeing, printing and finishing operations. The reasons for this CBP position have already been explained in this comment discussion. Additionally, CBP disagrees with the assertion that cutting is the only operation that may be performed on fabric in the AGOA beneficiary countries under section 112(b)(2) of the AGOA because that provision only refers to cutting of fabric. Following that reasoning in the interpretation of the AGOA would mean that any operation not specifically mentioned in a provision simply could not occur either in the United States or in an AGOA beneficiary country. CBP believes that reasoning represents a restrictive approach in interpreting the AGOA provisions and was not intended by Congress in enacting trade preference provisions subject to express conditions. For example, the express conditions on preference that articles may not be advanced in value or improved in condition abroad other than by assembly or operations incidental to assembly (which Congress provided in subheading 9802.00.80, HTSUS, and incorporated by reference in certain provisions of the AGOA) would have been entirely unnecessary under the commenter's interpretive view.

Comment:

The references in the statute to ''apparel articles assembled'' and ''apparel articles cut and assembled'' in beneficiary countries means that no benefits are provided for or intended for operations other than assembly-related operations except when explicitly stated in the statutory provision.

CBP's Response:

CBP finds no basis within the language of the AGOA to conclude, as asserted by the above comment, that if an operation (that is, dyeing, printing or finishing) is not specified within the Act, then it must occur in the United States and may not occur in an AGOA beneficiary country. CBP finds no support for that conclusion in the language of the Act or in its legislative history. In the Statement of Policy in section 103 of the AGOA, Congress articulated the goals or purpose behind this legislation. Among the goals, Congress stated its support for encouraging increased trade and investment between the United States and sub-Saharan Africa, reducing tariff and nontariff barriers and other obstacles to sub-Saharan African and United States trade, and strengthening and expanding the private sector in sub-Saharan Africa. A conclusion that silence regarding specific operations related to the production of apparel and the materials utilized in that production means that those operations must occur only in the United States is at odds with these stated goals.

Comment:

Congress in the first three categories of eligible goods took exquisite pains to specify, in positive, explicit language, the overseas operations that would qualify an apparel article for duty-free treatment: (1) The first category refers only to assembly abroad; (2) the second category refers only to assembly abroad plus ten carefully enumerated post-assembly dyeing and finishing operations; and (3) the third category refers only to two overseas operations, that is, cutting and assembly. Thus, any additional overseas operations, other than incidental, trivial ones, would disqualify the article. In carefully specifying cutting and assembly as the overseas processes in the third category, Congress could hardly have intended to allow those third category goods to undergo an entire set of additional overseas processes when Congress thought it was necessary to positively specify them in the second category as a predicate for duty-free eligibility.

CBP's Response:

As already pointed out in this comment discussion, the first and second categories of eligible goods are clearly tied to requirements set forth in subheading 9802.00.80, HTSUS. Congress chose not to impose these requirements in the third category of eligible goods. By choosing to draft the requirements for the third category of eligible goods differently from those of the first and second categories, CBP understands that Congress deliberately intended different requirements to apply. The commenter asks CBP to impose on the third category of eligible goods restrictions taken from the first and second categories of eligible goods. As Congress did not impose those restrictions, neither can CBP.

Comment:

In the case of the third category of eligible goods, Congress could not, through its silence on the matter, have intended that preferential origin would be conferred on articles that underwent dyeing, bleaching, printing, finishing, etc., in beneficiary countries because this would be inconsistent with United States obligations as a party to the WTO Agreement on Rules of Origin. Annex II of that Agreement requires each party to the Agreement to precisely and positively specify the manufacturing or

processing operations that confer preferential status.

CBP's Response:

CBP does not agree that interpreting ''wholly formed'' as not including dyeing, printing and finishing, thus allowing those processes to occur in the AGOA beneficiary countries, would violate United States obligations as a party to the World Trade Organization (WTO) Agreement on Rules of Origin. CBP first notes in this regard that since the AGOA provisions incorporate standards for a tariff preference rather than rules of origin, the WTO Agreement on Rules of Origin is not directly applicable to the AGOA. Moreover, even if the WTO Agreement on Rules of Origin were applicable in an AGOA context, CBP notes that the applicable provision referred to by the commenter requires that ''in cases where the criterion of manufacturing or processing operation is prescribed, the operation that confers preferential origin shall be precisely specified.'' Annex II, Clause 3, WTO Agreement on Rules of Origin. In the AGOA, Congress stated positively the operations necessary for preferential treatment. Clause 3, referenced by the commenter, does not preclude additional operations from occurring or being allowed, but rather only provides that those additional operations must be specified in the preferential rule if they affect the determination of preferential origin.

Comment:

In referring in the AGOA to apparel assembled from ''fabrics wholly formed and cut in the United States,'' Congress mentioned only two steps, that is, forming and cutting. Since fabric finishing is an intermediate step between fabric formation and cutting, it cannot be a separate category but rather must be associated with one of the two statutory steps. Clearly, as between ''wholly formed'' and ''cut,'' ''finished'' belongs with the former.

CBP's Response:

CBP rejects the premise of this comment that an operation which is not specified in the AGOA must be included with one that is specified. As stated above, Congress enumerated the required manufacturing processes and where those processes had to occur in order for apparel to qualify for preferential treatment under the AGOA. Any other processes not affecting eligibility under the AGOA need not be associated with a specified process as argued in the comment.

Comment:

Dyeing, printing and finishing operations must be performed on the fabric before it is cut into the shapes required by the particular apparel article to be produced. For both practical and aesthetic reasons, these operations cannot be performed on the apparel components after they are cut (in some cases, dyeing or printing is done on an apparel garment after it is assembled from the cut pieces, but those operations are exceptional and differ qualitatively from the dyeing, printing and other fabric finishing operations included within the concept of ''wholly formed'' fabric).

CBP's Response:

CBP agrees that dyeing, printing and finishing operations are normally performed on fabric before it is cut into components for assembly into garments. However, CBP disagrees with the suggestion made in the comment that the ''concept of 'wholly formed' fabric'' includes dyeing, printing and other fabric finishing operations. The reasons for CBP disagreement have been stated earlier in this comment discussion.

Comment:

Sections 112(b)(1) and (b)(2) of the AGOA should include fabric dyeing and finishing in the United States (and only in the United States). Dyeing and finishing processes are necessary to add color, chemical and physical properties to the fabrics prior to their being used in apparel and industrial products. Fabrics not dyed and finished are not yet ready to be components of the retail merchandise.

CBP's Response:

As stated above, CBP agrees that normally dyeing, printing and finishing operations are performed on fabric prior to cutting and assembly into garments. However, this is not always true as some garments are garment-dyed and some may be made of yarn-dyed fabric. For reasons already stated in this comment discussion, CBP disagrees with this commenter's suggestion that fabric dyeing and finishing should be included in section 112(b)(1) and (b)(2) of the AGOA.

Comment:

The words ''or other process'' in the definition of ''wholly formed'' as it applies to fabric, if interpreted narrowly to exclude dyeing, printing and finishing operations, would have the consequence of conferring duty-free treatment on apparel articles that undergo in sub-Saharan Africa not only cutting and assembly but also any of the wide range of fabric dyeing, printing and finishing operations that transform fabric after the early stage processes (weaving, knitting, needling, etc.) that are performed in the United States. This result would be contrary to Congressional intent because Congress in the development of the AGOA deliberately chose not to aid the development of sub-Saharan African industry by sending offshore the intermediate and final value-adding processes (for example, bleaching, stone-washing, acid washing, dyeing, printing, embroidering) which are applied to greige fabric that is transformed into final textile articles or into apparel articles.

CBP's Response:

As already noted in an earlier comment response, Congress sought to promote the growth of trade and economic activity between the United States and sub-Saharan African countries. Congress specified the requirements for eligibility of goods and, in some cases, restrictions which Congress desired for certain categories of goods. CBP has found no support, nor was any provided by the commenter, for the argument that Congress deliberately chose not to send certain value-adding processes to offshore locations.

The phrase ''or other process'' within the definition of ''wholly formed'' as it pertains to fabric, relates to fabric formation processes that were not enumerated or that may have yet to be developed.

Comment:

Dyeing and finishing operations represent the largest part (that is, 70–75 percent) of the value added in a fabric and represent the most complicated part of the textile manufacturing process. Moreover, in terms of aesthetic value, printing adds on the order of 100 percent of value based on creative effort and intellectual property considerations. It would be absurd to consider as ''wholly formed'' a product which lacks these value-added components.

CBP's Response:

CBP does not dispute that dyeing, printing and finishing operations may be important in that they may add significantly to the value of fabric and contribute to the use of fabric. However, CBP finds no rationale for using a value-added measurement as a basis for including those operations within the scope of the term ''wholly formed.'' Based on the common meaning of the terms ''wholly'' and ''formed'' as discussed above, and in the absence of any language in the AGOA or its legislative history to support a contrary conclusion, the amount of value added by dyeing, printing or finishing operations (even when contrasted to the relatively lower percentage of cost attributable to labor) is entirely irrelevant in determining if fabric is ''wholly formed.''

Comment:

The legislative history of the AGOA contains no indication that Congress

intended to permit the large disruption to the U.S. textile industry that would result if dyeing, printing and other finishing operations could be performed in sub-Saharan African countries on greige good fabric.

CBP's Response:

As already stated, CBP relies on the words Congress used in the statute and Congress is presumed to have used these words according to their common, ordinary meaning unless some other intent is evident. The legislative history of the AGOA contains no reference to precluding dyeing, printing and other finishing operations from occurring in the AGOA beneficiary countries. Moreover, the legislative history provides no reason for CBP to interpret the term ''wholly formed'' other than according to its plain meaning.

Comment:

The current practice of permitting fabric finishing operations in the United States or the beneficiary countries greatly enhances the value of this program and thus the incentive to use U.S. fabric. Without this flexibility, U.S. fabric sales (from greige goods manufacturers) may be lost and trade may be diverted to lower cost Asian suppliers-an outcome that runs contrary to the spirit of the legislation.

CBP's Response:

CBP first notes that the definition of ''wholly formed'' as it relates to fabric is predicated not on any potential impact on international trade patterns but rather only on the common meaning of the words chosen by Congress to express its intent in the AGOA. As already noted in this comment discussion, Congress intended benefits to accrue to the United States and the AGOA beneficiary countries by increasing trade and investment between the United States and sub-Saharan Africa countries and by reducing obstacles to trade between sub-Saharan African countries and the United States. Among its findings in section 102 of the AGOA, Congress found that ''it is in the mutual interest of the United States and the countries of sub-Saharan Africa to promote stable and sustainable economic growth and development in sub-Saharan Africa'' and that ''encouraging the reciprocal reduction of trade and investment barriers in Africa will enhance the benefits of trade and investment for the region as well as enhance commercial and political ties between the United States and sub-Saharan Africa.'' Based on these findings, CBP agrees with the basic point made in this comment. CBP further notes, however, that performing dyeing, printing and finishing operations on U.S.-formed fabric in countries other than the United States and AGOA beneficiary countries would be contrary to Congressional intent reflected in sections 102 and 103 of the AGOA and thus should not be allowed. Therefore, CBP believes that dyeing, printing and finishing operations performed on U.S.-formed fabric outside the United States should continue to be restricted in the regulatory texts to AGOA beneficiary countries — see the description of the regulatory text changes to 19 CFR 10.2013(b)(1) at the end of this wholly formed fabric comment discussion.

Comment:

It was the understanding of the dyeing and finishing industry and Congressional representatives and trade organizations that the AGOA legislation was intended to benefit not only sub-Saharan African countries but also producers of textile fabrics in the United States. If the legislation is now interpreted as to benefit only unfinished (versus wholly formed) fabrics, the results will be devastating to the U.S. dyeing and finishing industry which will fail to benefit from the AGOA and will suffer from yet another wave of imported products priced without the environmental and health and safety standards which the U.S. textile industry is proud to uphold.

CBP's Response:

CBP is not in a position to comment on ''understandings'' regarding this legislation prior to its passage. As stated above, CBP can only interpret the legislation based upon its words, Congressional intent as reflected by those words, and information contained in the Conference Report relating to the AGOA. With regard to the concern of this commenter and as already pointed out in this comment discussion, the reference in some provisions of section 112(b) of the AGOA to subheading 9802.00.80, HTSUS, means that in those cases fabric dyeing, printing and finishing processes, which are not assembly operations or (in most instances) operations incidental to assembly, must have taken place in the United States. Moreover, in regard to those other provisions of section 112(b) of the AGOA that refer to fabric ''wholly formed'' in the United States, there is nothing in the Act that precludes that U.S.-formed fabric from also being dyed, printed and/or finished in the United States.

Comment:

The fact that the Breaux-Cardin rules of origin (section 334 of the Uruguay Round Agreements Act and § 102.21 of the CBP regulations) mandate that the spinning, knitting or weaving process is determinative of origin further supports the conclusion that printing or dyeing should not be viewed as relevant, much less essential, to the formation process.

CBP's Response:

Finishing, by definition, occurs to fabric after the fabric has been formed; after it has taken shape from weaving or knitting or other formation processes. A distinction between fabric formation and fabric finishing has existed in the realm of origin determinations for textile goods under the Customs laws and regulations for over 15 years, first by regulation (19 CFR 102.22) and then by statute (section 334 of the URAA, codified at 19 U.S.C. 3592). While CBP agrees with the commenter that the rules for determining the origin of textile goods offer support for the position that fabric formation and fabric finishing are distinct operations, as CBP has already noted above, the AGOA is a preferential trade program based on meeting the specified manufacturing process requirements set forth in the AGOA and is not a program based on origin.

Comment:

In the provision within the Act of 2000 that clarified section 334 of the Uruguay Round Agreements Act, Congress explicitly confirmed the interpretation that dyeing, printing and finishing are in fact ''fabric-making processes,'' just as weaving and knitting are fabric-making processes, for purposes of determining the country in which fabric is made, regardless of how many such operations will determine the country of origin of fabric for different purposes in different specific statutes. CBP should follow this clarification in the AGOA definition text.

CBP's Response:

In this comment it is argued that Congress confirmed that dyeing, printing and finishing are ''fabric-making processes.'' However the provision referenced by the commenter does not say these processes are ''fabric-making'' but rather provides that they are origin conferring for certain fabrics. More specifically, section 334 of the URAA was amended by section 405 of the Act of 2000 so that it now provides in effect that dyeing and printing of certain fabrics, when accompanied by two or more other designated finishing operations, results in the fabric having its origin in the place where that processing occurred. CBP notes the amendment made by section 405 of the Act of 2000 addressed a specific dispute between the United States and the European Union concerning the effect of the URAA section 334 changes on United States obligations under a number of international agreements (*see*

the Conference Report relating to the Act at page 118). Since the section 405 amendment relates to a context and a purpose that are entirely outside the scope of the AGOA (which is not a country of origin regime but rather is a preferential tariff treatment program), CBP believes that it has no bearing on the meaning of ''wholly formed'' as it relates to fabric under the AGOA.

Comment:

Processes such as dyeing, printing and finishing are treated in many statutes and regulations as fabric-making processes, that is, they are treated as the same type of processes as weaving and knitting because they are all processes in the ''production'' or ''manufacture'' of ''fabric.'' The regulatory provision on which the definition of ''wholly formed'' was based, that is, 19 CFR 102.21(b)(2), states that a ''fabric-making process is any manufacturing operation that . . . results in a textile fabric.'' United States laws and regulations include innumerable ''textile fabrics'' that are the ''result'' of the operations of dyeing, printing and finishing and could not have been the ''result'' only of the operations of weaving and knitting. There is no warrant for treating the fabric-production processes of dyeing, printing and finishing any differently from the co-equal fabric-production processes of weaving and knitting.

CBP's Response:

The commenter mischaracterizes the definition of a ''fabric-making process'' which appears in 19 CFR 102.21(b)(2). That regulation implements section 334 of the URAA which has been dealt with earlier in this comment discussion in the context of arguments for distinguishing between fabric formation and fabric finishing and for not including dyeing, printing and finishing operations within the scope of ''wholly formed'' as it relates to fabric.

Comment:

The Textile Fiber Products Identification Act makes perfectly clear (1) that the process of finishing a fabric is a fabric-making or fabrication process and (2) that both unfinished fabric and finished fabric are ''fabric components.''

CBP's Response:

CBP has frequently pointed out in its rulings, and the courts have held (*see Sabritas S.A. de C.V.* v. *United States,* 998 F. Supp. 1123 (CIT 1998)), that Congress did not intend CBP to be bound by another agency's statutes and regulations in determining the meaning of tariff terms. Nevertheless, CBP notes that the Textile Fiber Products Identification Act (the TFPIA, 15 U.S.C. 70–70k) defines ''fabric'' as ''any material woven, knitted, felted, or otherwise produced from, or in combination with, any natural or manufactured fiber, yarn or substitute therefor.'' This definition of ''fabric'' is not substantially at variance with the definition CBP set forth in the interim regulations for ''wholly formed'' as it relates to fabric.

Comment:

In a colloquy with Senator Coverdell during Senate floor consideration of the Act of 2000, Senator Grassley affirmed that the intention of the managers was to permit dyeing and finishing operations in the United States or in beneficiary countries. In that colloquy, Senator Coverdell asked: ''I have one final question regarding the so-called 809 provisions of both the Africa and Caribbean Basin measures. Am I correct that it is the managers' intent that these provisions do not permit dying [sic] or finishing of the fabrics to be performed in countries other than the United States or the beneficiary countries?'' Senator Grassley responded: ''That is correct.''

CBP's Response:

CBP does not find the colloquy to be dispositive for purposes of interpreting the statute and drafting the regulations. In regard to ''wholly formed'' as it pertains to fabric, the responses above justify not including dyeing, printing, and finishing operations in the definition of ''wholly formed'' in the interim regulations, as further clarified in this final rule document.

Comment:

The colloquy that took place on the floor of the Senate between Senators Grassley and Coverdell (reported at 146 Cong. Rec. at S3867, daily ed. May 11, 2000) regarding finishing operations in third countries is of essentially no value on the issue of whether Congress intended to permit dyeing, printing or finishing operations to take place in the beneficiary countries because the colloquy is ambiguous on this point, because the courts have held that the remarks of individual legislators made during a floor debate are not controlling in analyzing legislative history, and because there is some doubt as to whether the colloquy in fact took place prior to the enactment of the legislation.

CBP's Response:

CBP believes that the response to the immediately preceding comment adequately addresses this comment.

Based on the comments received on the definition of ''wholly formed'' as it pertains to fabrics and the analysis of those comments set forth above, CBP in this final rule document has modified the interim § 10.212 definition of ''wholly formed fabrics'' to clarify that fabric formation does not encompass dyeing, printing and finishing operations.

In addition, a new paragraph (b) has been added to § 10.213 (with paragraphs (b) and (c) of the interim regulation consequently re-designated as (c) and (d)) which in subparagraph (1) clarifies that while dyeing, printing, and finishing operations are not part of the fabric or component (for example, a knit-to-shape component that is made directly from yarn) formation process, those dyeing, printing, and finishing operations are only permissible if performed in the United States or in the AGOA beneficiary countries. New paragraph (b)(1) also includes a caveat that any dyeing, printing, and finishing operations performed in an AGOA beneficiary country must be incidental to assembly in the case of articles described in paragraphs (a)(1) and (a)(2) of § 10.213 which are subject to the rules that apply under subheading 9802.00.80, HTSUS.

Wholly Formed Yarns

Unlike the comments regarding the dyeing, printing, and finishing of fabric discussed above, which were sharply divided on the question of whether those processes fall within the concept of ''wholly formed'' as it pertains to fabric, the comments received in regard to the definition of ''wholly formed'' as it pertains to yarn uniformly supported the conclusion that dyeing and finishing operations are not part of the yarn formation process. Some of these commenters also suggested that the dyeing and finishing of yarns should be limited to the United States and AGOA beneficiary countries. A discussion of the specific points made by these commenters in support of those views is set forth below.

Comment:

With regard to yarns (other than thread), seven commenters took the position that dyeing and finishing operations do not fall within the concept of ''wholly formed'' and that, consequently, a requirement that a yarn be ''wholly formed in the United States'' does not mean that any dyeing or finishing of the yarn must be restricted to the United States. One of these commenters argued that allowing dyeing and finishing operations to be performed on U.S. yarns in the AGOA beneficiary countries is consistent with Congressional intent, noting in this regard that this issue was addressed in a colloquy between Senator Coverdell and Senator Grassley during Senate floor consideration of the Trade and Development Act of 2000. In that colloquy, Senator Coverdell asked: ''When the Act requires yarn to be

'wholly formed' in the United States, am I correct that the intention of the managers is to require that all processes necessary to convert fibers into yarn—i.e., spinning, extruding-be performed in the United States?'' In reply, Senator Grassley stated: ''That is correct. While the fibers need not be manufactured in the United States, let me be clear that it is the managers' intent that the man-made core of a wrapped yarn must originate in the United States and that all mechanical processes necessary to convey fibers into yarns must be performed in the United States.'' Two of these commenters maintained that, with regard to dyeing, bleaching, or other similar finishing operations, the interim regulation is consistent with past interpretations of the so-called ''Breaux-Cardin'' rule of origin that those finishing operations do not fall within the term ''wholly formed.'' Another of these commenters specifically recommended modification of the regulatory texts to clearly reflect the principle that subsequent processing of U.S.-formed yarn may take place in an AGOA beneficiary country. Two commenters took the position that the concept of ''wholly formed'' under section 112(b)(2) of the AGOA encompasses all operations relating to the production of yarn up to the point that it is ready to be transformed into a new and different article of commerce, that is, fabric. Noting that at this point yarn need not be scoured and bleached or dyed or printed in order to be so transformed, these commenters argued that, therefore, ''wholly formed'' means, with respect to untextured filament yarns, yarns which have been formed by an extrusion process and fully drawn, and, with respect to spun yarns, yarns which have been formed by the spinning of staple fibers.

CBP's Response:

Based on the common meaning of the words ''wholly'' and ''formed'' as already discussed above in the comment discussion regarding wholly formed fabrics, CBP agrees with the commenters here that dyeing and finishing operations are not part of the yarn formation process. CBP also agrees, based on Congressional intent regarding the intended beneficiaries under the AGOA as noted above in the wholly formed fabric comment discussion, that the application of dyeing and finishing processes to yarn should be limited to the United States and AGOA beneficiary countries.

As to the suggestion that the ''Breaux-Cardin'' rules of origin (that is, the rules set forth in section 334 of the URAA as already mentioned in this comment discussion) support the conclusion that dyeing, bleaching and other similar finishing operations are not part of yarn formation, CBP has already pointed out in this comment discussion that the AGOA legislation is directed only to preferential treatment of certain goods that meet specified production standards and is not based upon country of origin principles. In addition, section 334, as amended by section 405 of the Act, does not define ''wholly formed'' in regard to fabric or yarn. In regard to fabric, section 334 describes fabric-making processes which CBP views as the same as fabric formation processes. However, in regard to yarn, section 334 merely addresses origin as being determined by the spinning of fibers or the extrusion and drawing of filaments.

While the spinning of fibers and the extrusion and drawing of filaments form yarns, many yarns are further processed with other yarns by plying or twisting to create specific types of yarns later used in forming fabric or in knitting to shape an apparel component or article. Thus, while some types of yarn are formed by spinning or by extrusion and drawing, other types of yarn are further processed before they are complete. Some yarns may be used without being combined with other yarns, such as a monofilament thread which may be used in hemming a garment. Most yarns, however, must be combined with other yarns to form a multifilament or multiple (folded or plied) yarn to impart the strength and yarn size necessary for use in the production of other textile products. For this reason, the interim rule defined ''wholly formed'' as it relates to yarn to include all the processes starting with the extrusion of filament or the spinning of fibers into yarn, or both, and ending with a yarn or plied yarn.

For instance, in the case of a cotton/polyester fabric which is woven using a 3-ply yarn consisting of two cotton yarns and one polyester filament yarn, the yarn would be ''wholly formed'' in the United States if all of the following occurred in the United States: Cotton fibers are spun into yarn to form the cotton yarns, the polyester filament is extruded, and the two cotton yarns and the polyester filament are plied to form the 3-ply yarn used in the production of the cotton/polyester fabric. Although the 3-ply yarn consists of three separate yarns, it is the 3-ply yarn which is the final, complete yarn used in the formation of the woven fabric.

CBP agrees with the commenters that wholly formed yarn has to undergo all the processes necessary for the formation of the final, complete yarn which is used in the production of a textile product, such as fabric or knit-to-shape components or articles, whether that final yarn is a monofilament or a plied yarn.

Comment:

Two commenters noted that textured filament yarn is first extruded in an undrawn condition as partially oriented yarn (POY) which cannot be transformed into fabric but rather has no use other than to be drawn and textured in a sequential process on the same machine, with the resulting yarn being, for purposes of the AGOA, wholly formed and now ready to be transformed; therefore, to satisfy the definition of ''wholly formed,'' the texturing must be done only in the United States.

CBP's Response:

The process described by the commenters is known as ''draw-texturing.'' ''Draw-texturing'' is defined as a process ''[i]n the manufacture of thermoplastic fibers, [consisting of] the simultaneous process of drawing to increase molecular orientation and imparting crimp to increase bulk.'' *Dictionary of Fiber & Textile Technology* (KoSa, 1999), at 60. CBP agrees that the texturing of partially oriented yarn (POY) by a process which requires drawing to fully orient the yarn falls within the scope of ''wholly formed'' as it relates to yarn.

In the definition of ''wholly formed'' as it relates to yarn, CBP intended to encompass all steps in the production of a yarn or plied yarn up to the point at which it is fully formed or completely shaped as a yarn or plied yarn. *Fairchild's Dictionary of Textiles* (7th ed. 1996), at 410, defines ''partially oriented yarn'' as: ''Filament yarn of manufactured fibers that has not been drawn all the way immediately after fiber formation. The drawing (drawstretching) is completed as part of the draw texturing process. This is a less costly way of processing these yarns than full drawing followed by texturing.'' According to *Polymers: Fibers and Textiles, A Compendium* (John Wiley & Sons, Inc., 1990), at 691, '' . . . the principal end use for POY is as a feeder yarn for draw texturing.''

The commenters claim, and CBP agrees, that a partially oriented yarn may not function as a yarn in the manufacture of a textile product until it is further processed into a fully oriented yarn. Consequently, a partially oriented yarn cannot be considered ''wholly formed'' because it is not fully oriented. In order to be ''wholly formed'' a yarn must have reached the stage in its formation that nothing else (for example, drawing to fully orient the yarn or plying the yarn with other yarns) need be done to it to complete its

formation as a yarn capable of utilization in the production of another textile product, for example, in fabric formation. The completion of the orientation of yarn as a consequence of creating a textured yarn from POY using draw-texturing results in a fully oriented yarn. Thus, the process of draw-texturing falls within the scope of ''wholly formed'' as it relates to yarn.

Comment:

Two commenters mentioned section 112(b)(3) of the AGOA which refers to ''originating'' rather than ''wholly formed'' yarns. After noting that the reason for this distinction is unclear, they argued that, in order to secure the benefits envisioned in the Statement of Policy contained in the AGOA, ''originating'' should have the same meaning as ''wholly formed,'' thus assuring that the only beneficiaries are the United States and AGOA countries.

CBP's Response:

CBP disagrees with these commenters. In the Conference Report relating to the Act of 2000, at page 77, Congress made clear its intent in using the term ''originating'' in regard to yarn in section 112(b)(3) of the AGOA. In discussing the apparel articles which fall within the AGOA regional cap provision, the Conference Report included the following parenthetical explanation: ''The country of origin of the yarn is to be determined by the rules of origin set forth in section 334 of the Uruguay Round Agreements Act.''

As indicated above in the comment discussion regarding wholly formed fabric, in T.D. 03–15, CBP replaced the original interim § 10.212 definition of ''wholly formed'' with two definitions, one relating to ''wholly formed'' fabrics and the other relating to ''wholly formed'' yarns. Based on the comments received relating to the definition of ''wholly formed'' as it relates to yarn and the analysis of those comments as set forth above, CBP has in this final rule document further modified the ''wholly formed yarns'' definition to:

1. Clarify that yarn formation does not encompass dyeing, printing and finishing operations.

Even though the above comment discussion regarding wholly formed yarns refers primarily only to dyeing and finishing operations, the definition also refers to printing because technical sources indicate that printing is relevant to yarns (*see, for example, Fairchild's Dictionary of Textiles* [7th ed. 1996] which, at 445, sets forth a definition of ''printed yarn''); and

2. Reflect the CBP position with regard to Partially Oriented Yarns (POY).

In addition, the text of new paragraph (b) of § 10.213, mentioned above at the end of the wholly formed fabric comment discussion, includes a clarification that dyeing, printing and finishing operations are not part of the yarn formation process and are only permissible if performed in the United States or in the AGOA beneficiary countries.

Other ''Wholly Formed'' Issues

Comment:

Two commenters noted that, paramount among the requirements for preferential entry of apparel articles under section 112 of the AGOA, is the requirement that they be made from ''fabrics wholly formed . . . in the United States.'' These commenters also noted that the Act does not speak directly to the matter of which fabric(s) in an eligible article must satisfy the criteria set forth in sections 112(b)(1), (b)(2) and (b)(3). Further, they alleged that the practice of CBP is to apply criteria such as those in the AGOA only to that fabric (component) which determines the classification of the apparel article for tariff purposes, that is, the ''shell'' fabric. However, these two commenters asserted that language in section 103(4) of the AGOA-''negotiating reciprocal and mutually beneficial trade agreements''-as well as past practice clearly indicate that the mandated use of U.S. or sub-Saharan Africa-formed or, where permitted, third country fabric, should apply to all the fabric components of an eligible article, not just the shell fabric. The commenters argued in this regard that in the section 103 language Congress intended the benefits of the Act to redound to producers in the United States as well as Africa and that this can best be accomplished by requiring that all the fabric in an eligible article be formed in the United States (section 112(b)(1) and (b)(2)) or an eligible beneficiary country (section 112(b)(3)). These commenters further argued that in all previous and existing programs which administratively or legislatively granted unilateral trade privileges to eligible apparel articles—for example, the Special Access Program for Caribbean and Andean Pact countries, the Outward Processing Program for certain Eastern European countries, and the Special Regime for Mexico—the fabric origin requirements pertain to all fabric components, and they urged CBP to ensure that this is carried over into the AGOA.

CBP's Response:

CBP agrees with the commenters that under section 112(b)(1) and (b)(2) of the AGOA, the requirement that the fabric be formed in the United States means that all the fabric components of eligible articles must be formed in the United States, subject to the special rules set forth in section 112(e). For example, section 112(e)(1) and (e)(2) allow a certain quantity of ''findings and trimmings'' and ''interlinings'' to be of foreign origin. There would be no need for these special rules if Congress did not intend that all fabric components of these eligible articles must be formed in the United States. The Conference Report relating to the Act of 2000 at page 76 clearly confirms this Congressional intent.

Consistent with the above, CBP also agrees with the commenters that, under section 112(b)(3) of the AGOA, the requirement that the fabric be formed in a beneficiary sub-Saharan African country means that all the fabric components of eligible articles must be formed in a sub-Saharan African beneficiary country, subject again to the special rules set forth in section 112(e).

Comment:

Two commenters stated that the requirements for wholly-formed fabric do not apply in the case of garment-dyed garments. They noted that fabrics used to produce garment-dyed garments are all scoured and many are bleached as well, and all subsequent dyeing and finishing are then done after the garment is cut and assembled. CBP must therefore make a distinction between fabrics wholly formed for garments which are not garment-dyed and fabrics for garments which are garment-dyed because commercial practice compels this. The essential determinant is that the fabric is in the state at which it is ready to be transformed into a new and different article of commerce.

CBP's Response:

CBP believes that the term ''wholly formed'' as it pertains to fabric must have a single, consistent meaning throughout the regulations. As CBP has explained in the comment discussion above regarding the definition of ''wholly formed'' as it pertains to fabric, dyeing, printing and other finishing operations do not fall within the scope of ''wholly formed.'' Thus, the distinction urged by these commenters does not have to be made. It should be noted, however, that garment dyeing after assembly is not permitted in the case of apparel articles covered by section 112(b)(1)(A) of the AGOA and § 10.213(a)(1) of the regulations because garment dyeing is not considered to be incidental to assembly for purposes of subheading 9802.00.80, HTSUS.

Comment:

One commenter stated that although both the AGOA and the interim

regulations are silent with respect to post-yarn-formation and post-fabric-formation processes such as dyeing, bleaching, printing, and coating, that silence should not mean that post-formation processes performed in Canada would disqualify the article from AGOA eligibility. This commenter argued that as long as the fabric is woven or knit or otherwise formed in the United States and as long as the yarn is spun or extruded in the United States, and because those minor, incidental post-formation processes in Canada do not alter its identity as fabric or yarn, it should be considered to have met the definition of ''wholly formed'' for purposes of the AGOA. The commenter therefore agreed with the definition of ''wholly formed'' as set forth in the interim regulations and further suggested that this is consistent with the practice under the CBI Special Access Program and under the country of origin rules contained in § 102.21 of the CBP regulations.

CBP's Response:

CBP of course agrees with the views expressed by this commenter regarding the definition of ''wholly formed'' and the distinction between fabric and yarn formation and dyeing, printing and finishing operations. However, CBP does not share the view that since finishing operations are not part of formation, those operations may occur anywhere and the fabric and yarn would remain eligible for use in apparel receiving benefits under the AGOA. As already discussed above in the portions of this comment discussion regarding the definition of ''wholly formed'' as it pertains to fabric and yarn, Congress expressed its intent in the Conference Report relating to the Act of 2000 and in section 103 of the statute that the AGOA benefits are to accrue to sub-Saharan African countries and to U.S. producers. CBP believes that permitting dyeing, printing and finishing operations to be performed on fabric in countries other than the United States and AGOA beneficiary countries would be contrary to Congressional intent and therefore should not be allowed. As indicated above, 19 CFR 10.213(b)(1) has been modified in this final rule document to clarify this position.

Scope of the Terms ''Yarn'' and ''Thread''

Comment:

One commenter stated that the regulations should clarify that wherever the word ''yarn'' is used, it means textile yarns of the sort classified in Chapters 50–59 of the HTSUS and does not include other non-textile products which may be knitted or woven into a textile product (for example, rubber thread of the sort classified in heading 4007 of the HTSUS). This commenter further suggested that paragraph (a)(3) of § 10.213 should be changed to clarify that ''thread formed in the United States'' refers only to textile sewing thread used to assemble cut parts of garments and does not include rubber thread used in fabric formation.

CBP's Response:

In § 10.213(a)(3) (section 112(b)(2) of the AGOA), the term ''thread'' is used in the context of requiring the use of ''thread formed in the United States'' in the assembly of apparel articles in one or more AGOA beneficiary countries. ''Thread'' is used in the same context in section 112(b)(7) of the AGOA (§ 10.213(a)(11) of the regulations), which was added by the Act of 2002. Based on the context in which the term ''thread'' is used in the statute, CBP believes that Congress was referring to sewing thread. Accordingly, CBP agrees with the suggestion of the commenter in this regard, and § 10.213(a)(3) and (a)(11) have been modified in this final rule document by inserting the word ''sewing'' into the text before the word ''thread.''

CBP agrees with the commenter that ''yarn'' as used in the AGOA refers to textile yarn. However, CBP disagrees with the commenter's suggestion that ''yarn'' be defined as textile yarns classified in Chapters 50–59 of the HTSUS. In the comment discussion above regarding ''wholly formed'' as it relates to yarn, CBP set forth a definition of yarn which appears in two related textile dictionaries and which refers to ''textile'' materials. A similar approach is taken in other technical textile dictionaries. For example, ''yarn'' is defined in *Fairchild's Dictionary of Textiles* (7th ed. 1996), at 641, in part, as: ''A continuous strand of textile fibers that may be composed of endless filaments or shorter fibers twisted or otherwise held together. Yarns may be single or ply and form the basic elements for CABLED YARN, FABRIC, THREAD, AND TWINE. Yarns can be utilized in many such fabric-making processes as weaving, knitting, crocheting, tatting, netting, or braiding, depending on the result desired and the character of the yarn.'' In *The Modern Textile and Apparel Dictionary* (1973), at 676, ''yarn'' is defined, in part, as: ''A generic term for an assemblage of fibers or filaments, either natural or man-made, twisted together to form a continuous strand which can be used in weaving, knitting, braiding, or plaiting, or otherwise made into a textile material.''

For purposes of this discussion, CBP also notes definitions of ''yarn'' from non-technical sources. ''Yarn'' is defined, in relevant part, in *The Random House Unabridged Dictionary, Second Edition* (1993), at 2200, as ''1. thread made of natural or synthetic fibers and used for knitting and weaving. 2. a continuous strand or thread made from glass, metal, plastic, etc.'' It is defined, in relevant part, in *Webster's Third New International Dictionary* (1993), at 2647, as: ''1.a: A continuous strand often of two or more plies that is composed of carded or combed fibers twisted together by spinning, filaments laid parallel or twisted together, or a single filament, is made from natural or synthetic fibers and filaments or blends of these, and is used for the warp and weft in weaving and for knitting or other interlacings that form cloth b: A similar strand of metal, glass, asbestos, paper, or plastic used separately or in blends c: THREAD; *esp.:* a component of a plied thread.'' While the HTSUS offers some discussion of attributes of various yarns and gives guidance as to yarns classified within Section XI of the HTSUS, it provides no definition of yarn.

CBP has defined the phrase ''textile or apparel product'' in the context of the rules of origin for textile and apparel products set forth in § 102.21 of the CBP regulations (19 CFR 102.21) which implements § 334 of the URAA. CBP believes that defining ''yarn'' as suggested by the commenter would result in ''yarn'' in the AGOA context having a narrower meaning than ''yarn'' in the context of the rules of origin for textiles. CBP does not believe that Congress in drafting the AGOA intended to change the scope of ''textile and apparel articles'' as understood under § 334 or under the Agreement on Textiles and Clothing to which the United States is a signatory. In determining the scope of the term ''yarn,'' as well as the term ''fabric,'' CBP will rely upon the scope of ''textile and apparel articles'' as set forth in 19 CFR 102.21. Therefore, CBP sees no need to define ''yarn,'' or ''fabric'' for that matter, in these regulations.

Comment:

With regard to thread, two commenters argued that Congress has made a clear distinction between ''wholly formed'' and ''formed.'' Therefore, although the thread does not have to be ''wholly formed'' in the United States, it nevertheless must be thread, that is, it must have undergone an extrusion or spinning process and subsequent doubling (plying) process necessary to give it the unique properties of thread. These commenters

further stated that whereas thread formation must take place in the United States, subsequent processing such as lubricating, bleaching or dyeing may be performed outside the United States. However, the commenters argued that, in order to satisfy the requirements set forth in the Statement of Policy contained in the AGOA, any subsequent processing of the thread may only be done in a beneficiary country or the United States and not in any third country.

CBP's Response:

CBP agrees with the above comment except for the statement that thread must be plied in order to have the unique properties of thread. As stated in the immediately preceding comment response, CBP believes Congress was referring to sewing thread in section 112(b)(2) and (b)(7) of the AGOA when it referred to ''thread formed in the United States.'' In order to be recognized and usable as sewing thread, thread must be in its final form, that is, generally plied with a ''Z'' twist. However, sewing thread is not always plied, nor does it always have a ''Z'' twist.

CBP believes that Congress in using the term ''thread'' in section 112(b)(2) and (b)(7) meant ''sewing thread'' in all its various commercially used forms. Sewing thread is a form of yarn and is made from yarn. Like yarn, sewing thread may be made in various ways. In the *Dictionary of Fiber & Textile Technology* (Hoechst Celanese, 1990), at 161, ''thread'' is defined, in relevant part, as ''1. A slender, strong strand or cord, especially one designed for sewing or other needlework. Most threads are made by plying and twisting yarns. A wide variety of thread types is in use today, e.g., spun cotton and spun polyester, core-spun cotton with a polyester filament core, polyester or nylon filaments (often bonded), and monofilament threads.''

While most sewing thread consists of yarns which have been plied, some may consist of a single monofilament. In order to avoid limiting the type of sewing thread formed in the United States which may be used in the assembly of textile apparel in the AGOA beneficiary countries for purposes of section 112(b)(2) and (b)(7) of the AGOA and § 10.213(a)(3) and (a)(11) of the regulations, respectively, CBP believes that ''sewing thread'' should be defined for AGOA purposes not on the basis of a type of construction but rather only with reference to the way it is used. Section 10.212 has been modified in this final rule document by the addition of a definition of ''sewing thread'' in paragraph (p) to reflect this position. CBP believes this definition will ensure that there are no undue restrictions on the options for apparel manufacturers as to the type of U.S. sewing thread they may use in the construction of their garments.

CBP agrees with the commenters that once sewing thread is ''formed,'' subsequent processing such as lubricating, bleaching or dyeing will not alter that formation. In addition, based on the CBP position set forth in the comment discussion regarding ''wholly formed'' fabrics, CBP also agrees with the commenters that processing of sewing thread after its formation may be done in the United States or in the AGOA beneficiary countries but not elsewhere.

Articles Knit-to-Shape in the United States

Two commenters complained that the product descriptions in § 10.213 do not make adequately clear that garments knit-to-shape in the United States, or garments assembled with components knit-to-shape in the United States, are eligible for duty-free and quota-free treatment under the Act. However, as these concerns were addressed by the subsequent amendments made to the AGOA by section 3108(a) of the Act of 2002, no further response is required.

Cutting in the United States and Beneficiary Countries

Comment:

Two commenters stated that, as a basic principle, cutting should be allowed either in the United States or in the AGOA beneficiary countries or in both, and they suggested that CBP should clarify this point in the regulations. These commenters argued that the benefits under the AGOA should be accorded so long as the assembled goods came from components made from U.S. fabric made from U.S. yarn. One of these commenters further argued that Congress did not intend a narrow reading of the statute, that is, that cutting of portions of the garment in the United States *and* a beneficiary country would disqualify a garment while cutting of portions in the United States *or* a beneficiary country would not. The commenter noted in this regard that an October 18, 2000, letter from the Ways and Means Committee Chairman and Ranking Minority Member and Trade Subcommittee Chairman states that ''garments assembled in eligible countries from U.S. fabric/U.S. yarn are eligible for preferential treatment, regardless of whether portions of the garment were cut both in the beneficiary country and in the United States.''

CBP's Response:

With respect to the question of whether, or to what extent, cutting of fabric may be performed in both the United States and a beneficiary country, CBP notes initially that the only specific interpretative reference to this issue in the interim regulations was in the definition of ''cut in one or more beneficiary countries'' in § 10.212. These words were defined there to mean that ''all fabric components used in the assembly of the article were cut from fabric in one or more beneficiary countries.'' The section-by-section discussion of the interim amendments in T.D. 00–67 stated that this definition ''precludes any cutting operation performed in a country other than a beneficiary country in accordance with the clear language of the statute.''

CBP does not dispute the commenters' assertion that the AGOA was intended to accord preferential treatment to garments assembled in a beneficiary country from U.S.-formed fabric made from U.S.-formed yarn. However, in addition to requiring the use of U.S.-formed fabric and yarn, paragraphs (b)(1) and (b)(2) of section 112 of the AGOA also specify the location of the cutting of the fabric: The United States for paragraph (b)(1) and a beneficiary country for paragraph (b)(2). Thus, as a general matter, CBP cannot agree with the commenters that, under these provisions, whether cutting is performed entirely in the United States or in a beneficiary country, or both, is essentially irrelevant. CBP believes that the statutory language relating to the location of the cutting in each provision cannot be ignored. Regarding the reference to the October 18, 2000, letter, CBP submits that its post-enactment origin precludes it from being dispositive on any interpretative issue regarding the legislation.

However, CBP agrees that these statutory provisions permit certain cutting to be performed both in the United States and in one or more beneficiary countries. CBP believes that the cutting issue has been raised by the commenters primarily in regard to paragraphs (b)(1)(A), (b)(1)(B) and (b)(2) of section 112 of the AGOA (covered by § 10.213(a)(1), (a)(2) and (a)(3) of the regulations, respectively). CBP will address this issue as it relates to paragraph (b)(1) first.

Paragraph (b)(1) encompasses apparel articles assembled in one or more beneficiary countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States, that (1) are entered under subheading 9802.00.80, HTSUS, or (2) would have qualified for entry under

subheading 9802.00.80 but for the fact that the articles were subjected to certain specified processes, such as stone-washing and screen printing. As a preliminary matter, CBP interprets the reference to cutting in this context to mean that all fabric components comprising the eligible article must be cut in the United States.

Concerning what, if any, additional cutting may be performed in a beneficiary country under this provision, CBP submits that this is dependent upon the extent to which cutting abroad is permitted under subheading 9802.00.80, HTSUS, because of the statutory reference to this subheading. CBP believes that articles for which preference is sought under paragraph (b)(1) are subject to the conditions and requirements that apply under subheading 9802.00.80 and its implementing regulations (19 CFR 10.11–10.26), except for the additional processing specifically permitted by paragraph (b)(1)(B). Under subheading 9802.00.80, only assembly operations and operations incidental to assembly may be performed abroad. Examples of operations incidental to assembly are set forth in 19 CFR 10.16 and include ''trimming . . . or cutting off of small amounts of excess materials'' and ''cutting to length of . . . products exported in continuous length.'' However, this regulation further sets forth ''cutting of garment parts according to pattern from exported material'' as an example of an operation that is not incidental to assembly.

Thus, it is the position of CBP that only cutting that is incidental to the assembly process abroad, within the meaning of subheading 9802.00.80, HTSUS, may be performed in a beneficiary country under paragraph (b)(1) of section 112.

Paragraph (b)(2) of Section 112 of the AGOA differs from paragraph (b)(1), in part, in that it refers to cutting of fabric ''in one or more beneficiary sub-Saharan African countries'' (rather than in the United States) and it contains no reference to subheading 9802.00.80, HTSUS. As indicated above, the definition of ''cut in one or more beneficiary countries'' in the interim regulations was intended to preclude any cutting of fabric in any country other than a beneficiary country. However, CBP has re-evaluated that intention in light of the fact that the definition of the phrase ''assembled in one or more beneficiary countries'' (appearing in paragraph (b)(2) of Section 112 of the AGOA and in the corresponding regulatory provision, § 10.213(a)(3)) set forth in § 10.212 of the interim regulations conflicts with the § 10.212 definition of ''cut in one or more beneficiary countries.'' This conflict arises from the fact that the definition of ''assembled in one or more beneficiary countries'' allows a prior partial assembly operation to be performed in the United States, which presupposes that the fabric components involved in that assembly operation were cut in the United States.

To resolve this apparent conflict, CBP in this final rule document has amended the definition of ''cut in one or more beneficiary countries'' in § 10.212 to expressly authorize the cutting of fabric components in the United States but only to the extent that those components are used in a prior partial assembly operation in the United States. CBP submits that this limitation on the extent of the cutting that may be performed in the United States under this provision is warranted by the fact that the provision mentions cutting only in reference to one or more beneficiary countries.

CBP also notes that, under paragraph (b)(2) of section 112, the cutting of bolts of fabric in the United States into fabric pieces of smaller dimensions would be acceptable since the requirement that the articles be produced from fabric would be fulfilled.

Finally, CBP notes that the commenters' concerns regarding cutting have been at least partially addressed by the addition of new paragraph (b)(7) to section 112 of the AGOA by section 3108(a) of the Act of 2002. This change was made to cover combinations of various production scenarios involving beneficiary countries and the United States described in other paragraphs in section 112 of the AGOA. Section 112(b)(7) specifies that the cutting of fabric is to be performed ''in the United States and one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries.'' (Paragraph (b)(7) of section 112 of the AGOA was subsequently amended by section 7(d) of the Act of 2004, to allow beneficiary countries that may in the future graduate from AGOA to still provide the qualifying components for assembly in beneficiary countries.)

Merino Wool Sweaters

Comment:

Two commenters referred to the so-called ''merino wool'' sweater provision in the AGOA (section 112(b)(4)(B)) and in the regulatory texts (§ 10.213(a)(7)). They expressed disappointment that the interim regulatory text did not address and correct a legislative drafting error in the definition (description) of the goods in question that has the effect of creating a benefit for a product that does not exist. To fix this problem, the commenters recommended substitution of the word ''greater'' for ''finer'' in the regulatory text so that the text would refer to ''wool measuring 18.5 microns in diameter or greater.''

CBP's Response:

Congress used the term ''finer,'' and CBP does not have the authority to vary from the statutory language by substituting the term ''greater'' as requested by the commenters. However, it appears that the concerns of the commenters have been addressed by an amendment to section 112(b)(4)(B) made by section 3108(a) of the Act of 2002. Paragraph (b)(4)(B) and the corresponding regulatory text, § 10.213(a)(7), now refer to ''wool measuring 21.5 microns in diameter or finer.''

The Findings and Trimmings Exception

Four commenters provided comments or suggestions regarding the findings and trimmings rule set forth in section 112(e)(1) of the AGOA. One of these commenters simply endorsed the CBP interpretation in § 10.213(b)(2) that gives precedence to the findings and trimmings rule over the *de minimis* rule (section 112(e)(2) of the AGOA) in cases where the two rules are in conflict. The various comments or suggestions of the other three commenters are discussed below.

Comment:

The regulations should clarify, in § 10.213(b)(1)(i), that narrow elastic fabrics used for waistbands, leg closures, and similar applications are not considered ''findings and trimmings'' and must be formed in the United States if the garments are to receive preferential treatment.

CBP's Response:

The regulatory text in question (re-designated in this final rule document as § 10.213(c)(1)(i) as discussed above) states that elastic strips are findings and trimmings only if they are each less than 1 inch in width and are used in the production of brassieres. Accordingly, CBP believes that it is already sufficiently clear that narrow elastic fabrics used for waistbands, leg closures and similar applications are not considered findings and trimmings.

Furthermore, CITA has clearly stated that the foreign origin exception for elastic strips under the Special Access program was intended to be limited to narrow elastic fabrics for use as brassiere straps and not to include elastic fabrics such as those used in waistbands. *See* Clarification of Requirements for Participation in the

Caribbean Basin Special Access Program, 52 FR 26057 (1987).

CBP disagrees with the commenter's statement that those narrow elastic fabrics must be made only in the United States. In some circumstances, the AGOA statutory and regulatory provisions expressly permit the use of fabric formed in one or more beneficiary countries or in any country in the case of lesser developed beneficiary countries.

The Act of 2004 amended section 112(d) of the AGOA (now section 112(e)) by adding a new special rule providing that an article otherwise eligible for preferential treatment under section 112 will not be ineligible for that treatment because it contains certain specified components, including ''waistbands'' and ''straps containing elastic,'' that do not meet the applicable production requirements set forth in section 112(b), regardless of the country of origin of the component. CBP in this final rule document has incorporated the above new rule in new § 10.213(c)(1)(v) of the regulations.

Comment:

In addition to the named findings and trimmings mentioned in the statutory language, other examples of findings and trimmings should be added to the text in § 10.223(b)(1)(i) based on CBP rulings issued under the Special Access and Special Regime programs. These involve the following: Patches that symbolize a brand and add ornamentation (HQ 560726, HQ 560520); reinforcing tape (HQ 559961, HQ 560398); and slide fasteners, featherbone, belting, and braids (HQ 559738). In addition, trimmings similar in use to decorative lace, such as piping or decorative strips of fabric reinforcement at seams or raw edges, are appropriate to be included as ''trimmings'' for purposes of the statute because they are equivalent to decorative lace trimming while performing functions similar to reinforcing tape.

CBP's Response:

Although CBP agrees that the other items have been previously found to qualify as findings and trimmings under the Special Access program and subheading 9802.00.90, HTSUS, CBP has concluded that there is no need to list additional examples. The list of findings and trimmings is intended to be representative in nature and is not an exhaustive list. With respect to items that have not previously been ruled upon, CBP intends to deal with the items on a case-by-case basis through interpretive rulings.

Comment:

Narrow elastic fabric should be considered the same as in the past in the Special Access program, that is, except for elastic strips of 1 inch width or less used in the manufacture of brassieres, narrow elastic fabric should be excluded from ''findings and trimmings.''

CBP's Response:

CBP agrees with the comment and feels that the position is adequately set forth in the regulation. It should be noted that the statute and regulations refer to elastic strip ''less than 1 inch in width'' not ''1 inch width or less.''

Comment:

The various ''knit-to-shape'' exclusions were developed with wide fabric or ''large tube'' circular knit fabric in mind. Knitted or woven narrow elastic fabric was not intended to be part of this category and should not be part of any exclusion but rather should be treated in a similar manner as sewing thread and therefore must be made in the United States.

CBP's Response:

The commenter appears to be referring to narrow circular knit fabric and any other kind of narrow elastic fabric (knit or woven) used in the production of a garment. CBP would agree that those narrow elastic fabrics, if not less than 1 inch in width and used in the production of brassieres, are not subject to the findings and trimmings exception. However, for the reasons noted earlier in this comment discussion, CBP disagrees with the contention that those narrow elastic fabrics must be made only in the United States.

The De Minimis Rule

Comment:

A commenter stated that the relevance of including the word ''fibers'' in the statutory language was unclear because the statute contains no requirements that ''fibers'' be formed in the United States or a beneficiary country and thus the inclusion of foreign fibers in yarns or fabrics does not affect the apparel's eligibility. This commenter argued that it would have been more appropriate for the statute to refer to ''yarns or fabrics'' in place of ''fibers or yarns'' and that the anomaly in the present statute substantially reduces the already minimal flexibility provided under the AGOA to use non-U.S.-formed inputs.

CBP's Response:

The commenter is correct that there is no requirement that ''fibers'' be formed in the United States or a beneficiary country and thus the reference to fibers in the statutory provision appears to be unnecessary. Although the regulatory language at § 10.213(c)(1)(iv), consistent with the statute at 19 U.S.C. 3721(e)(2), mentions fibers, the inclusion of foreign fibers in yarns or fabrics will not affect the eligibility of an apparel article.

Elastic Rubber Tape

Comment:

One commenter urged CBP to include in the final regulations language that requires elastic rubber tape to be classified similarly to narrow web elastic and spandex so as to receive the same protection and treatment under the AGOA, that is, that it must be wholly formed in the United States. In support of this position, the commenter stated that elastic rubber tape is distinguished from rubber thread by its width (greater than 1/16 of an inch and no greater than 6 inches) and is distinguished from rubber ribbon by consisting of a single ''end'' as opposed to multiple ends in the case of ribbon. In addition, this commenter asserted that flat rubber tape competes with, and is a substitute for, woven or knit elastic web and logically should be subject to the same U.S.-formed requirement as elastic web.

CBP's Response:

As the commenter noted, rubber tape is distinguished from both narrow web elastic and spandex by virtue of its construction and composition. Both narrow web elastic and spandex are textile products. Spandex is a well known man-made fiber textile product. Narrow web elastic is a fabric produced by combining synthetic or natural rubber thread with textile fiber. Rubber tape and elastic rubber tape as referenced in the comments are the same product which is not a textile product because it is made of rubber. The Conference Report relating to the Act of 2000 states at page 76 that ''the requirement that products must be assembled from fabric formed in the United States applies to all textile components of the assembled products, including linings and pocketing, subject to the exceptions that currently apply under the 'Special Access Program.'" Thus the Conference Report reflects a legislative intent to promote the use of U.S. textile fabric and yarn. There is no indication in the statute or legislative history of a requirement that rubber tape, a non-textile component, be of U.S. origin. Accordingly, notwithstanding the potential economic impact on U.S. rubber tape producers, CBP does not find a basis in the statute or in its legislative history to require rubber tape to be wholly formed in the United States.

Post-Assembly Processing

Comment:

Four commenters were of the opinion that the regulations should make it clear that certain processes (such as embroidery, stonewashing, enzyme washing, acid washing, oven-baking, perma-pressing, garment dyeing, screen printing, or similar processes) do not disqualify a garment for preferential treatment when all other criteria for eligibility are met. In support of this position, it was argued that the AGOA is silent on the permissibility of post-assembly operations for merchandise entered under section 112(b)(2) of the AGOA only for the reason that it is understood that those post-assembly operations are permitted because the merchandise in question will not be entered under HTSUS heading 9802. Moreover, there is no proscription against post-assembly processing anywhere in the HTSUS or in the CBP regulations except for heading 9802. Finally, the commenters argued that a significant portion of garments produced in the sub-Saharan region under the AGOA will undergo post-assembly processing, that Congress did not intend them to be denied preferential treatment because no specific reference appeared in the AGOA, and that Congress in fact did intend that those processes be performed in beneficiary countries.

CBP's Response:

CBP fully agrees with these commenters that apparel articles that satisfy the criteria for eligibility under section 112(b)(2) of the Act should not be disqualified from receiving preferential treatment because they are subjected to one or more post-assembly processes, such as embroidery, stonewashing, and garment dyeing, in a beneficiary country. Consistent with the conclusion reached in regard to whether dyeing and finishing of fabric, yarn and thread may be performed other than in a beneficiary country or in the United States, CBP believes that post-assembly finishing processes may only be performed in beneficiary countries or in the United States.

Accordingly, CBP in this final rule document has included in new paragraph (b) of § 10.213 a subparagraph (2) to clarify that articles otherwise entitled to preferential treatment under the AGOA will not be disqualified from receiving that treatment because they undergo post-assembly operations (such as those mentioned in section 112(b)(1)(B) of the Act) in the United States or in one or more beneficiary countries. As in the case of the dyeing, printing and finishing operations covered by new paragraph (b)(1), under this new paragraph (b)(2), those other operations may only be performed in the United States or in a beneficiary country. New paragraph (b)(2) also includes a caveat that in the case of articles covered by paragraph (a)(1) of § 10.213, a post-assembly operation performed in a beneficiary country must be incidental to the assembly process.

Short Supply Provisions

Four commenters submitted observations on the interpretation and application of the so-called short supply provisions (section 112(b)(5) of the AGOA and § 10.213(a)(8) and (a)(9) of the interim regulations).

Comment:

One commenter urged CBP to clarify what is considered a qualifying product under the § 10.213(a)(8) short supply provision, to ensure that it coincides with the NAFTA short supply rules as was intended by Congress. This commenter argued that, under the NAFTA, a garment qualifies for short supply treatment if the fabric that provides its essential character and determines its classification is one that has been identified as being in short supply. The fact that linings or other items are not made in the United States or a beneficiary country is not relevant, and that should be clear from the regulations.

CBP's Response:

CBP notes initially that the Act of 2004 amended the short supply provision in section 112(b)(5) of the AGOA by removing the words ''from fabric or yarn that is not formed in the United States or a beneficiary sub-Saharan African country.'' As amended to reflect this change, § 10.213(a)(8) has two parts: First, the apparel article must be both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary countries and, second, the fabric or yarn of which the article is constructed must have been determined to be in short supply. There appears to be no issue regarding the first part. On the second part, there is no question raised regarding the use of the predetermined short supply fabrics and yarns but rather only on what requirements, if any, the remaining fabrics or yarns in the apparel article must meet. CBP believes that the last portion of the provision clearly states the intent and thus provides an answer to that question. That portion of the text provides that an apparel article constructed of yarns or fabrics that were determined to be in short supply may receive preferential treatment under the AGOA if those apparel articles would be eligible for preferential treatment under the rules of origin in Annex 401 of the NAFTA. In the absence of a qualifier to this language, CBP believes it is clear that the drafters intended that this provision use the same rules as those used in the NAFTA. That is, an apparel article would qualify for preferential treatment if the article is made of a short supply fabric or yarn that determines its classification.

As to the commenter's concern regarding linings not made in the United States or a beneficiary country, CBP believes that the regulation as drafted is clear that the rules of origin in Annex 401 of the NAFTA apply. Therefore, if under those rules for the apparel article at issue the origin of the lining is of no consequence, then the commenter is correct, the fact that the lining is not made in the United States or a beneficiary country is not relevant. However, if the lining material is relevant to the rule applicable to the apparel article at issue, then the origin of the lining material may be relevant. Such determinations must be made on a case-by-case basis and are best addressed through the rulings process.

Comment:

A commenter took the view that the short supply regulatory provisions (§ 10.213(a)(8) and (a)(9)) do not clearly state the requirement under the statute that *all* yarn and fabric components of an apparel article other than those that determine the classification must be wholly formed in the United States. The following points were made by this commenter in support of this interpretation of the statute:

1. The AGOA mandates the use of fabrics wholly formed in the United States for all fabric components except for specific fabrics that are not available in the United States.

2. An interpretation of the statute allowing non-U.S. fabric for all fabric components in the case where the outer shell alone is of a fabric that cannot be supplied in commercial quantities would be an inappropriate imposition on the AGOA program.

3. Whereas the NAFTA was a negotiated agreement among nations in which concessions regarding the ''short supply'' list made sense, the AGOA program is a unilateral gift of the United States to the nations of sub-Saharan Africa and ought to be construed to require the use of U.S. fabrics in all cases except for the specific fabric which cannot be supplied in commercial quantities.

CBP's Response:

CBP does not agree with this commenter that all yarn and fabric components of an apparel article other than those that determine the classification must be wholly formed in the United States. The text dealing with short supply or non-availability of fabric

provides in effect that an apparel article constructed of yarns or fabrics that were determined to be in short supply may receive AGOA preferential treatment if that apparel article would be eligible for preferential treatment under the rules of origin in Annex 401 of the NAFTA. In the absence of a qualifier to this language, CBP believes it is clear that the drafters intended that this provision use the same rules as those used in the NAFTA. That is, an apparel article would qualify for preferential treatment if the article were made of a short supply fabric or yarn that determines the classification of the article. *See* Note 2 to Chapter 61 and Note 3 to Chapter 62 of Annex 401 of the NAFTA.

Comment:

A commenter referred to trade advisory TBT–00–023 entitled ''Implementation Information for the CBTPA for Textile and Apparel Products'' issued by CBP Headquarters on October 20, 2000, which included, among other things, a list of fabrics covered by the Caribbean Basin Trade Partnership Act short supply provisions. According to the commenter, the list in TBT–00–023, which would apply equally for purposes of the AGOA short supply provisions, was not complete because it omitted some products (for example, visible lining fabrics woven from foreign yarns as specified in NAFTA rule 1 for Chapters 61 and 62 within HTSUS General Note 12(t), and all yarns and fabrics covered by HTSUS headings other than those specifically excluded in the specific rules of origin) that would not be precluded from receiving NAFTA treatment under the NAFTA rules even though they do not qualify under the regular ''yarn forward'' concept. The commenter argued that all yarns and fabrics that allow apparel traded between NAFTA parties to qualify for NAFTA preference (that is, that allow apparel to meet the NAFTA rules of origin under Annex 401) should be considered as eligible under the AGOA preference.

CBP's Response:

TBT stands for ''Textile Book Transmittal.'' Textile Book Transmittals provide textile information to the trade community from CBP and are issued by the Textiles and Trade Agreements Division. TBTs may be found on the CBP Web site at *http://www.cbp.gov/xp/cgov/trade/priority_trade/textiles/tbts/*.

CBP agrees that the list included in TBT–00–023 was not complete. CBP has since issued further clarifications that include all of the short supply fabrics and yarns that are covered by the two short supply provisions set forth in section 112(b)(5)(A) and (B) of the AGOA (§ 10.213(a)(8) and (a)(9) of the regulations, respectively). Those issuances are TBT–01–004 dated September 18, 2001, TBT–04–009 dated April 21, 2004, TBT–04–019 dated June 28, 2004, and TBT–04–021 dated July 1, 2004. However, the first of those issuances, which relates to the § 10.213(a)(8) short supply provision, does not list the visible lining fabrics mentioned by this commenter because those fabrics are not treated as short supply fabrics under the NAFTA.

CBP has already addressed above the commenter's concern that CBP ensure that all interested parties are made aware that the rules for the short supply provisions will be interpreted in the same way for both the NAFTA and the AGOA.

Comment:

One commenter noted that draft regulations implementing the short supply program for fabrics and yarn have not yet been issued and indicated that it had sent detailed suggestions to the Office of the U.S. Trade Representative on how the regulations should be drafted. The commenter suggested that further delay is unwarranted because short supply requests have already been submitted.

CBP's Response:

The commenter refers to a matter that falls within the jurisdictional authority of agencies other than CBP and therefore is not an appropriate subject for these regulations. CBP further notes in this regard that on March 6, 2001, the Committee for the Implementation of Textile Agreements (CITA) published in the **Federal Register** (66 FR 13502) a notice setting forth procedures to be used in considering requests under the AGOA short supply provisions.

Meaning of ''Entered'' in § 10.213(a)(1)

Comment:

One commenter noted that § 10.213(a)(1) refers to articles ''entered'' under HTSUS subheading 9802.00.80. The commenter expressed concern that the use of this term suggests that post-entry claims are not allowed and therefore, to solve this problem, suggested replacing ''entered'' by ''classified.''

CBP's Response:

The use of the word ''entered'' reflects the wording of the underlying statute and also is appropriate from a technical and practical standpoint because it is the entry process that brings an AGOA import transaction under the jurisdiction of a CBP office (the suggested word ''classified'' would have no relevance outside an entry context). With regard to the specific concern expressed by this commenter, there was no intention on the part of CBP, by using the word ''entered'' in this context, to restrict the ability of an importer to submit post-entry information to CBP prior to the date on which liquidation of the entry in question becomes final.

Certificate of Origin

Four commenters submitted observations on one or more aspects of the Certificate of Origin as provided for in § 10.214 and referred to in §§ 10.215 and 10.216. To the extent that comments received regarding the Certificate of Origin set forth in T.D. 00–67 are still relevant to the subsequent Certificate of Origin set forth in T.D. 03–15, CBP will respond.

Comment:

One commenter complained that the Certificate of Origin is unnecessarily complicated and thus presents an obstacle to achieving the goals of the AGOA. The commenter questioned whether the identification of options for benefits is necessary given that the Certificate is not required by the Government but rather is part of the importer's record keeping. This commenter further questioned whether in fact the Certificate of Origin is even necessary since the importer is accountable for records that establish eligibility for benefits.

CBP's Response:

Section 113(b)(1)(A) of the AGOA requires importers claiming preferential treatment under section 112 of the AGOA to comply with customs procedures similar in all material respects to the requirements of Article 502(1) of the NAFTA and requires the Secretary of the Treasury to promulgate regulations to that end. Article 502(1) of the NAFTA covers procedures regarding the use of a Certificate of Origin. In view of the clear mandate in the AGOA to apply the NAFTA Certificate of Origin approach, CBP has no authority to vary from that approach by dispensing with the Certificate of Origin requirement in these regulations.

As regards the commenter's assertions that the identification of options for benefits is not necessary and that the Certificate of Origin is not required by the Government, CBP disagrees with both points. The identification of the specific basis for claiming preferential treatment is like the approach under the NAFTA whereby the preparer of the Certificate of Origin identifies the specific rule of origin standard upon which the claim for NAFTA duty treatment is based. Further, although the Certificate of Origin is not provided for in the regulations as a condition of entry, similar to the practice under the NAFTA, it not only must be in the

possession of the importer when the claim under the AGOA is made but also, under § 10.216(b), must be provided to CBP upon request.

Comment:

A commenter questioned the propriety of using a NAFTA-type Certificate of Origin, suggesting in this regard that in some respects the Certificate of Origin should be more like ITA Form 370P. The commenter noted in this regard that because the 807A+ and 809+ programs in most instances, including the selection of the fabric used, are controlled by the U.S. importer, it makes little sense to ask an African producer of apparel to attest to the accuracy of the identity of the manufacturer of U.S. yarn or thread. Therefore, this commenter recommended that § 10.214(a) be revised to permit the United States importer to sign the Certificate on the same basis on which the producer or exporter may sign it.

CBP's Response:

As indicated in the previous comment response, CBP has no latitude to vary from the Certificate of Origin approach. As regards who may sign the Certificate of Origin, the interim regulations provide that the exporter or the exporter's authorized agent may sign the Certificate. Section 113(b)(1)(B) of the AGOA makes each beneficiary country responsible for implementing and following procedures and requirements similar in all material respects to those under Chapter 5 of the NAFTA. As Chapter 5 of the NAFTA does not authorize the preparation of the Certificate of Origin by the importer, CBP has no authority to provide in these regulations for the preparation and signature of the AGOA textile Certificate of Origin by the U.S. importer.

However, as discussed later in this document under ''Additional Changes to the Regulations,'' CBP has determined that the Certificate may be prepared and signed by the producer or exporter or by the producer's or exporter's authorized agent having knowledge of the relevant facts.

Comment:

Three commenters objected, principally on business confidentiality grounds, to the inclusion of specific information regarding fabric, yarn and thread producers in blocks 6–8 on the Certificate of Origin. One of these commenters suggested that, as regards yarn producer information, the Certificate of Origin should have provision for stating that the information may be obtained from the fabric producer when the fabric producer provides a statement to the garment producer, exporter or importer that this information will be provided directly to CBP upon request. The other two commenters suggested that, in lieu of including the specific information in blocks 6–8, the regulations should allow the inclusion of words such as ''available to CBP upon request.'' One of them pointed out that this would be similar to the approach taken regarding producer information on the NAFTA Certificate of Origin and in the instructions for block 2 in § 10.214(c)(3).

CBP's Response:

CBP notes that it is incumbent upon the importer to know the facts of the transaction. If the U.S. importer wishes to make an AGOA claim, it is important that the origin of the raw materials used in the production of the garment be known in order to assess whether the garment qualifies. While for CBP import purposes it is the importer's responsibility to have the necessary information and documentation to justify any claim for preferential treatment, it is the exporter's or producer's responsibility under the AGOA to accurately complete and sign the Certificate of Origin.

When CBP requests the Certificate of Origin, CBP wants, among other things, the name of the fabric and yarn supplier that makes this merchandise eligible for AGOA benefits. CBP is given the responsibility to enforce and administer this program. In order to ensure that importers are properly claiming benefits under the AGOA, it is essential that information be provided showing the names and addresses of the parties providing the raw materials.

The United States importer does not need to present the Certificate of Origin until requested to do so by CBP. The requirement that fabric, yarn, and/or thread producers be identified in blocks 6–8 of the AGOA Certificate of Origin is based on the requirement in most AGOA preference provisions that those items must be produced in the United States and/or in one or more beneficiary countries. These requirements are specifically provided for in the AGOA which differ in this regard from the approach taken in the NAFTA. Neither the NAFTA nor its implementing legislation discusses specific intermediate processes such as these, nor do they address producer requirements specifically. For these reasons, the producers described in blocks 6–8 must be identified on the AGOA Certificate of Origin, which cannot be completed merely by including wording such as ''Available to CBP upon request.''

Comment:

A commenter recommended that the instructions for completing the Certificate of Origin make clear that the producer or exporter may state ''not applicable'' where the information sought is not relevant for the particular preference group. This commenter stated, as an example, that blocks 6–8 are not relevant for a producer or exporter of apparel in preference group ''E.''

CBP's Response:

As in the case of any form designed to cover a variety of factual situations, it was never intended that all blocks be completed on the Certificate of Origin set forth in § 10.214. In fact, there should never be a case where all the blocks will be completed. For example, as the commenter pointed out, blocks 6–8 are not relevant to articles covered by preference group ''E'' (nor are blocks 9 and 10 relevant in that case). Similarly, in the case of preference group ''H,'' blocks 6–9 do not need to be completed. If a block is not relevant to the article covered by the Certificate of Origin, the exporter can either leave the block blank or insert the words ''not applicable'' or the symbol ''N/A.'' CBP does not believe that it is necessary to modify the instructions for completing the Certificate of Origin to cover something that is implicit in its design and use. What is essential is to ensure that all information relevant to the article under consideration is included on the Certificate of Origin, and that is what the instructions are intended to do.

Comment:

One commenter noted that § 10.214(a) provides both that an exporter must prepare the Certificate of Origin and that, where the exporter is not the producer, the exporter may complete and sign the Certificate based upon a Certificate voluntarily provided to the exporter by the producer. In the latter case, the commenter questioned which Certificate is considered the ''original'' for purposes of § 10.215(a). The commenter suggested in this case that the Certificate signed by the exporter will be considered the original and that this should be clarified in the regulations.

CBP's Response:

The basic customs statutory record keeping requirements which are contained in sections 508 and 509 of the Tariff Act of 1930, as amended (19 U.S.C. 1508 and 1509), and the regulations implementing those statutory provisions which are set forth in Part 163 of the CBP regulations (19 CFR Part 163) are applicable to AGOA transactions in the same way that they apply to any statutory import program administered by CBP. For this reason a general statement regarding the applicability of the Part 163 provisions

was included in § 10.216(a), in lieu of repeating portions of the Part 163 provisions in the AGOA regulations. Thus, the meaning of ''original'' in an AGOA Certificate of Origin context is controlled by the definition of ''original'' set forth in § 163.1(g). Under that definition, what is received or made by the one required to maintain the record (the U.S. importer, for example) is what is considered to be the original. As regards the suggested clarification, CBP believes that no change is necessary in this regard since the regulations, as amended by this final rule, clearly indicate who may prepare and sign a Certificate of Origin.

Comment:

A commenter noted that whereas § 10.216(b)(2) provides that the exporter or his authorized agent must have signed the Certificate, § 10.214(a) makes no reference to an authorized agent. This commenter suggested that if an authorized agent may sign the Certificate, this should also be noted in § 10.214(a).

CBP's Response:

CBP agrees that § 10.214(a) should clarify who may prepare and sign the Certificate of Origin. As previously indicated in this comment discussion, CBP has determined that, in addition to the exporter or the exporter's authorized agent, the producer or the producer's authorized agent may prepare and sign the Certificate. Therefore, §§ 10.214(a), 10.214(c)(13), and 10.216(b)(2) have been changed to reflect this modification as to who may sign the Certificate. It should be noted that T.D. 03–15 modified the instructions for preparing the Certificate in § 10.214(c) by adding a new paragraph (c)(13) regarding who may sign the Certificate.

Comment:

Two commenters noted that the preference groups listed on the Certificate of Origin as set forth in § 10.214(b) are identified by letters whereas the paragraphs setting forth the groups of eligible articles under § 10.213(a) are identified by numbers. These commenters expressed concern that this inconsistency will lead to confusion and errors in filling out the Certificate, and, therefore, they requested that the same type of identifier be used in each context. One of the commenters specifically suggested in this regard that preference group ''A'' should be indicated as ''(1)'' on the Certificate to correlate with § 10.213(a)(1), preference group ''B'' should be indicated as ''(2)'' on the Certificate to correlate with § 10.213(a)(2), and so forth.

CBP's Response:

In T.D. 03–15, CBP adjusted the Certificate of Origin form to coordinate the relevant provision with the applicable preference and visa group.

Comment:

With reference to the requirement in § 10.216(b)(3) that the importer provide upon request an English translation of a Certificate not prepared in English, a commenter recommended that the provision be revised to require that the Certificate be completed in English or in both English and the language of the exporting country, so that the importer would be able to more readily respond with an English version when a copy of the Certificate is requested by CBP. This commenter suggested that although the practice under NAFTA has been for companies to prepare both an English version and a native language version, having this as a regulation would ensure the ready availability of translations.

CBP's Response:

CBP does not believe that the regulatory text should be changed as suggested by this commenter. CBP notes in this regard that so long as the regulatory standard for an English language Certificate or translation is met, whatever additional procedure the exporter and U.S. importer may choose to employ for their convenience in meeting that requirement is not appropriate for regulatory treatment.

Record Keeping Requirements

Four commenters made observations on the maintenance of records provision in § 10.216(a) and on the amendment to the (a)(1)(A) list contained in the Appendix to Part 163.

Comment:

Two commenters objected to application of the NAFTA 5-year record retention period, noting that the AGOA specifically mentions a 2-year period. One of these commenters, after noting that the AGOA regulations only need to be similar, rather than identical, in all material respects to the requirements of Article 502(1) of the NAFTA, argued that the record keeping requirements should be designed to meet the intent of Congress while placing the smallest possible administrative burden on producers, exporters, importers and CBP. Moreover, considering the requirements under the NAFTA, this commenter argued that only certain records were contemplated in the 5-year retention requirements and therefore suggested that CBP should review the specific records required under the NAFTA and stipulate exactly what must be retained to satisfy the requirements of the AGOA. This commenter suggested that the spinner's certifications of materials origin may be considered representative of the type of records that should be retained for 5 years, whereas manufacturing records should not be required beyond the statutory 2-year period.

CBP's Response:

CBP first notes that the only reference to a 2-year record retention period in the AGOA is found in section 113(a)(1)(E) which concerns the obligation of each beneficiary sub-Saharan African country to require its producers and exporters to maintain production and export records. That exporting country context is distinct from, and therefore is not an appropriate subject for, these AGOA implementing regulations which concern U.S. import requirements. CBP further notes that Article 502(1) of the NAFTA does not mention a record retention period (that subject is addressed in Article 505 of the NAFTA which is not specifically referred to in the AGOA). Therefore, it is not the NAFTA standard that controls record retention in the United States under the AGOA. Rather, as already pointed out above, the provisions of 19 U.S.C. 1508 and 1509 and Part 163 of the CBP regulations set forth the standards for record retention in an AGOA context, including the length of time that a record must be retained. CBP believes that those statutory and regulatory provisions strike an appropriate balance, consistent with Congressional intent, between the law enforcement needs of CBP and the interest of the importing community in having the smallest possible record keeping burden.

Comment:

With regard to the amendment to the (a)(1)(A) list contained in the Appendix to Part 163, two commenters objected to the inclusion of the words ''and supporting records.'' These commenters noted that the (a)(1)(A) list is defined as covering documents which are ''required by law or regulation for the entry of the merchandise . . . '' (19 U.S.C. 1509(a)(1)(A)). One of these commenters suggested that in this circumstance supporting documents might include production records such as cutting or sewing tickets and argued that these may not be construed as documents required for entry and that there is nothing in the interim regulation to suggest that this is the case. The other commenter mentioned certain supporting documents referred to in § 10.217(a)(2) (that is, production records, information relating to the place of production, the number and identification of the types of machinery used in production, and the number of workers employed in production) and similarly stated that these records are

not required for entry. Both commenters therefore requested elimination of the reference to supporting records.

CBP's Response:

CBP has reviewed this issue in light of the points made by these commenters and has concluded that the commenters are correct. Accordingly, the amendment to the (a)(1)(A) list in the Appendix to Part 163 has been modified in this final rule document by removing the words ''and supporting records.''

It should be noted, however, that although records to support a claim for preferential treatment (other than the Certificate of Origin) are not required for the entry of the merchandise in question, they nevertheless may be records required to be maintained and made available to CBP.

Other Comments

Comment:

With reference to § 10.213(a)(1), which covers apparel articles assembled from fabrics wholly formed and cut in the United States, one commenter stated that the AGOA implementing regulations should include a definition of the expression ''wholly formed and cut in the United States'' that confirms that cutting fabrics to length outside the United States, incidental to the assembly process in an AGOA beneficiary country, does not adversely affect eligibility under the program. The commenter noted in this regard that the expression ''wholly formed and cut in the United States'' has been present in HTSUS subheading 9802.00.90, that CBP rulings (for example, HQ 559856 and HQ 561069) have confirmed that the cutting-to-length of fabric components is an operation incidental to the assembly operation and may take place in Mexico under the statutory language and that those rulings are in accord with § 10.16 of the CBP regulations which has been interpreted by CBP in numerous administrative rulings in the context of HTSUS subheading 9802.00.80 that establish that cutting-to-length is an operation incidental to the assembly process while the cutting of garment parts according to pattern from exported material is an operation not incidental to assembly.

CBP's Response:

The issue of the extent to which cutting of fabric may be performed in a beneficiary country with respect to articles covered by paragraph (b)(1) of section 112 of the AGOA (§ 10.223(a)(1) and (a)(2) of the regulations) has already been addressed in the CBP responses to the comments regarding cutting in the United States and beneficiary countries. Based upon the statutory reference to subheading 9802.00.80, HTSUS, in paragraph (b)(1) of section 112, CBP concluded that additional cutting operations may be performed in a beneficiary country under that statutory provision only to the extent that the cutting operations are considered ''incidental'' to the assembly process abroad. CBP also noted in this regard that the regulations implementing subheading 9802.00.80 specify that examples of operations considered ''incidental'' to the assembly process include ''cutting to length . . . of products exported in continuous lengths'' (*see* 19 CFR 10.16(b)(6)).

Therefore, CBP agrees with the commenter that cutting fabric components to length in a beneficiary country will not adversely affect eligibility of products covered by paragraph (b)(1) of the statute and § 10.213(a)(1) and (2) of the regulations. However, CBP does not agree that a clarifying amendment to the regulations is necessary in this regard in view of the already existing regulations implementing subheading 9802.00.80, HTSUS, which include specific examples of operations which are and are not ''incidental'' to assembly.

Comment:

A commenter referred to the following changes made to the HTSUS by Presidential Proclamation 7350: modification of subheading 9802.00.80 to include an exception reference for ''goods imported under provisions of subchapter XIX;'' inclusion of the words ''[f]ree, for products described in U.S. note 7 to this subchapter'' in the special rates of duty column for subheading 9802.00.80; and inclusion of a new U.S. Note 7 to Subchapter II to Chapter 98 which states, among other things, that articles otherwise eligible to enter under subheading 9802.00.80, and which satisfy the conditions set forth in U.S. Note 3 to Subchapter XIX of Chapter 98, shall not be ineligible to enter under subheading 9802.00.80. This commenter, after suggesting that the latter change recognized that an overlap exists between subheading 9802.00.80 and the Subchapter XIX provisions, stated that (1) the language of subheadings 9802.00.80 and 9802.00.90 provides for eligibility where the fabric components *in whole or in part* meet the three-part eligibility requirement (ready for assembly, no loss of physical identity, and nothing more than assembly), (2) CBP has additionally recognized with respect to application of subheading 9802.00.90 that further fabrication of one or more fabric components in Mexico will not preclude classification of the apparel in that subheading (*see, for example,* HQ 560201), and (3) in this regard, the limitation of the subheading 9802.00.80 duty exemption resulting from language in the general rates of duty column (which requires each individual component to be eligible for that component to enjoy a partial duty exemption on its cost) is not operative for the special rates of duty column. This commenter thus concluded that under the AGOA not all components need meet the three-part requirement for classification of the finished article in subheading 9802.00.80 for the article to be duty free, as long as there is compliance with the fabric and yarn origin requirements of the AGOA. The commenter ended by stating that the regulations (1) should state that fabrication of individual fabric components before assembly does not preclude eligibility as long as some components meet the requirements and (2) should identify when the processing is sufficient to require classification in subheading 9819.11.03 rather than under subheading 9802.00.80.

CBP's Response:

As the commenter correctly notes, CBP has held in prior rulings with respect to subheading 9802.00.90, HTSUS, that the fact that every fabric component of a textile or apparel article does not satisfy one or more of the three conditions set forth in that provision (that is, ''(a) were exported in condition ready for assembly without further fabrication, (b) have not lost their physical identity in such articles by change in form, shape or otherwise, and (c) have not been advanced in value or improved in condition abroad except by being assembled and except by operations incidental to the assembly process'') will not preclude the article from receiving duty-free treatment, provided other fabric components in the article satisfy those three conditions. (*See, e.g.,* HQ 559780 dated May 19, 1997, and HQ 560201 dated May 14, 1998. The basis for these holdings is the specific wording of this provision requiring that the ''fabric components, *in whole or in part''* meet the three conditions (emphasis added). The ''in whole or in part'' wording was added to subheading 9802.00.90, HTSUS, by Presidential Proclamation 6821 (published in the **Federal Register** (60 FR 47663) on September 13, 1995). Prior to the insertion of that wording in the provision, CBP had required that *all* fabric components satisfy the three conditions identified above.)

CBP does not agree with the commenter's contention that under the AGOA (specifically, the provision which refers to articles entered under subheading 9802.00.80, HTSUS, that is, section 112(b)(1)(A) of the statute which

is reflected in § 10.213(a)(1) of the regulations) not all fabric components must satisfy the three conditions set forth in subheading 9802.00.80, HTSUS, for the articles to qualify for preferential treatment. Unlike subheading 9802.00.90, HTSUS, the subject provision of the AGOA does not say that the fabric components may ''in part'' satisfy the three conditions of subheading 9802.00.80, HTSUS. CBP believes that, had Congress intended the conclusion urged by the commenter, it would have included specific wording to that effect in this provision. In the absence of that wording, CBP construes this AGOA provision as requiring that *all* the fabric components must meet the three conditions of the subheading. Therefore, CBP declines to amend the regulations in this regard to reflect the commenter's position.

CBP notes that section 112(b)(1)(B) of the AGOA (which is reflected in § 10.213(a)(2) of the regulations) specifically permits certain additional processing (for example, stonewashing and garment dyeing) as an exception to the third of the three conditions under subheading 9802.00.80, HTSUS. Therefore, in the case of articles covered by section 112(b)(1)(B) and § 10.213(a)(2), all of the fabric components may be subjected to one or more of those additional processes.

CBP also does not agree that the regulations should be changed to indicate when processing would require classification in subheading 9819.11.03, HTSUS, (§ 10.213(a)(2)) rather than in subheading 9802.00.80, HTSUS, (§ 10.213(a)(1)). CBP believes that sufficient guidance is available through the specific processing exemplars in subheading 9819.11.03, HTSUS, and § 10.213(a)(2) and in the regulations interpreting subheading 9802.00.80, HTSUS, (19 CFR 10.11–10.26) and in the various administrative rulings and judicial decisions regarding what processes do or do not constitute operations incidental to assembly.

Comment:

A commenter expressed agreement with the change to the § 10.212 definition of ''assembled in one or more beneficiary countries'' made in the correction document published in the **Federal Register** on November 9, 2000, which involved removal of the parenthetical exception clause regarding thread, decorative embellishments, buttons, zippers, or similar components. The commenter suggested that with this change the regulations now recognize that duty-free treatment is to be accorded even to apparel exported for the addition of decorative appliques, bead effects and the like where these additions qualify as assemblies and that this is in keeping with the goal of the legislation to enhance the competitiveness of both domestic and sub-Saharan African textile industries.

CBP's Response:

CBP in this final rule document has replaced the definition of ''assembled in one or beneficiary countries'' with ''sewn or otherwise assembled in one or more beneficiary countries'' in § 10.212(q) as explained below under ''Additional Changes to the Regulations.'' This change in language does not change the definition which, as noted by the commenter, includes the addition of decorative embellishments, buttons, zippers or similar components where the additions qualify as assemblies.

Comment:

Three commenters suggested that either the categories of eligible products in § 10.213(a)(1) and (a)(2) or the corresponding preference groups ''A'' and ''B'' on the Certificate of Origin in § 10.214(b), or both, should be combined into one because the statute does not require this distinction and because fewer categories or groups will present fewer opportunities for error and misunderstanding. These commenters suggested in this regard that there is no reason for distinguishing between apparel that is merely assembled and apparel that is subjected to additional finishing operations. One of these commenters further noted that these products are all ''807A+'' type products (that is, products assembled in the region from U.S.-formed-and-cut parts from U.S.-formed yarn). This commenter suggested that since these AGOA provisions are intended to track the benefits provided under the NAFTA Special Regime (which is covered by one HTSUS provision, that is, subheading 9802.00.90), there is no reason why a single provision cannot be provided for these AGOA products. One of these commenters also stated that the two short supply provisions in § 10.213(a) (that is, subparagraphs (8) and (9)) should be consolidated into one provision.

CBP's Response:

With the exception of preference groups ''3–C'' and ''8–H'' on the Certificate of Origin (which consolidate similar provisions), the regulatory text in § 10.213(a) and the preference groups listed on the Certificate of Origin in § 10.214(b) reflect the individual product descriptions or groupings that are contained both under section 112(b) of the Act and in the subheadings of Subchapter XIX within Chapter 98 of the HTSUS. CBP strongly believes that it is essential to have a separate regulatory provision for each statutory product category or group so that appropriate distinctions among the different categories or groups may be maintained for legal, operational and statistical purposes. Accordingly, CBP does not agree with any of the suggestions for consolidation of these categories or groups.

Discussion of Comments in Response to T.D. 03–15

General Comments

Comment:

A commenter stated the belief that CBP's interpretation of the AGOA ''is unnecessarily restrictive and at odds with the purpose of the legislation—to expand trade with countries in sub-Saharan Africa. . . . While economic conditions and infrastructure deficiencies are part of the reason, the narrow views adopted by Customs [now CBP] are a very significant contributor to this circumstance.''

CBP's Response:

The interpretations adopted by CBP with regard to the AGOA must be consistent with the language of the statute. It is CBP's desire and obligation to carry out the expressed intent of Congress as reflected by the language of the statute.

Comment:

A commenter noted that ''[c]hanges to existing interim regulations for CBTPA and AGOA that address the knit-to-shape and hybrid cutting issues will have a positive and immediate impact on U.S. textile suppliers and companies in the region.''

CBP's Response:

No response necessary.

Wholly Formed Fabrics

Two commenters recommended amendments of the definition of ''wholly formed fabrics.''

Comment:

One commenter objected to the definition of ''wholly formed fabrics'' stating that it is beyond what is appropriate. The commenter believes the definition includes yarn formation and requires processing to begin with polymers and fiber formation. The commenter argues that the definition is inconsistent with the definition of ''wholly formed yarn'' and suggests the definition be changed to simply state that ''fabrics wholly formed means that the fabric has been entirely knit or woven within the United States or a beneficiary country.''

CBP's Response:

The commenter has misinterpreted the definition of ''wholly formed fabric.'' The definition is not drafted to

require yarn formation. It is drafted to include the formation of all types of fabrics, including knit, woven and non-woven. As non-woven fabrics are generally formed by the entanglement of fibers or filaments, the definition necessarily includes beginning with polymers, fibers and filaments in order to include these fabrics which are not produced by knitting or weaving yarns.

Comment:

One commenter agreed with the inclusion of the phrase ''one or more beneficiary countries'' in the definition of ''wholly formed fabrics'' to fully reflect the circumstances where the term ''wholly formed fabrics'' is used, but the commenter believes that the addition of the term ''as appropriate'' after ''beneficiary countries'' would provide clarification.

CBP's Response:

CBP disagrees with the commenter's suggestion to add ''as appropriate'' to the end of the definition of ''wholly formed fabrics.'' We do not believe it is necessary, nor would it add the clarification suggested by the commenter.

Wholly Formed Yarns

Comment:

While the commenter agrees with the definition of ''wholly formed yarn'' in the ATPDEA and believes CBP ''correctly included draw-texturing in the definition of 'wholly formed' filament yarns,'' the commenter believes that ''[o]mitting this clarification from the CBTPA and AGOA regulations is inconsistent and will lead to confusion down the road.'' The commenter strongly urges the same definition be reflected in the CBTPA and AGOA regulations.

CBP's Response:

As indicated above in the discussion of comments relating to wholly formed yarns in response to T.D. 00–67, CBP has in this final rule document revised the definition of ''wholly formed yarns'' to clarify that the process of draw-texturing falls within the scope of ''wholly formed'' as it relates to yarn. CBP agrees with the commenter that the definition of ''wholly formed yarns'' should be changed to reflect the same definition for all the preference trade programs.

Knit-To-Shape Components

Comment:

The definition of knit-to-shape components includes a requirement that a knit-to-shape component have a self-start edge. One commenter requested that CBP define this term. In addition, the commenter, citing the Informed Compliance Publication (ICP), *What Every Member of the Trade Community Should Know About: Knit to Shape Apparel Products* (January 1999) and Headquarters Ruling Letter 953224 of May 13, 1993, stated that knit-to-shape components have not included squares or rectangles. The commenter requests that CBP clarify that the term ''shape'' does not include ''regular geometric shapes such as rectangles and squares.'' The commenter further requests that the definition be amended to include a requirement that a component be in condition ready for assembly without further processing.

CBP's Response:

CBP agrees with the commenter that the term ''self-start edge'' needs to be defined. CBP has defined ''self-start bottom'' in the ICP cited by the commenter. Drawing from that definition, a definition for ''self-start edge'' has been added in § 10.212 of this final rule document as new paragraph (o). CBP also agrees with the commenter that the term ''specific shape'' as used in the definition of ''knit-to-shape components'' needs to be clarified. As a result, the definition of ''knit-to-shape components'' (now § 10.212(h)) has been modified in this final rule document by the insertion of the language, '', that is, the shape or form of the component as it is used in the apparel article,'' after the word ''shape'' and before the word ''containing.'' CBP has further modified the definition of ''knit-to-shape components'' by replacing the article ''a'' immediately before ''self-start edge'' with the words ''at least one'' to clarify that knit-to-shape components may contain one or more self-start edges.

CBP disagrees with the commenter's assertion that a knit-to-shape component cannot be of a square or rectangular shape for purposes of this definition. The ICP publication cited by the commenter discusses knit-to-shape components which are considered ''major parts'' in determining whether an apparel article is to be considered a knit-to-shape article. ''Major parts,'' by definition, does not include all components of a knit-to-shape article; ''major parts'' does not include collars, cuffs, waistbands, plackets, pockets, linings, paddings, trim, accessories, or similar parts. In that context, the ICP addresses the requisite features of a knit-to-shape front, back or sleeve panel. In other words, it addresses the requirements for a ''knit-to-shape component'' that is a ''major part.'' CBP agrees that, in that context, square or rectangular textile pieces have been rejected from consideration as ''knit-to-shape'' because they lacked features, such as armholes, necklines, or shaping, which made it possible to clearly identify the pieces as specific components of a garment. The definition of ''knit-to-shape components'' in this final rule document, however, includes all components of an apparel article, not just ''major parts,'' which may be knit directly into the shape in which the component is used in the apparel article. Whether a knit component is knit directly into a geometric shape such as a rectangle or square is of no consequence provided that knit component is knit directly into the shape in which it will be used in a garment and it is identifiable as a garment component.

With regard to the commenter's reliance upon HQ 953224, we believe the commenter meant to cite to HQ 953234 which was issued on May 13, 1993, and addressed the country of origin of plastic coated fabric. However, we believe HQ 953234 does not support the commenter's position as that ruling dealt with the classification of certain woven fabric.

Finally, CBP disagrees with the suggestion by the commenter to amend the definition of ''knit-to-shape components'' to include a requirement that a component be in condition ready for assembly without further processing. We do not believe such a requirement is necessary. In addition, it contradicts the language in the definition which allows for minor cutting or trimming of such components.

Lesser Developed Beneficiary Countries Provision

Comment:

Section 10.213(a)(5) describes a preference available to apparel articles that are ''wholly assembled, or knit-to-shape and wholly assembled, or both.'' An explanation is sought as to why there is a reference to ''both'' in section 10.213(a)(5) because the commenter is unable to envision a circumstance where an apparel article would be both ''wholly assembled'' and ''knit-to-shape and wholly assembled.''

CBP's Response:

The language in § 10.213(a)(5) follows the language of the statute in section 112 (c)(1)(A) of the AGOA (codified at 19 U.S.C. 3721(c)(1)(A)).

Comment:

A commenter asserts that the lesser developed country beneficiary rule is a relaxation of the more restrictive rules of the other provisions and, therefore, it should be interpreted to allow knit-to-shape components from third countries to be used in the assembly of apparel in the lesser developed beneficiary countries. The commenter posits that

since Congress has not specifically indicated that using third-country knit-to-shape components would disqualify a garment from preferential treatment, their use in the assembly of apparel articles should be allowed. The commenter requests CBP to clarify § 10.213(a)(5), by inserting the phrase '', knit to shape components,'' between the words ''fabric'' and ''or,'' to indicate that third-country knit-to-shape components are allowed in the assembly of apparel provided for by that provision.

CBP's Response:

CBP does not have the authority to add the requested language which would change the scope of the provision as enacted. Only Congress may make the change the commenter seeks as the language in the regulation reflects the language in the statute which Congress passed.

The only allowance for the use of foreign (third-country) components in the production of apparel articles eligible for preferential treatment under the AGOA is found in the Special Rules in section 112(e) of the AGOA. Paragraphs (e)(1)(A) and (B) of section 112 (§ 10.213(c)(1)(i) and (c)(1)(ii) of the regulations, respectively) allow for the use of certain foreign interlinings and findings and trimmings, subject to a specified value limitation. Paragraph (e)(3) sets forth a new special rule added by the Act of 2004 which was discussed above. Under this new rule, an article otherwise eligible for preferential treatment under section 112 will not be ineligible for that treatment because the article contains certain specified components that fail to meet the applicable requirements set forth in section 112(b), regardless of the origin of the component (*see* new § 10.213(c)(1)(v) of the regulations). The specified components are: collars, cuffs, drawstrings, shoulder pads or other padding, waistbands, belt attached to the article, straps containing elastic, and elbow patches.

Comment:

A commenter asserts that, consistent with the plain language of section 112(b)(3)(B)(i) of the AGOA (as amended by section 3108(a)(3)(B) of the Act of 2002) [now section 112(c)(1)(A)], section 10.213(a)(5) of the interim regulations should be clarified or modified to indicate that the provision ''requires knit-to-shape apparel *articles* to be knit-to-shape and assembled in a lesser-developed beneficiary country, but does not require knit fabric components assembled in non-knit-to-shape articles to be knit in a beneficiary country.''

CBP's Response:

CBP agrees that the phrase ''or knit-to-shape and wholly assembled,'' refers to apparel articles. However, CBP disagrees with the commenter's conclusion with regard to knit fabric components assembled in non-knit-to-shape articles. It is assumed that the commenter is referring to knit components that have been knit-to-shape as the concern appears to be where those components are knit. CBP believes that the language of the provision (section 112(c)(1)(A) of the AGOA) must be read as a whole and in so doing, the language ''regardless of the country of origin of the fabric or the yarn used to make such articles'' must be considered. Congress clearly intended to allow third country fabric or yarn to be used in the production of apparel wholly assembled in lesser developed beneficiary countries. If Congress had intended to allow third-country components, whether knit-to-shape or cut to shape, it is reasonable to expect such intent would have been clearly reflected in the language of the statute as is the case of third-country fabric or yarn. No such intent is reflected in section 112(c)(1)(A) of the AGOA, although as noted above, the Special Rules in section 112(e) of the statute allow the use of certain third-country components. The commenter's effort to draw a distinction between knit-to-shape apparel and cut to shape apparel is without support in the language of the statute.

Comment:

A commenter argues that a distinction exists in § 10.213(a)(5) between knit-to-shape apparel articles and non-knit-to-shape (cut and sew) apparel articles. Based on this belief, the commenter states that a small foreign rectangular knit component, such as a collar, cannot disqualify, from Preference Group E, a non-knit-to-shape garment that is wholly assembled in a lesser-developed beneficiary country. The argument is that in the case of non-knit-to-shape apparel, ''the fabric containing minor knit rectangular components such as collars, cuffs and waistbands, may be knit in any country.'' However, for ''knit-to-shape apparel the components must be knit in a lesser-developed beneficiary country.'' The commenter believes that if CBP ''interprets section 3108(a)(3)(B) of the Trade Act of 2002 to prevent preferential treatment for a simple make garment, like a polo shirt, that is wholly assembled in a lesser-developed beneficiary country from a full package of third country fabric, including fabric containing rectangular components for the collars and cuffs, it strains the bounds of reasonable effectuation of preferential access policy and contradicts legislative intent.''

CBP's Response:

The response to the previous comment is equally applicable to this comment. CBP finds no basis in the language of the lesser developed beneficiary countries provision to justify a distinction between knit-to-shape and other apparel articles.

Comment:

Only knit-to-shape apparel articles are required to be knit-to-shape in a lesser developed beneficiary country under the terms of § 10.213(a)(5). Knit-to-shape apparel articles are defined as apparel articles ''of which 50 percent or more of the exterior surface area is formed by *major parts* that have been knitted or crocheted directly to the shape used in the apparel article.'' ''Major parts'' are defined as ''integral components of a good'' but not including ''collars, cuffs, waistbands, plackets, pockets, linings, paddings, trim, accessories, or similar parts.'' 19 CFR § 102.21(a)(4); *see also* § 10.212(k). Based on this reasoning, a commenter asserts that excluded from the definition of ''major parts'' are the types of components that § 10.213(a)(5) should not require to be knit-to-shape in a beneficiary country. Thus, the commenter seeks modification of § 10.213(a)(5) by the addition of a sentence at the end that states, ''Minor components of apparel articles that are not knit-to-shape articles may be assembled into such articles regardless [of] their origin and regardless [of] whether they are knit-to-shape components.'' The commenter also seeks the addition of the definition of ''major parts'' from § 102.21 or a cross-reference to the definition in § 102.21.

CBP's Response:

The commenter is using the definition of a knit-to-shape apparel article to argue that Congress must have meant that only ''major parts'' need be knit-to-shape in the lesser developed beneficiary sub-Saharan countries to be eligible to receive preferential treatment under the AGOA lesser developed beneficiary countries provision. The commenter asserts that in the case of knit-to-shape apparel articles, it should be permissible to source ''minor components'' which are not considered in determining whether an apparel article is knit-to-shape from third countries. In making this argument, the commenter has ignored the language in section 112(c)(1)(A) of the AGOA which states, ''regardless of the country of origin of the fabric or yarn.'' It is this phrase which is key to CBP's position that, except as expressly permitted by the Special Rules in section 112(e) of the AGOA, third-country components,

whether knit to shape or cut to shape, may not be used in the assembly of apparel articles under the lesser developed beneficiary countries provision.

The sentence which the commenter requests be added to § 10.213(a)(5) cannot be added as it goes beyond an interpretation of the language as enacted by Congress. The addition of such a statement would modify the scope of the provision and CBP does not have the authority to take such action.

Comment:

''Even if the reference to 'components' in section 3108(a)(3) of the Act of 2002 can be read into section 3108(a)(3)(B) setting forth the special rules for lesser-developed beneficiary countries, . . ., the term can only be understood to refer to the types of knit-to-shape components that render a garment a knit-to-shape garment as described in *What Every Member of the Trade Community Should Know About Knit to Shape Apparel Products*. The term as used does not apply to all components that may be classifiable as knit-to-shape garment parts.'' The commenter believes that based on CBP's interpretation of knit-to-shape apparel under 19 U.S.C. 3592 (rules of origin) and the presumption that Congress was aware of CBP's regulations and other administrative interpretations with respect to knit-to-shape apparel, ''Congress' reference to knit-to-shape components in the amended section [3108] should be understood to only refer to those knit-to-shape components which render a garment a knit-to-shape garment. No other components need meet the requirement that they be knit in a lesser-developed beneficiary country.''

Based on this line of reasoning, the commenter argues that even if collars are knit-to-shape components, they are not within the scope of the knit-to-shape components that must be knit in a lesser-developed beneficiary country under section 112(b)(3)(B)(i) of the AGOA, as amended by section 3108(a)(3)(B) of the Act of 2002 [now section 112(c)(1)(A)]. The commenter asserts that there is an interpretative opportunity for CBP to allow preferential treatment under Preference Group E ''for (i) non-knit-to-shape garments wholly assembled in lesser-developed beneficiary countries from fabric and *from knit fabric containing square or rectangular components* of any origin, and (ii) knit-to-shape garments wholly assembled in lesser-developed beneficiary countries from components knit-to-shape in one or more lesser-developed beneficiary countries regardless the origin of the yarn.'' [Emphasis added.]

CBP's Response:

The commenter's argument with regard to 19 U.S.C. 3592 (rules of origin for textiles and apparel) is misplaced. The AGOA is not based on the rules of origin for textile and apparel goods in part 102 of the CBP regulations; it is a program which is based on meeting the specific production requirements detailed by Congress in the various provisions of the AGOA.

In the case of the lesser developed beneficiary countries, Congress specified that the apparel must be ''wholly assembled, or knit-to-shape and wholly assembled, or both.'' In addition to specifying these requirements, Congress allowed the use of fabric or yarn in the production of apparel under this provision ''regardless of the country of origin.'' If Congress had intended the allowance of foreign-sourced (third-country) components (beyond that permitted by the Special Rules in section 112(e) of the AGOA), be they knit-to-shape or cut-to-shape, Congress would have so specified in this provision or Congress could have merely required that apparel be wholly assembled without specifically addressing the source of fabric and yarn.

The commenter, in this instance, is attempting to limit the meaning of ''knit-to-shape components'' based on the definition of ''knit-to-shape'' in the CBP regulations for determining the country of origin of textile goods (19 CFR 102.21). The commenter asks CBP to accept the assertion that Congress only meant to address those knit-to-shape components that are considered in determining whether a garment is knit-to-shape, *i.e.* ''major parts,'' in inserting the phrase ''knit-to-shape and wholly assembled'' in the rule for lesser developed beneficiary countries. Even if CBP were to accept this assertion (which CBP does not), the language of the provision does not support the commenter's contention that other knit-to-shape components may be of third-country origin. The commenter suggests that CBP may interpret the rule for lesser developed beneficiary countries to allow for the inclusion of ''knit fabric containing square or rectangular components of any origin'' in the case of cut-to-shape apparel. The language of the provision does not support the proposition that third-country components (other than those specified in the Special Rules), be they knit-to-shape or cut-to-shape, are allowed under the rule for lesser developed beneficiary countries. Nor is there a basis in the language of the provision to support the commenter's assertion that knit-to-shape garments and cut-to-shape garments should be treated differently with regard to an allowance for third-country components.

Comment:

A commenter asserts that ''[f]abric comprising simple rectangular knit components, like polo shirt collars, is not knit-to-shape components as that term has previously been defined by CBP, and it is not classifiable as such under the HTSUS.'' The commenter looks to the Informed Compliance Publication (ICP), *What Every Member of the Trade Community Should Know About Knit to Shape Apparel Products* for a discussion of when a component is considered to be ''knit-to-shape.'' The commenter admits that ''Customs never applied these rules [for determining if a component is knit-to-shape] to components such as collars, cuffs and waistbands, because such components are excluded altogether from consideration in determining whether a garment is a knit-to-shape garment.'' The commenter further argues that ''long rolls of knit fabric that is the size and shape of waistbands or cuffs but for cutting to length'' are fabric. In furtherance of this position, the commenter states that simple rectangular or square components are not ''made up'' articles within the meaning of Note 7, Section XI, HTSUS. In addition, the commenter believes the interim regulations definition of ''knit-to-shape components'' is too broad and vague.

CBP's Response:

With regard to the definition of knit-to-shape components as that term has been applied in the past by CBP, the commenter refers to the ICP, *What Every Member of the Trade Community Should Know About Knit to Shape Apparel Products,* to support the argument that a square or rectangular panel is not knit to shape. However, the commenter acknowledges that the ''rules'' regarding knit-to-shape components discussed in the ICP have never been applied to collars, cuffs, or waistbands. This is because the ICP is devoted to a discussion of knit-to-shape panels that are ''major parts'' of knit-to-shape apparel. The context in which the knit rectangular or square collar, cuff and waistband components have been examined under the AGOA is quite different than the focus of the ICP. The issue in the AGOA has been whether the knit rectangular or square collar, cuff and waistband components are components or fabric for purposes of determining a garment's eligibility under a provision that allows for the use of fabric or yarn without regard to origin.

The commenter cites to Note 7, Section XI, HTSUS, and claims that simple rectangular or square components are not ''made up'' articles as defined by that note. The commenter is correct, but only in part. Note 7 defines ''made up'', in pertinent part, as ''(a) Cut otherwise than into squares or rectangles;'' and ''(f) Knitted or crocheted to shape, whether presented as separate items or in the form of a number of items in the length.'' Rectangular or square components that are cut from larger pieces of fabric are, as the commenter pointed out, not ''made up'' articles as defined by Note 7. However, with regard to components such as collars, cuffs, and waistbands which may be knit-to-shape and whose shape happens to be rectangular, such components would fall within the language of Note 7(f) and thus be considered ''made up.''

Generally, collars which are knit-to-shape are knit in a series of collars separated by dividing threads or lines of demarcation. Thus, CBP must disagree with the commenter with regard to ''fabric'' which is knit with lines of demarcation to indicate the length and width of individual items which contain a self-start edge and are readily identifiable as garment components. Even if these individual items are rectangular in shape and require minor cutting or trimming before use, provided they have the essential character of the finished component, *i.e.,* they are clearly recognizable as the component, such as collars, following General Rule of Interpretation 2(a) of the HTSUS, they would be classified as the finished good, that is, as garment parts. CBP has issued a number of rulings regarding the classification of such garment parts or components. *See* New York Ruling Letter (NY) 813955 of September 6, 1995 (classification in subheading 6117.90, HTSUS (as parts of garments), of collars and cuffs knitted into rolls in which the collars and cuffs are connected with separating threads creating lines of demarcation), NY B80190 of December 9, 1996 (classification of collars and cuffs knitted into rolls in which the collars and cuffs are connected with separating threads creating lines of demarcation), NY F80642 of January 4, 2000 (classification of collars and cuffs knitted into rolls in which the collars and cuffs are connected with separating threads creating lines of demarcation), and HQ 560304 of April 25, 1997 (country of origin of collars and waistbands created by knitting a ''fabric'' consisting of collars and waistbands connected by a melting thread for separation into individual components by steaming).

As to the commenter's contention with regard to long rolls of knit fabric which are the size and shape of waistbands or cuffs but are to be cut to length, CBP agrees that such rolls remain fabric. Although strips of material may be used to produce any number of cuffs or waistbands or collars, if the quantity and identity of the components cannot be discerned from an examination of the material, CBP considers the material to be fabric. Support for this view may be found in *Coraggio Design, Inc. v. United States,* 12 CIT 143 (1988), in which the Court of International Trade, after discussing several cases involving the issue of material versus article or part, stated ''material cannot be classified as more than woven fabric when it is not processed to the point where the individual 'article' is identifiable with certainty, not cut to specific lengths or marked for cutting, and not advanced to a point where significant processing steps no longer remain.'' 12 CIT 143, 147.

As for the definition of ''knit-to-shape components,'' CBP in this final rule document is changing the definition, as already discussed, to add clarity.

Comment:

According to a commenter, CBP's position that collars and cuffs used in the production of articles under the lesser developed beneficiary countries provision ''are not fabric, but rather 'fabric components'. . . . is a distinction without a difference and these components should be properly characterized as fabric.'' The commenter states that ''in past rulings, the Customs Service has characterized knit fabric components as 'fabric.''' The commenter asserts that these fabric components are an integral part of the garment and are not themselves knit-to-shape and to adopt such an interpretation would not conflict with Congressional intent. This commenter requests that § 10.213(b)(5) of the regulations be clarified to allow the use of third country formed collars and cuffs.

CBP's Response:

CBP believes that the commenter's concerns have effectively been rendered moot by the addition of the new special rule in section 112(e)(3) of the AGOA by the Act of 2004, as discussed above. As applied to this commenter's specific concerns, this statutory change permits the use of collars and cuffs (cut or knit-to-shape) made in a non-lesser developed beneficiary country in the construction of apparel articles covered by section 112(c)(1)(A)of the AGOA (§ 10.213(b)(5)).

Comment:

Two commenters request that the regulations be clarified with regard to the eligibility under AGOA of garments knit-to-shape and assembled in a lesser developed beneficiary country with collars and cuffs knit in a non-lesser developed beneficiary country. These commenters disagree with CBP's interpretation that collars and cuffs must be knit-to-shape in a lesser developed beneficiary country in order for the apparel to qualify. The commenters believe apparel should still qualify for preferential treatment under the AGOA, provided the knit components which are knit-to-shape in a non-lesser developed beneficiary country otherwise meet the AGOA eligibility requirements.

CBP's Response:

Again, the commenters' concerns have been rendered moot by the new special rule in section 112(e)(3) of the AGOA and § 10.213(c)(1)(v) of the regulations.

Findings and Trimmings

Comment:

One commenter stated that the definition of the ''cost'' of components and the ''value'' of findings and trimmings and interlinings set forth in § 10.213(b)(2) of the Interim Regulations ''incorporate a bias that could overstate the relative cost of trim and findings'' in comparison to the cost of the other components of the article. The commenter pointed out that in the ''usual circumstance,'' components subject to the findings and trimmings exception would originate in a non-AGOA beneficiary country while the other components of the article would be produced at the site of manufacture of the article in an AGOA beneficiary country. Thus, by applying an f.o.b. port of exportation standard, the value of foreign findings and trimmings would include the cost of transportation within the country of origin, but the cost of the other components would include little or no transportation costs. The commenter suggests using an ex-factory cost or value in lieu of the f.o.b port of exportation standard provided for in § 10.213(b)(2) of the Interim Regulations.

CBP's Response:

CBP agrees with the commenter and believes that the definition of ''cost'' and ''value'' in re-designated § 10.213(c)(2) (formerly § 10.213(b)(2)) also has the potential for overstating the ''value'' of foreign interlinings in comparison to the ''cost'' of the components of the assembled article for the same reason cited by the commenter. CBP also agrees that the use

of an ex-factory standard in lieu of the f.o.b. port of exportation standard would resolve the potential problem by eliminating transportation costs from the comparison between the ''value'' of foreign findings and trimmings and/or foreign interlinings and the ''cost'' of the components of the assembled article. Therefore, CBP has revised re-designated § 10.213(c)(2) in this final rule document to incorporate an ex-factory standard in lieu of the f.o.b. port of exportation standard.

Post-Assembly Processing

Comment:

One commenter suggested that the regulations make it clear that post-assembly processes (such as embroidering, stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing or screen printing) do not disqualify an apparel article for preferential treatment when all other criteria for eligibility are met. The commenter noted that including such language in the AGOA regulations would be consistent with similar provisions currently found in the regulations relating to textile and apparel articles under the United States-Caribbean Basin Trade Partnership Act (CBTPA) (*see* § 10.223(b)(2)) and the Andean Trade Promotion and Drug Eradication Act (ATPDEA) (*see* § 10.243(b)(2)).

CBP's Response:

Nearly identical comments were previously received in response to the initial AGOA interim regulations adopted in T.D. 00–67. An analysis of these previous comments relating to post-assembly processing is set forth above in this final rule document in the discussion of comments on post-assembly processing received in response to T.D. 00–67.

Short Supply

Comment:

A commenter strongly disagreed with the language in § 10.213(a)(8) that excludes brassieres from receiving preferential treatment under this short supply provision. The commenter recommended that the words '', other than brassieres classifiable under subheading 6212.10, HTSUS,'' (which were added to § 10.213(a)(8) by T.D. 03–15) be deleted. CBP concluded in T.D. 03–15 that Congress intended to exclude brassieres from the AGOA short supply provision because the CBTPA and the ATPDEA each contained separate provisions specific to preferential treatment for brassieres and as the short supply language in the three trade preference programs are substantially similar, if the short supply provisions in CBTPA and ATPDEA do not include brassieres, then neither does AGOA's short supply provision. The commenter stated that, as a result of amendments made by the Act of 2002, language was included in the CBTPA and ATPDEA preference provisions covering brassieres that specifically envisions brassieres being imported under the short supply provisions in each of those two trade preference programs. The commenter stated that this statutory language stands in sharp contrast to CBP's view that brassieres are not eligible for short supply treatment in those trade programs.

CBP's response:

As CBP stated in the discussion of the interim amendments in the preamble of T.D. 03–15, § 10.223(a)(7) provides for apparel articles constructed of fabrics or yarns which for purposes of Annex 401 of the NAFTA are deemed to be in ''short supply.'' There is no list of ''short supply'' fabrics or yarns for purposes of the NAFTA. The determination of these ''short supply'' fabrics or yarns is based upon the various provisions of the NAFTA and whether, under the NAFTA, for the particular apparel article at issue, certain fabrics or yarns may be sourced from outside the NAFTA parties for use in the production of an ''originating'' good. If the sourcing of certain fabrics or yarns outside the NAFTA parties is allowed, then those fabrics or yarns are deemed to be in ''short supply'' for that apparel article.

In the case of brassieres under the NAFTA, no restrictions or limitations apply regarding fabrics or yarns. Therefore, fabrics and yarns may be obtained from anywhere. The only requirement under Annex 401 is that articles classified in subheading 6212.10, HTSUS, must be ''both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the NAFTA parties.'' CBP believes that the absence of NAFTA restrictions on fabrics or yarns used in the production of brassieres, does not mean that all fabrics or yarns used for this purpose must be in ''short supply.'' CBP submits that applying the short supply provision to a product where the NAFTA rule makes no mention of excluded materials would render meaningless the specific provisions on brassieres in the CBTPA and ATPDEA. Thus, CBP remains of the view that it was appropriate to amend § 10.213(a)(8) to clarify that brassieres are not covered by this provision.

Additionally, the commenter pointed out that, as a result of amendments made by the Act of 2002, language was added to the preferential provisions specifically covering brassieres in the CBTPA and ATPDEA which excluded articles covered by certain other provisions in those programs. According to the commenter, the exception language added by Congress to the brassiere provisions clearly envisioned brassieres being imported under these excluded provisions, including the short supply provisions. In CBP's opinion, the addition of this exception language should not be interpreted as indicating that brasseries are eligible under any or all of the excepted provisions. This clarifying language merely states that any brassieres classified in one of the excepted provisions would not be considered in determining eligibility under the specific CBTPA and ATPDEA brassiere provisions.

Certificate of Origin

Comment:

A commenter expressed agreement with the removal of the words ''in a beneficiary country'' from § 10.217(a)(2) and (a)(3) in recognition of the fact ''that many companies do not necessarily keep the verification documentation in the factory that performed the sewing.'' The commenter also recommended that the Certificate of Origin be further simplified into one form to serve the AGOA, the CBTPA and the ATPDEA programs because the requirements for these programs are the same. The commenter also suggested that the exporter be given the option of inserting ''available upon request'' in the three blocks on the Certificate in which the names and addresses of the producers of the fabric, yarn and thread are to be provided.

CBP's Response:

CBP would certainly be open to any suggestions concerning the simplification of the Certificate of Origin. However, developing one form to accommodate AGOA, CBTPA and ATPDEA would result in the form becoming substantially more complex, especially for the exporter who is required to complete the form and is responsible for ensuring that the information is accurate. Although the textile and apparel provisions in the three programs are substantially similar, there are sufficient differences in the preferential groupings and requirements among the programs to present significant obstacles to the creation of a common certificate.

With regard to the commenter's recommendation that CBP accept ''available upon request'' in the blocks on the Certificate where the names and addresses of the yarn, fabric and thread suppliers are to be provided, CBP notes that the same suggestion previously was

made by several commenters in response to T.D. 00–67. CBP's response to that suggestion is set forth above in the discussion of comments received in response to T.D. 00–67 (under the heading ''Certificate of Origin'').

Other Issues

Comment:

A commenter recommends a change in the language in § 10.213(a)(1) and (a)(2) to add the phrase ''or both'' before the parenthetical. The commenter believes it will clarify that garments using a combination of knit-to-shape components and cut fabric components are allowed.

CBP's Response:

The commenter's concerns have been addressed by an amendment to section 112(b)(1) of the AGOA by the Act of 2004. Accordingly, as discussed previously, CBP has in this final rule document amended § 10.213(a)(1) and (a)(2) by adding the words ''or both'' immediately before the parenthetical matter.

Comment:

A commenter recommends changing the language in § 10.213(a)(4) ''from yarns originating either in the United States or one or more beneficiary countries'' to ''from yarns originating in any combination of the United States or one or more beneficiary countries.'' The commenter believes this will clarify that a combination of U.S. and sub-Saharan African yarns is allowed in the production of fabric or knit-to-shape components.

CBP's Response:

Again, the commenter's concerns have been addressed by an amendment to section 112(b)(3) of the AGOA by the Act of 2004. As amended in this final rule document, § 10.213(a)(4) now reads, in pertinent part: ''. . . from yarns originating in the United States or one or more beneficiary countries or former beneficiary countries, *or both. . . .''* (Emphasis added.)

Comment:

A commenter requested that the language, ''or any combination of the above fabric formation or knit to shape operations'' be added immediately before the ''subject to the applicable quantitative limit'' language in § 10.213(a)(4). The commenter believes this will clarify that cut fabric components and knit-to-shape components may be combined.

CBP's Response:

The language set forth in § 10.213(a)(4) is consistent with the statutory language in section 112(b)(3) of the AGOA. In addition, the suggested change is unnecessary as CBP construes the word ''or'' between ''fabric wholly formed in one or more beneficiary countries'' and ''components knit-to-shape in one or more beneficiary countries'' in the context in which it is used in § 10.213(a)(4) to mean ''and/or.''

Comment:

A commenter proposed that CBP clarify various hybrid operations by the addition of a ''global hybrid phrase'', which may appear as a new special rule in § 10.213(b)(1) [re-designated in this document as § 10.213(c)(1)]. The rule would provide that an article otherwise eligible for preferential treatment will not be ineligible for that treatment because it contains: ''(v) Fabrics, fabric components formed, or components knit-to-shape described in paragraph (a)(1).'' According to the commenter, the insertion of this new provision in the regulations will ensure that the inclusion of United States components in a garment will not render the garment ineligible for duty benefits. The commenter also states that the inclusion of such a provision is consistent with pending clarifying changes that Congress is considering, which will provide further guidance as to original congressional intent.

CBP's Response:

The commenter's concerns were partially addressed by an amendment to section 112(b)(3) of the AGOA made by the Act of 2004 which added the words ''whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (1) or (2)'' of section 112(b). A comparable change has been made in this document to § 10.213(a)(4). However, beyond this change, CBP is without authority to add the requested new special rule in the regulations as it would change the scope of certain of the statutory preferential groupings.

Additional Changes to the CBP Regulations

In addition to the regulatory changes identified and discussed above in connection with (1) the statutory changes to the AGOA made by section 7 of the Act of 2004 and section 6002 of the Act of 2006, and (2) the discussion of public comments in response to T.D. 00–67 and T.D. 03–15, the regulatory texts set forth below incorporate the following additional changes which CBP believes are necessary based on further internal review of the interim regulatory texts:

1. As a result of changes to the AGOA made by section 3108(a) of the Act of 2002, T.D. 03–15 amended paragraphs (a)(1), (a)(2), and (a)(3) of interim §§ 10.213 (among other changes to the interim regulations) to insert the words ''sewn or otherwise'' immediately before the words ''assembled in one or more beneficiary countries.'' In addition, a new paragraph (a)(11) was added to § 10.213 by T.D. 03–15 to reflect the addition of new paragraph (b)(7) to section 112 of the AGOA by the Act of 2002. The words ''sewn or otherwise assembled in one or more beneficiary countries'' appear in § 10.213(a)(11) as well. As a result of these changes, the definition of ''assembled in one or more beneficiary countries'' in interim § 10.212 has been replaced by a definition of ''sewn or otherwise assembled in one or more beneficiary countries'' (now § 10.212(q)). The substance of the definition has not changed.

2. CBP has determined that the definition of ''foreign'' as set forth in interim § 10.212 could cause some confusion and might lead to anomalous and unintended results in certain circumstances. That definition (which has relevance only in the context of the findings, trimmings and interlinings provisions of re-designated § 10.213(c)) in the interim texts simply reads ''of a country other than the United States or a beneficiary country.'' However, because the various textile and apparel articles to which preferential treatment applies are described in § 10.213(a) with reference to specific production processes in the case of yarns, fabrics and components that must take place in the United States or in a beneficiary country (or in certain instances, in a former beneficiary country) or both, more is required than that the yarn or fabric or component be ''of'' (that is, have its origin in) the United States or a beneficiary country. For example, § 10.213(a)(1) refers to articles ''sewn or otherwise assembled'' in one or more beneficiary countries from ''fabrics wholly formed and cut'' in the United States from ''yarns wholly formed'' in the United States. A fabric that was wholly formed in the United States but from yarns formed outside the United States would not meet the § 10.213(a)(1) standard and also would not be considered ''foreign'' under the interim definition because it is ''of'' (that is, it has its origin in) the United States by virtue of its having been formed in the United States. Therefore, that fabric could not be present in the article under the finding, trimming or interlining rule exception; consequently, even if all of the other fabric in the article was wholly formed and cut in the United States from yarns wholly formed in the United States and the article was assembled in a beneficiary country, the assembled article would not qualify for preferential

treatment. On the other hand, a fabric formed outside the United States or the AGOA region, if used as a finding, trimming or interlining within the 25 percent limit, would not disqualify the article. Thus, under the interim definition of ''foreign,'' U.S. and beneficiary country textile materials could be at a disadvantage vis-a-vis materials from outside the United States and the AGOA region, contrary to the overall thrust of the AGOA program as discussed in the comment discussion set forth above in this document. CBP believes that the interim definition was appropriate in the case of non-textile findings and trimmings. However, in the case of textile findings, trimmings and interlinings the concept of ''foreign'' logically only has relevance in the context of an exception to the production standards that apply to articles eligible for preferential treatment. Accordingly, the definition of ''foreign'' has been replaced by a definition of ''foreign origin'' in § 10.212(e) to address these concerns.

3. Section 10.213(a)(6) includes a reference to subheading 6110.10, HTSUS, which has been replaced by subheading 6110.12, HTSUS. Accordingly, the reference in § 10.213(a)(6) to subheading 6110.10 has been replaced by a reference to subheading 6110.12.

4. CBP has determined that the producer or the producer's authorized agent having knowledge of the relevant facts should be permitted to sign the Certificate of Origin in addition to the exporter or the exporter's authorized agent. The producer clearly is in the best position to attest to the accuracy of the information set forth in the Certificate. Therefore, §§ 10.214(a), 10.214(c)(13), and 10.216(b)(2) have been changed to provide that the Certificate of Origin must be signed by the exporter or producer or by the exporter's or producer's authorized agent having knowledge of the relevant facts. CBP notes that this change is consistent with changes to the implementing regulations under the Caribbean Basin Trade Partnership Act (CBTPA) and the Andean Trade Promotion and Drug Eradication Act (ATPDEA) and thus brings uniformity to the three programs in this regard.

5. References to ''Customs'' within the regulatory text in §§ 10.214, 10.215, 10.216, and 10.217 have been changed to ''CBP.''

6. Several numerical or alphabetical paragraph designations or other references within regulatory text in §§ 10.212, 10.213, 10.214, 10.216, and 10.217 have been changed to conform to additions or other changes to the regulatory texts discussed above.

7. In § 178.2, the table has been amended by adding a listing for §§ 10.214–10.216 to provide the Office of Management and Budget (OMB) control number for the collection of information in §§ 10.214–10.216.

Conclusion

Accordingly, based on the analysis of comments received as set forth above and the additional considerations discussed above, CBP is adopting as a final rule the interim regulations initially published in T.D. 00–67 and later amended in T.D. 03–15 with certain changes as discussed above and as set forth below. The following is a comprehensive listing of all of the changes made to the interim regulatory texts by CBP in this final rule document:

1. In § 10.178a, paragraphs (d)(2) and (d)(4)(ii) have been revised to provide for the inclusion of the cost or value of materials produced in ''former beneficiary sub-Saharan African countries'' toward meeting the GSP 35% value-content requirement, and a new paragraph (d)(5) has been added to define ''former beneficiary sub-Saharan African country;''

2. In § 10.212:

a. The definition of ''apparel articles'' (now paragraph (a)) has been revised to delete heading ''6503'', to replace the reference to subheading ''6406.99'' of the HTSUS with a reference to subheading ''6406.90.15'', and to replace the reference to subheading ''6505.90'' with a reference to subheadings ''6505.00.02–6505.00.90'';

b. The definition of ''assembled in one or more beneficiary countries'' has been replaced by a definition of ''sewn or otherwise assembled in one or more beneficiary countries'' (now paragraph (q));

c. The definition of ''cut in one or more beneficiary countries'' (now paragraph (c)) has been revised to add the words ''or were cut from fabric in the United States and used in a partial assembly operation in the United States prior to the cutting of fabric and final assembly of the article in one or more beneficiary countries, or both;''

d. A definition of ''ethnic printed fabric'' has been added as new paragraph (d);

e. The definition of ''foreign'' has been replaced by a definition of ''foreign origin'' (now paragraph (e));

f. A definition of ''former beneficiary country'' has been added as new paragraph (f);

g. The definition of ''knit-to-shape components'' (now paragraph (i)) has been modified to clarify the words ''specific shape'' and to replace the article ''a'' immediately before ''self-start edge'' with the words ''at least one'' to clarify that knit-to-shape components may contain one or more self-start edges;

h. A definition of ''lesser developed beneficiary country'' has been added as new paragraph (j);

i. A definition of ''self-start edge'' has been added as new paragraph (o);

j. A definition of ''sewing thread'' has been added as new paragraph (p);

k. The definition of ''wholly formed fabrics'' (now paragraph (s)) has been modified to clarify that fabric formation does not encompass dyeing, printing and finishing operations; and

l. The definition of ''wholly formed yarns'' (now paragraph (u)) has been revised to clarify that draw-texturing to fully orient a filament falls within the scope of ''wholly formed'' as it relates to yarn while dyeing, printing, and finishing operations do not;

3. In § 10.213, paragraphs (a)(1) and (a)(2) have been revised to include the words ''or both'' immediately before the parenthetical matter to clarify that the described apparel articles may be made both from fabrics wholly formed and cut in the United States and from components knit-to-shape in the United States;

4. In § 10.213, paragraphs (a)(3) and (a)(11) have been modified to insert the word ''sewing'' before the word ''thread;''

5. In § 10.213, paragraph (a)(4) has been revised to replace the words ''either in the United States or one or more beneficiary countries'' each place they appear with the words ''in the United States or one or more beneficiary countries or former beneficiary countries, or both,'' and to insert the words ''whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (a)(1), paragraph (a)(2) or paragraph (a)(3) of this section (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (a)(1), paragraph (a)(2), or paragraph (a)(3) of this section),'' immediately before the words ''subject to;''

6. In § 10.213, paragraph (a)(6) has been revised to replace the reference to ''subheading 6110.10 of the HTSUS'' with ''subheading 6110.12 of the HTSUS;''

7. In § 10.213, paragraph (a)(8) has been modified to remove the words ''from fabrics or yarn that is not formed

in the United States or a beneficiary country;''

8. In § 10.213, paragraph (a)(10) has been modified to add a reference to ''ethnic printed fabric;''

9. In § 10.213, paragraph (a)(11) has been revised to add references to ''former beneficiary countries;''

10. In § 10.213, a new paragraph (a)(12) has been added to include preferential treatment for ''[t]extile and textile articles classifiable under Chapters 50 through 60 or Chapter 63 of the HTSUS that are products of a lesser developed beneficiary country and are wholly formed in one or more such countries from fibers, yarns, fabrics, fabric components, or components knit-to-shape that are the product of one or more such countries;''

11. In § 10.213, a new paragraph (b) has been added (with paragraphs (b) and (c) of the interim regulations re-designated as (c) and (d)) to provide:

a. In paragraph (b)(1)), in part, that while dyeing, printing, and finishing operations are not part of the fabric, component, or yarn formation process, those operations are only permissible if performed in the United States or in a beneficiary country; and

b. In paragraph (b)(2)), in part, that articles otherwise entitled to preferential treatment under the AGOA will not be disqualified from receiving that treatment because they undergo post-assembly operations in the United States or in one or more beneficiary countries;

12. In § 10.213, re-designated paragraph (c)(1)(iv) (formerly paragraph (b)(1)(iv)) has been modified to add a reference to ''former beneficiary countries'' and to increase the applicable *de minimis* percentage from 7 to 10 percent;

13. In § 10.213, re-designated paragraph (c) (formerly paragraph (b)) has been revised to add a new paragraph (c)(1)(v) that sets forth a new special rule regarding certain specified components;

14. In § 10.213, re-designated paragraph (c)(2) (formerly paragraph (b)(2)) has been modified to incorporate an ex-factory standard in lieu of the f.o.b. port of exportation standard;

15. In § 10.214, paragraphs (a), (b)(2), and (c)(13) have been revised to provide that the Certificate of Origin must be signed by the exporter or producer or by the exporter's or producer's authorized agent having knowledge of the relevant facts;

16. In § 10.214, the preference group descriptions on the Certificate of Origin set forth in paragraph (b) have been revised, as appropriate, to reflect the changes and additions made to the textile and apparel product descriptions in paragraphs (a)(1), (a)(2), (a)(4), (a)(8), (a)(10), (a)(11), and (a)(12) of § 10.213;

17. In § 10.214, the instructions for the completion of the Certificate of Origin set forth in paragraph (c) have been revised, as appropriate, to reflect the changes made to the Certificate;

18. In §§ 10.214, 10.215, 10.216, and 10.217, references to ''Customs'' have been changed to ''CBP;''

19. In §§ 10.212, 10.213, 10.214, 10.216, and 10.217, certain numerical or alphabetical paragraph designations or other references have been changed to conform to additions or other changes to the regulatory texts discussed above;

20. In the Appendix to Part 163, the reference to the ''AGOA Textile Certificate of Origin and supporting records'' in the ''(a)(1)(A)'' list has been modified by deleting the words ''and supporting records;'' and

21. In § 178.2, the table has been modified to provide the OMB control number for the collection of information in §§ 10.214 through 10.216.

In view of the multiple changes throughout the AGOA textile and apparel regulatory provisions contained in §§ 10.211 through 10.217, those provisions are revised in their entirety in this final rule document.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a ''significant regulatory action,'' under section 3(f) of Executive Order 12866 as it is not likely to have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order. Accordingly, OMB has not reviewed this regulation.

Regulatory Flexibility Act

As set forth in the preamble of this final rule document, the regulations to implement the trade benefits for sub-Saharan Africa contained in the AGOA as well as certain changes to the GSP statute were previously published in T.D. 00–67 and T.D. 03–15 as interim regulations. Those interim regulations provided trade benefits to the importing public, in some cases implemented direct statutory mandates, and were necessary to carry out the preferential treatment and U.S. tariff changes proclaimed by the President under the AGOA. Pursuant to the provisions of 5 U.S.C. 553(b)(B), CBP issued the regulations as interim rules because it had determined that prior public notice and comment procedures on these regulations were unnecessary and contrary to the public interest. For these reasons, pursuant to the provisions of 5 U.S.C. 553(d)(1) and (3), CBP also found that there was good cause for dispensing with a delayed effective date. Because no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*) do not apply. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The collection of information contained in this final rule has previously been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1651–0082. The collection of information in this final rule is in sections 10.214, 10.215, and 10.216. This information is used by CBP to determine whether textile and apparel articles imported from designated beneficiary sub-Saharan African countries are entitled to duty-free entry under the African Growth and Opportunity Act. The likely respondents are business organizations including importers, exporters, and manufacturers.

The estimated average number of respondents filing annually under AGOA is 210, with each respondent filing an average of 107 AGOA claims per year for an aggregate total of 22,470 claims. The average time to complete each claim is 20 minutes which results in an annual burden of 7,640 hours for this collection of information. Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a

collection of information unless it displays a valid OMB control number.

Signing Authority

This final rule is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain CBP revenue functions.

List of Subjects

19 CFR Part 10

Assembly, Bonds, Caribbean Basin Initiative, Customs duties and inspection, Exports, Generalized System of Preferences, Imports, Preference programs, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Imports, Reporting and recordkeeping requirements.

19 CFR Part 178

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

Amendments to the CBP Regulations

Accordingly, the interim rule amending Parts 10 and 163 of the CBP regulations (19 CFR Parts10 and 163), which was published at 65 FR 59668–59681 on October 5, 2000, corrected at 65 FR 67260 on November 9, 2000, and further amended at 68 FR 13820–13827 on March 21, 2003, is adopted as a final rule with certain changes as discussed above and set forth below. In addition, Part 178 of the CBP regulations (19 CFR Part 178) is amended as discussed above and set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

■ 1. The general authority citation for Part 10 and the specific authority for §§ 10.171 through 10.178a and §§ 10.211 through 10.217 continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

* * * * *

Sections 10.171 through 10.178a also issued under 19 U.S.C. 2461 *et seq.;*

* * * * *

Sections 10.211 through 10.217 also issued under 19 U.S.C. 3721;

* * * * *

■ 2. In § 10.178a, paragraphs (d)(2) and (d)(4)(ii) are revised and paragraph (d)(5) is added to read as follows:

10.178a Special duty-free treatment for sub-Saharan African countries

* * * * *

(d) * * *

(2) In the GSP declaration set forth in § 10.173(a)(1)(i), the column heading ''Materials produced in a beneficiary developing country or members of the same association'' should read ''Material produced in a beneficiary sub-Saharan African country, a former beneficiary sub-Saharan African country, or the U.S.;''

* * * * *

(4) * * *

(ii) The cost or value of materials included in the article that are produced in more than one beneficiary sub-Saharan African country or former beneficiary sub-Saharan African country may be applied without regard to whether those countries are members of the same association of countries.

(5) As used in this paragraph, the term ''former beneficiary sub-Saharan African country'' means a country that, after being designated by the President as a beneficiary sub-Saharan African country under section 506A of the Trade Act of 1974 (19 U.S.C. 2466a), ceased to be designated as such a beneficiary sub-Saharan African country by reason of its entering into a free trade agreement with the United States.

* * * * *

■ 3. Subpart D is revised to read as follows:

Subpart D—Textile and Apparel Articles Under the African Growth and Opportunity Act

Sec.

10.211 Applicability.
10.212 Definitions.
10.213 Articles eligible for preferential treatment.
10.214 Certificate of Origin.
10.215 Filing of claim for preferential treatment.
10.216 Maintenance of records and submission of Certificate by importer.
10.217 Verification and justification of claim for preferential treatment.

§ 10.211 Applicability.

Title I of Public Law 106–200 (114 Stat. 251), entitled the African Growth and Opportunity Act (AGOA), authorizes the President to extend certain trade benefits to designated countries in sub-Saharan Africa. Section 112 of the AGOA, codified at 19 U.S.C. 3721, provides for the preferential treatment of certain textile and apparel articles from beneficiary countries. The provisions of §§ 10.211–10.217 of this part set forth the legal requirements and procedures that apply for purposes of extending preferential treatment pursuant to section 112.

§ 10.212 Definitions.

When used in §§ 10.211 through 10.217, the following terms have the meanings indicated:

(a) *Apparel articles.* ''Apparel articles'' means goods classifiable in Chapters 61 and 62 and headings 6501, 6502, 6504 and subheadings 6406.90.15 and 6505.00.02–6505.00.90, of the HTSUS;

(b) *Beneficiary country.* ''Beneficiary country'' means a country listed in section 107 of the AGOA (19 U.S.C. 3706) which has been the subject of a finding by the President or his designee, published in the **Federal Register**, that the country has satisfied the requirements of section 113 of the AGOA (19 U.S.C. 3722) and which the President has designated as a beneficiary sub-Saharan African country under section 506A of the Trade Act of 1974 (19 U.S.C. 2466a). *See* U.S. Note 1, Subchapter XIX, Chapter 98, Harmonized Tariff Schedule of the United States (HTSUS);

(c) *Cut in one or more beneficiary countries.* ''Cut in one or more beneficiary countries'' when used with reference to apparel articles means that all fabric components used in the assembly of the article were cut from fabric in one or more beneficiary countries, or were cut from fabric in the United States and used in a partial assembly operation in the United States prior to cutting of fabric and final assembly of the article in one or more beneficiary countries, or both;

(d) *Ethnic printed fabrics.* ''Ethnic printed fabrics'' means fabrics:

(1) Containing a selvedge on both edges, having a width of less than 50 inches, classifiable under subheading 5208.52.30 or 5208.52.40 of the HTSUS;

(2) Of the type that contains designs, symbols, and other characteristics of African prints:

(i) Normally produced for and sold on the indigenous African market; and

(ii) Normally sold in Africa by the piece as opposed to being tailored into garments before being sold in indigenous African markets;

(3) Printed, including waxed, in one or more eligible beneficiary countries; and

(4) Formed in the United States, from yarns formed in the United States, or from fabric formed in one or more beneficiary countries from yarn originating in either the United States or one or more beneficiary countries;

(e) *Foreign origin.* ''Foreign origin'' means, in the case of a finding or trimming of non-textile materials, that the finding or trimming is a product of a country other than the United States or a beneficiary country and, in the case of a finding, trimming, or interlining of textile materials, that the finding, trimming, or interlining does not meet all of the United States and beneficiary country or former beneficiary country production requirements for yarns, fabrics, and/or components specified under § 10.213(a) for the article in which it is incorporated;

(f) *Former beneficiary country.* ''Former beneficiary country'' means a country that, after being designated by the President as a beneficiary sub-Saharan African country under section 506A of the Trade Act of 1974 (19 U.S.C. 2466a), ceased to be designated as such a beneficiary sub-Saharan African country by reason of its entering into a free trade agreement with the United States;

(g) *HTSUS.* ''HTSUS'' means the Harmonized Tariff Schedule of the United States;

(h) *Knit-to-shape articles.* ''Knit-to-shape,'' when used with reference to sweaters or other apparel articles, means any apparel article of which 50 percent or more of the exterior surface area is formed by major parts that have been knitted or crocheted directly to the shape used in the apparel article, with no consideration being given to patch pockets, appliques, or the like. Minor cutting, trimming, or sewing of those major parts will not affect the determination of whether an apparel article is ''knit-to-shape;''

(i) *Knit-to-shape components.* ''Knit-to-shape,'' when used with reference to textile components, means components that are knitted or crocheted from a yarn directly to a specific shape, that is, the shape or form of the component as it is used in the apparel article, containing at least one self-start edge. Minor cutting or trimming will not affect the determination of whether a component is ''knit-to-shape;''

(j) *Lesser developed beneficiary country.* ''Lesser developed beneficiary country'' means a country that is enumerated in U.S. Note 2(d), Subchapter XIX, Chapter 98, HTSUS and that is also enumerated in U.S. Note 1, Subchapter XIX, Chapter 98, HTSUS. *See* section 112(c)(3) of the AGOA (19 U.S.C. 3721(c)(3));

(k) *Major parts.* ''Major parts'' means integral components of an apparel article but does not include collars, cuffs, waistbands, plackets, pockets, linings, paddings, trim, accessories, or similar parts or components;

(l) *NAFTA.* ''NAFTA'' means the North American Free Trade Agreement entered into by the United States, Canada, and Mexico on December 17, 1992;

(m) *Originating.* ''Originating'' means having the country of origin determined by application of the provisions of § 102.21 of this chapter;

(n) *Preferential treatment.* ''Preferential treatment'' means entry, or withdrawal from warehouse for consumption, in the customs territory of the United States free of duty and free of any quantitative limitations, as provided in 19 U.S.C. 3721(a);

(o) *Self-start edge.* ''Self-start edge,'' when used with reference to knit-to-shape components, means a finished edge which is finished as the component comes off the knitting machine. Several components with finished edges may be linked by yarn or thread as they are produced from the knitting machine;

(p) *Sewing thread.* ''Sewing thread'' means thread designed and used for the assembly or hemming of textile or apparel components or articles;

(q) *Sewn or otherwise assembled in one or more beneficiary countries.* ''Sewn or otherwise assembled in one or more beneficiary countries'' when used in the context of a textile or apparel article has reference to a joining together of two or more components that occurred in one or more beneficiary countries, whether or not a prior joining operation was performed on the article or any of its components in the United States;

(r) *Wholly assembled in.* ''Wholly assembled,'' when used with reference to a textile or apparel article in the context of one or more beneficiary countries or one or more lesser developed beneficiary countries, means that all of the components of the textile or apparel article (including thread, decorative embellishments, buttons, zippers, or similar components) were joined together in one or more beneficiary countries or one or more lesser developed beneficiary countries;

(s) *Wholly formed fabrics.* ''Wholly formed,'' when used with reference to fabric(s), means that all of the production processes, starting with polymers, fibers, filaments, textile strips, yarns, twine, cordage, rope, or strips of fabric and ending with a fabric by a weaving, knitting, needling, tufting, felting, entangling or other process, took place in the United States or in one or more beneficiary countries or former beneficiary countries. For purposes of this definition, dyeing, printing and finishing operations are not production processes that involve fabric formation (*see* § 10.213(b)(1));

(t) *Wholly formed on seamless knitting machines.* ''Wholly formed on seamless knitting machines,'' when used to describe apparel articles, has reference to a process that created a knit-to-shape apparel article by feeding yarn(s) into a knitting machine to result in that article. When taken from the knitting machine, an apparel article created by this process either is in its final form or requires only minor cutting or trimming or the addition of minor components or parts such as patch pockets, appliques, capping, or elastic strip; and

(u) *Wholly formed yarns.* ''Wholly formed,'' when used with reference to yarns, means that all of the production processes, starting with the extrusion of filament, strip, film, or sheet and including drawing to fully orient a filament, slitting a film or sheet into strip, or the spinning of all fibers into yarn, or both, and ending with a yarn or plied yarn, took place in a single country. For purposes of this definition, dyeing, printing and finishing operations are not production processes that involve yarn formation (*see* § 10.213(b)(1)).

§ 10.213 Articles eligible for preferential treatment.

(a) *General.* The preferential treatment referred to in § 10.211 applies to the following textile and apparel articles that are imported directly into the customs territory of the United States from a beneficiary country:

(1) Apparel articles sewn or otherwise assembled in one or more beneficiary countries from fabrics wholly formed and cut, or from components knit-to shape, in the United States, from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed and cut in the United States) that are entered under subheading 9802.00.80 of the HTSUS;

(2) Apparel articles sewn or otherwise assembled in one or more beneficiary countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States, from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed and cut in the United States) that are entered under Chapter 61 or 62 of the HTSUS, if, after that assembly, the articles would have qualified for entry under subheading 9802.00.80 of the HTSUS

but for the fact that the articles were embroidered or subjected to stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing, screen printing, or other similar processes in a beneficiary country;

(3) Apparel articles sewn or otherwise assembled in one or more beneficiary countries with sewing thread formed in the United States from fabrics wholly formed in the United States and cut in one or more beneficiary countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if those fabrics are classified under heading 5602 or 5603 of the HTSUS and are wholly formed in the United States);

(4) Apparel articles wholly assembled in one or more beneficiary countries from fabric wholly formed in one or more beneficiary countries from yarns originating in the United States or one or more beneficiary countries or former beneficiary countries, or both (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed in one or more beneficiary countries), or from components knit-to-shape in one or more beneficiary countries from yarns originating in the United States or one or more beneficiary countries or former beneficiary countries, or both, or apparel articles wholly formed on seamless knitting machines in a beneficiary country from yarns originating in the United States or one or more beneficiary countries or former beneficiary countries, or both, whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (a)(1), (2) or (3) of this section (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (a)(1), (2), or (3) of this section), subject to the applicable quantitative limit published in the **Federal Register** pursuant to U.S. Note 2, Subchapter XIX, Chapter 98, HTSUS;

(5) Apparel articles wholly assembled, or knit to shape and wholly assembled, or both, in one or more lesser developed beneficiary countries regardless of the country of origin of the fabric or the yarn used to make the articles, subject to the applicable quantitative limit published in the **Federal Register** pursuant to U.S. Note 2, Subchapter XIX, Chapter 98, HTSUS;

(6) Sweaters, in chief weight of cashmere, knit-to-shape in one or more beneficiary countries and classifiable under subheading 6110.12 of the HTSUS;

(7) Sweaters, containing 50 percent or more by weight of wool measuring 21.5 microns in diameter or finer, knit-to-shape in one or more beneficiary countries;

(8) Apparel articles, other than brassieres classifiable under subheading 6212.10, HTSUS, that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary countries, provided that the apparel articles would be considered an originating good under General Note 12(t) HTSUS, without regard to the source of the fabric or yarn of which the articles are made, if the apparel articles had been imported directly from Canada or Mexico;

(9) Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary countries from fabrics or yarn that the President or his designee has designated in the **Federal Register** as not available in commercial quantities in the United States;

(10) A handloomed, handmade, or folklore article or an ethnic printed fabric of a beneficiary country or countries that is certified as a handloomed, handmade, or folklore article or an ethnic printed fabric by the competent authority of the beneficiary country or countries, provided that the President or his designee has determined that the article in question will be treated as being a handloomed, handmade, or folklore article or an ethnic printed fabric;

(11) Apparel articles sewn or otherwise assembled in one or more beneficiary countries with sewing thread formed in the United States:

(i) From components cut in the United States and one or more beneficiary countries or former beneficiary countries from fabric wholly formed in the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS);

(ii) From components knit-to-shape in the United States and one or more beneficiary countries or former beneficiary countries from yarns wholly formed in the United States; or

(iii) From any combination of two or more of the cutting or knitting-to-shape operations described in paragraph (a)(11)(i) or paragraph (a)(11)(ii) of this section; and

(12) Textile and textile articles classifiable under Chapters 50 through 60 or Chapter 63 of the HTSUS that are products of a lesser developed beneficiary country and are wholly formed in one or more such countries from fibers, yarns, fabrics, fabric components, or components knit-to-shape that are the product of one or more such countries.

(b) *Dyeing, printing, finishing and other operations.* (1) *Dyeing, printing and finishing operations.* Dyeing, printing and other finishing operations do not constitute part of a yarn or fabric or component formation process. Those operations may be performed on any yarn (including sewing thread) or fabric or knit-to-shape or other component used in the production of any article described under paragraph (a) of this section without affecting the eligibility of the article for preferential treatment, provided that the operation is performed in the United States or in a beneficiary country and not in any other country. However, in the case of an assembled article described in paragraph (a)(1) or (2) of this section, a dyeing, printing or other finishing operation may be performed in a beneficiary country without affecting the eligibility of the article for preferential treatment only if that operation is incidental to the assembly process.

(2) *Other operations.* An article described under paragraph (a) of this section that is otherwise eligible for preferential treatment will not be disqualified from receiving that treatment by virtue of having undergone one or more operations such as embroidering, stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing or screen printing, provided that the operation is performed in the United States or in a beneficiary country and not in any other country. However, in the case of an assembled article described in paragraph (a)(1) of this section, an operation may be performed in a beneficiary country without affecting the eligibility of the article for preferential treatment only if it is incidental to the assembly process.

(c) *Special rules for certain component materials*—(1) *General.* An article otherwise described under paragraph (a) of this section will not be ineligible for the preferential treatment referred to in § 10.211 because the article contains:

(i) Findings and trimmings of foreign origin, if the value of those findings and trimmings does not exceed 25 percent of the cost of the components of the assembled article. For purposes of this

section ''findings and trimmings'' include, but are not limited to, hooks and eyes, snaps, buttons, ''bow buds,'' decorative lace trim, elastic strips (but only if they are each less than 1 inch in width and are used in the production of brassieres), zippers (including zipper tapes), labels, and sewing thread except in the case of an article described in paragraph (a)(3) of this section;

(ii) Interlinings of foreign origin, if the value of those interlinings does not exceed 25 percent of the cost of the components of the assembled article. For purposes of this section ''interlinings'' include only a chest type plate, a ''hymo'' piece, or ''sleeve header,'' of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments;

(iii) Any combination of findings and trimmings of foreign origin and interlinings of foreign origin, if the total value of those findings and trimmings and interlinings does not exceed 25 percent of the cost of the components of the assembled article;

(iv) Fibers or yarns not wholly formed in the United States or one or more beneficiary countries or former beneficiary countries if the total weight of all those fibers and yarns is not more than 10 percent of the total weight of the article; or

(v) Any collars or cuffs (cut or knit-to-shape), drawstrings, shoulder pads or other padding, waistbands, belt attached to the article, straps containing elastic, or elbow patches that do not meet the requirements set forth in paragraph (a) of this section, regardless of the country of origin of the applicable component referred to in this paragraph.

(2) *''Cost'' and ''value'' defined.* The ''cost'' of components and the ''value'' of findings and trimmings or interlinings referred to in paragraph (c)(1) of this section means:

(i) The ex-factory price of the components, findings and trimmings or interlinings as set out in the invoice or other commercial documents, or, if the price is other than ex-factory, the price as set out in the invoice or other commercial documents adjusted to arrive at an ex-factory price; or

(ii) If the price cannot be determined under paragraph (c)(2)(i) of this section or if that price is unreasonable, all reasonable expenses incurred in the growth, production, manufacture or other processing of the components, findings and trimmings, or interlinings, including the cost or value of materials and general expenses, plus a reasonable amount for profit.

(3) *Treatment of fibers and yarns as findings or trimmings.* If any fibers or yarns not wholly formed in the United States or one or more beneficiary countries are used in an article as a finding or trimming described in paragraph (c)(1)(i) of this section, the fibers or yarns will be considered to be a finding or trimming for purposes of paragraph (c)(1) of this section.

(d) *Imported directly defined.* For purposes of paragraph (a) of this section, the words ''imported directly'' mean:

(1) Direct shipment from any beneficiary country to the United States without passing through the territory of any non-beneficiary country;

(2) If the shipment is from any beneficiary country to the United States through the territory of any non-beneficiary country, the articles in the shipment do not enter into the commerce of any non-beneficiary country while en route to the United States and the invoices, bills of lading, and other shipping documents show the United States as the final destination; or

(3) If the shipment is from any beneficiary country to the United States through the territory of any non-beneficiary country, and the invoices and other documents do not show the United States as the final destination, the articles in the shipment upon arrival in the United States are imported directly only if they:

(i) Remained under the control of the customs authority of the intermediate country;

(ii) Did not enter into the commerce of the intermediate country except for the purpose of sale other than at retail, and the port director is satisfied that the importation results from the original commercial transaction between the importer and the producer or the producer's sales agent; and

(iii) Were not subjected to operations other than loading or unloading, and other activities necessary to preserve the articles in good condition.

§ 10.214 Certificate of Origin.

(a) *General.* A Certificate of Origin must be employed to certify that a textile or apparel article being exported from a beneficiary country to the United States qualifies for the preferential treatment referred to in § 10.211. The Certificate of Origin must be prepared in the beneficiary country by the exporter or producer or by the exporter's or producer's authorized agent having knowledge of the facts in the form specified in paragraph (b) of this section. If the person preparing the Certificate of Origin is not the producer of the article, the person may complete and sign a Certificate of Origin on the basis of:

(1) The person's reasonable reliance on the producer's written representation that the article qualifies for preferential treatment; or

(2) A completed and signed Certificate of Origin for the article voluntarily provided to the person by the producer.

(b) *Form of Certificate.* The Certificate of Origin referred to in paragraph (a) of this section must be in the following format:

AFRICAN GROWTH AND OPPORTUNITY ACT TEXTILE CERTIFICATE OF ORIGIN

1. Exporter Name and Address:	3. Importer Name and Address:
2. Producer Name and Address:	4. Preference Group:

5. Description of Article:

Group	*Each description below is only a summary of the cited CFR provision.*	19 CFR
1–A	Apparel assembled from U.S. fabrics and/or knit-to-shape components, from U.S. yarns. All fabric must be cut in the United States.	10.213(a)(1).
2–B	Apparel assembled from U.S. fabrics and/or knit-to-shape components, from U.S. yarns. All fabric must be cut in the United States. After assembly, the apparel is embroidered or subject to stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing, screen printing, or other similar processes.	10.213(a)(2).
3–C	Apparel assembled from U.S. fabrics and/or U.S. knit-to-shape components and/or U.S. *and* beneficiary country or former beneficiary country knit-to-shape components, from U.S. yarns and sewing thread. The U.S. fabrics may be cut in beneficiary countries or in the United States *and* beneficiary countries or former beneficiary countries.	10.213(a)(3) or 10.213(a)(11).

Group	*Each description below is only a summary of the cited CFR provision.*	19 CFR
4–D	Apparel assembled from beneficiary country fabrics and/or knit-to-shape components, from yarns originating in the United States and/or one or more beneficiary countries or former beneficiary countries.	10.213(a)(4).
5–E	Apparel assembled or knit-to-shape and assembled, or both, in one or more lesser developed beneficiary countries regardless of the country of origin of the fabric or the yarn used to make such articles.	10.213(a)(5).
6–F	Knit-to-shape sweaters in chief weight of cashmere	10.213(a)(6).
7–G	Knit-to-shape sweaters 50 percent or more by weight of wool measuring 21.5 microns in diameter or finer	10.213(a)(7).
8–H	Apparel assembled from fabrics or yarns considered in short supply in the NAFTA, or designated as not available in commercial quantities in the United States.	10.213(a)(8) or 10.213(a)(9).
9–I	Handloomed fabrics, handmade articles made of handloomed fabrics, or textile folklore articles—as defined in bilateral consultations; ethnic printed fabric.	10.213(a)(10).
0–J	Textile articles classifiable in Chapters 50 through 60 or Chapter 63, HTSUS, that are products of a lesser developed beneficiary country and are wholly formed in one or more such countries from fibers, yarns, fabrics, fabric components, or components knit-to-shape that are the product of one or more such countries.	10.213(a)(12).

6. U.S./African Fabric Producer Name and Address:	7. U.S./African Yarn Producer Name and Address:
	8. U.S. Thread Producer Name and Address:
9. Handloomed, Handmade, or Folklore Article or Ethnic Printed Fabric:	10. Name of Short Supply or Designated Fabric or Yarn:

I certify that the information on this document is complete and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document. I agree to maintain, and present upon request, documentation necessary to support this certificate.

11. Authorized Signature:		12. Company:
13. Name: (Print or Type)		14. Title:
15. Date: (DD/MM/YY)	16. Blanket Period From: To:	17. Telephone: Facsimile:

(c) *Preparation of Certificate.* The following rules will apply for purposes of completing the Certificate of Origin set forth in paragraph (b) of this section:

(1) Blocks 1 through 5 pertain only to the final article exported to the United States for which preferential treatment may be claimed;

(2) Block 1 should state the legal name and address (including country) of the exporter;

(3) Block 2 should state the legal name and address (including country) of the producer. If there is more than one producer, attach a list stating the legal name and address (including country) of all additional producers. If this information is confidential, it is acceptable to state ''available to CBP upon request'' in block 2. If the producer and the exporter are the same, state ''same'' in block 2;

(4) Block 3 should state the legal name and address (including country) of the importer;

(5) In block 4, insert the number and/or letter that identifies the preference group which applies to the article according to the description contained in the CFR provision cited on the Certificate for that group;

(6) Block 5 should provide a full description of each article. The description should be sufficient to relate it to the invoice description and to the description of the article in the international Harmonized System. Include the invoice number as shown on the commercial invoice or, if the invoice number is not known, include another unique reference number such as the shipping order number;

(7) Blocks 6 through 10 must be completed only when the block in question calls for information that is relevant to the preference group identified in block 4;

(8) Block 6 should state the legal name and address (including country) of the fabric producer;

(9) Block 7 should state the legal name and address (including country) of the yarn producer;

(10) Block 8 should state the legal name and address (including country) of the thread producer;

(11) Block 9 should state the name of the folklore article or should state that the article is handloomed, handmade or an ethnic printed fabric;

(12) Block 10, should be completed only when preference group identifier ''8'' and/or ''H'' is inserted in block 4 and should state the name of the fabric or yarn that is in short supply in the NAFTA or that has been designated as not available in commercial quantities in the United States;

(13) Block 11 must contain the signature of the exporter or producer or of the exporter's or producer's authorized agent having knowledge of the relevant facts;

(14) Block 15 should reflect the date on which the Certificate was completed and signed;

(15) Block 16 should be completed if the Certificate is intended to cover multiple shipments of identical articles as described in block 5 that are imported into the United States during a specified period of up to one year (*see* § 10.216(b)(4)(ii)). The ''from'' date is the date on which the Certificate became applicable to the article covered by the blanket Certificate (this date may be prior to the date reflected in block 15). The ''to'' date is the date on which the blanket period expires;

(16) The telephone and facsimile numbers included in block 17 should be those at which the person who signed the Certificate may be contacted; and

(17) The Certificate may be printed and reproduced locally. If more space is needed to complete the Certificate, attach a continuation sheet.

§ 10.215 Filing of claim for preferential treatment.

(a) *Declaration.* In connection with a claim for preferential treatment for a textile or apparel article described in § 10.213, the importer must make a written declaration that the article qualifies for that treatment. The inclusion on the entry summary, or equivalent documentation, of the subheading within Chapter 98 of the HTSUS under which the article is classified will constitute the written declaration. Except in any of the circumstances described in § 10.216(d)(1), the declaration required

under this paragraph must be based on an original Certificate of Origin that has been completed and properly executed in accordance with § 10.214, that covers the article being imported, and that is in the possession of the importer.

(b) *Corrected declaration.* If, after making the declaration required under paragraph (a) of this section, the importer has reason to believe that a Certificate of Origin on which a declaration was based contains information that is not correct, the importer must within 30 calendar days after the date of discovery of the error make a corrected declaration and pay any duties that may be due. A corrected declaration will be effected by submission of a letter or other written statement to the CBP port where the declaration was originally filed.

§ 10.216 Maintenance of records and submission of Certificate by importer.

(a) *Maintenance of records.* Each importer claiming preferential treatment for an article under § 10.215 must maintain, in accordance with the provisions of part 163 of this chapter, all records relating to the importation of the article. Those records must include the original Certificate of Origin referred to in § 10.215(a) and any other relevant documents or other records as specified in § 163.1(a) of this chapter.

(b) *Submission of Certificate.* An importer who claims preferential treatment on a textile or apparel article under § 10.215(a) must provide, at the request of the port director, a copy of the Certificate of Origin pertaining to the article. A Certificate of Origin submitted to CBP under this paragraph:

(1) Must be in writing or must be transmitted electronically pursuant to any electronic data interchange system authorized by CBP for that purpose;

(2) Must be signed by the exporter or producer or by the exporter's or producer's authorized agent having knowledge of the relevant facts;

(3) Must be completed either in the English language or in the language of the country from which the article is exported. If the Certificate is completed in a language other than English, the importer must provide to CBP upon request a written English translation of the Certificate; and

(4) May be applicable to:

(i) A single importation of an article into the United States, including a single shipment that results in the filing of one or more entries and a series of shipments that results in the filing of one entry; or

(ii) Multiple importations of identical articles into the United States that occur within a specified blanket period, not to exceed 12 months, set out in the Certificate by the exporter. For purposes of this paragraph and § 10.214(c)(15), ''identical articles'' means articles that are the same in all material respects, including physical characteristics, quality, and reputation.

(c) *Correction and nonacceptance of Certificate.* If the port director determines that a Certificate of Origin is illegible or defective or has not been completed in accordance with paragraph (b) of this section, the importer will be given a period of not less than five working days to submit a corrected Certificate. A Certificate will not be accepted in connection with subsequent importations during a period referred to in paragraph (b)(4)(ii) of this section if the port director determined that a previously imported identical article covered by the Certificate did not qualify for preferential treatment.

(d) *Certificate not required.* (1) *General.* Except as otherwise provided in paragraph (d)(2) of this section, an importer is not required to have a Certificate of Origin in his possession for:

(i) An importation of an article for which the port director has in writing waived the requirement for a Certificate of Origin because the port director is otherwise satisfied that the article qualifies for preferential treatment;

(ii) A non-commercial importation of an article; or

(iii) A commercial importation of an article whose value does not exceed US $2,500, provided that, unless waived by the port director, the producer, exporter, importer or authorized agent includes on, or attaches to, the invoice or other document accompanying the shipment the following signed statement:

I hereby certify that the article covered by this shipment qualifies for preferential treatment under the AGOA.

Check One:

( ) Producer
( ) Exporter
( ) Importer
( ) Agent
Name
Title
Address
Signature and Date

(2) *Exception.* If the port director determines that an importation described in paragraph (d)(1) of this section forms part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding a Certificate of Origin requirement under §§ 10.214 through 10.216, the port director will notify the importer in writing that for that importation the importer must have in his possession a valid Certificate of Origin to support the claim for preferential treatment. The importer will have 30 calendar days from the date of the written notice to obtain a valid Certificate of Origin, and a failure to timely obtain the Certificate of Origin will result in denial of the claim for preferential treatment. For purposes of this paragraph, a ''series of importations'' means two or more entries covering articles arriving on the same day from the same exporter and consigned to the same person.

§ 10.217 Verification and justification of claim for preferential treatment.

(a) *Verification by CBP.* A claim for preferential treatment made under § 10.215, including any statements or other information contained on a Certificate of Origin submitted to CBP under § 10.216, will be subject to whatever verification the port director deems necessary. In the event that the port director for any reason is prevented from verifying the claim, the port director may deny the claim for preferential treatment. A verification of a claim for preferential treatment may involve, but need not be limited to, a review of:

(1) All records required to be made, kept, and made available to CBP by the importer or any other person under part 163 of this chapter;

(2) Documentation and other information regarding the country of origin of an article and its constituent materials, including, but not limited to, production records, information relating to the place of production, the number and identification of the types of machinery used in production, and the number of workers employed in production; and

(3) Evidence to document the use of U.S. materials in the production of the article in question, such as purchase orders, invoices, bills of lading and other shipping documents, and customs import and clearance documents.

(b) *Importer requirements.* In order to make a claim for preferential treatment under § 10.215, the importer:

(1) Must have records that explain how the importer came to the conclusion that the textile or apparel article qualifies for preferential treatment. Those records must include documents that support a claim that the article in question qualifies for preferential treatment because it is specifically described in one of the provisions under § 10.213(a). If the importer is claiming that the article incorporates fabric or yarn that originated or was wholly formed in the

United States, the importer must have records that identify the U.S. producer of the fabric or yarn. A properly completed Certificate of Origin in the form set forth in § 10.214(b) is a record that would serve these purposes;

(2) Must establish and implement internal controls which provide for the periodic review of the accuracy of the Certificate of Origin or other records referred to in paragraph (b)(1) of this section;

(3) Must have shipping papers that show how the article moved from the beneficiary country to the United States. If the imported article was shipped through a country other than a beneficiary country and the invoices and other documents from the beneficiary country do not show the United States as the final destination, the importer also must have documentation that demonstrates that the conditions set forth in § 10.213(d)(3)(i) through (iii) were met; and

(4) Must be prepared to explain, upon request from CBP, how the records and internal controls referred to in paragraphs (b)(1) through (3) of this section justify the importer's claim for preferential treatment.

PART 163—RECORDKEEPING

■ 4. The authority citation for part 163 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

■ 5. The Appendix to Part 163 is amended by revising the listing for § 10.216 under section IV to read as follows:

Appendix to Part 163—Interim (a)(1)(A) List

* * * * *

IV. * * *

§ 10.216 AGOA Textile Certificate of Origin

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PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

■ 6. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

■ 7. Section 178.2 is amended by adding an entry for ''§§ 10.214–10.216'' to the table in numerical order to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR Section	Description	OMB Control No.
*	*	*
§§ 10.214–10.216	Claim for preferential treatment on textile and apparel articles under the African Growth and Opportunity Act.	1651–0082
*	*	*

* * * * *

R. Gil Kerlikowske,

Commissioner.

Approved: May 15, 2014.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2014–11692 Filed 5–23–14; 8:45 am]

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Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Parts 13,17, 23, et al.

Revision of Regulations Implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Updates Following the Fifteenth Meeting of the Conference of the Parties to CITES; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 13, 17, and 23, and Appendix A to Chapter I

[Docket No. FWS–R9–IA–2010–0083; 96300–1671–0000–R4]

RIN 1018–AW82

Revision of Regulations Implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Updates Following the Fifteenth Meeting of the Conference of the Parties to CITES

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (FWS or Service), are revising the regulations that implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or Treaty or Convention) by incorporating certain provisions adopted at the fourteenth and fifteenth meetings of the Conference of the Parties (CoP14 and CoP15) to CITES and clarifying and updating certain other provisions. These changes will bring U.S. regulations in line with new resolutions and revisions to resolutions adopted at meetings of the Conference of the Parties that took place in June 2007 (CoP14) and March 2010 (CoP15). The revised regulations will help us more effectively promote species conservation, help us continue to fulfill our responsibilities under the Treaty, and help those affected by CITES to understand how to conduct lawful international trade.

DATES: This rule is effective June 26, 2014. The incorporation by reference of the material listed in this rule is approved by the Director of the Federal Register as of June 26, 2014.

FOR FURTHER INFORMATION CONTACT: Robert R. Gabel, Chief, Division of Management Authority; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 212; Arlington, VA 22203 (telephone, (703) 358–2093; fax, (703) 358–2280).

SUPPLEMENTARY INFORMATION:

Executive Summary

Why We Need To Publish a Final Rule

As a Party to CITES, the United States is obligated to implement the Convention effectively. Over the 40-year history of CITES, online markets and other technological advances have made it possible to sell and ship wildlife anywhere in the world, and issues of wildlife use have grown more complex. As international wildlife trade evolves, so does implementation of the Convention. The CITES Parties meet every 2 to 3 years to vote on resolutions and decisions that interpret and implement the text of the Treaty and on amendments to the lists of species in the CITES Appendices. To keep pace with these changes, and ensure that U.S. businesses and individuals understand the requirements for lawful international trade in CITES specimens, it is necessary for us to periodically update our CITES-implementing regulations.

What is the effect of this final rule?

The final rule will bring U.S. regulations in line with new resolutions and revisions to resolutions adopted at meetings of the Conference of the Parties that took place in June 2007 (CoP14) and March 2010 (CoP15). Updates include: New or revised definitions for certain specimens in trade; clarified marking requirements for certain specimens in trade; amended restrictions for export of Appendix-I specimens bred in captivity for commercial purposes; eased restrictions on the allowed use of CITES specimens after import into the United States; updated requirements for humane transport of live specimens; and streamlined requirements for registered operations breeding Appendix-I animals for commercial purposes. The revised regulations will help us more effectively promote conservation of wildlife and plants in trade, help us continue to fulfill our responsibilities under the Treaty, and help those affected by CITES to understand how to conduct lawful international trade.

The Basis for Our Action

The Endangered Species Act designates responsibility for CITES implementation to the Secretary of the Interior, acting through the U.S. Fish and Wildlife Service. As the lead agency for implementation of CITES in the United States, the Service has promulgated regulations (50 CFR part 23) to inform the public about CITES requirements. We revise our CITES-implementing regulations as needed to ensure they are as up-to-date and accurate as possible.

Background

CITES was negotiated in 1973 in Washington, DC, at a conference attended by delegations from 80 countries. The United States ratified the Treaty on September 13, 1973, and it entered into force on July 1, 1975, after it had been ratified by 10 countries. Currently 180 countries have ratified, accepted, approved, or acceded to CITES; these countries are known as Parties.

Section 8A of the Endangered Species Act, as amended in 1982 (16 U.S.C. 1531 *et seq.*) (ESA), designates the Secretary of the Interior as the U.S. Management Authority and U.S. Scientific Authority for CITES. These authorities have been delegated to the U.S. Fish and Wildlife Service. The original U.S. regulations implementing CITES took effect on May 23, 1977 (42 FR 10462, February 22, 1977), after the first meeting of the Conference of the Parties (CoP) was held. The CoP meets every 2 to 3 years to vote on proposed resolutions and decisions that interpret and implement the text of the Treaty and on amendments to the lists of species in the CITES Appendices. The last major revision of U.S. CITES regulations was in 2007 (72 FR 48402, August 23, 2007) and incorporated provisions from applicable resolutions and decisions adopted at meetings of the Conference of the Parties up to and including the thirteenth meeting (CoP13), which took place in 2004. In 2008, through a direct final rule, we incorporated certain provisions adopted at CoP14 regarding international trade in sturgeon caviar (73 FR 40983, July 17, 2008).

Proposed rule and comments received: We published a proposed rule on March 8, 2012 (77 FR 14200), to revise the regulations that implement CITES. We accepted public comments on the proposed rule for 60 days, until May 7, 2012.

We received 37 comments in response to the proposed rule, 34 of which were substantive. We received comments from individuals, organizations, and State natural resource agencies. Of the substantive comments we received, 22 were from falconers and falconer organizations, 3 were from State natural resource agencies and regional associations, and 9 were from non-governmental organizations not associated with falconry.

General comments: A number of commenters provided general comments on U.S. CITES-implementing regulations, including the proposed revisions, and also provided comments on specific sections of the proposed rule. General comments are discussed here; we have addressed comments specific to a particular section of the regulations in the corresponding section of this preamble (see Section-by-Section Analysis).

Several commenters recognized the importance of harmonizing U.S.

regulations with provisions adopted by the Parties to CITES. One commenter believed that the proposed changes would promote species conservation and facilitate legal possession and trade of CITES wildlife while providing means to better detect and reduce illicit possession and trade. Two commenters appreciated that we have relaxed what they considered to be overly restrictive regulation of international trade in the revision of 50 CFR part 23 published in 2007.

One commenter stated that, given our obligations under the ESA and CITES, the Service should take a conservative and precautionary approach in promulgating CITES regulations and generally choose protective measures over expanding trade. Another commenter stated that the original basis for CITES was that sustainable trade was a positive force for conservation of wildlife but that today this is no longer the case. The purpose of CITES is to ensure that international trade in wildlife and plants does not threaten the survival of species. We work with other CITES Parties to guard against over-exploitation of listed species due to international trade and believe that use of natural resources in a biologically sustainable and legal manner can support conservation efforts. We have developed our CITES-implementing regulations on this basis.

One commenter asserted that some of the proposed changes, if adopted, will have serious negative consequences for the safari-based conservation system in developing countries. The same commenter stated that the regulations are difficult to navigate and should be more user friendly and that some of the proposed changes are likely to result in technical violations and, therefore, seizure and forfeiture of trophies. We can see no basis for the commenter's assertions regarding impacts of the final rule in developing countries. We strive to make our regulations as clear and straightforward as possible and believe that this final rule lays out, in a user-friendly manner, what is required for lawful international trade in CITES specimens. However, we welcome specific suggestions for making the regulations easier to navigate.

We also received a number of general comments regarding international trade in raptors. One commenter stated that the Service has wrongfully treated domestically bred raptors as ''wild taken'' when they are in fact private property. Another commenter stated that the purpose of CITES is to control trade in wild specimens and that, except for the California condor, there are no wild Appendix-I raptors currently endangered or threatened with extinction. The commenter recommended that regulation of trade in Appendix-I raptors and all raptors from captive populations should be lessened or eliminated entirely.

As a Party to CITES we are obligated to regulate international trade in specimens of CITES-listed species (including Appendix-I raptors) in accordance with the provisions of the Convention. CITES regulates international trade in wildlife and plants, including parts, products, and derivatives, to ensure that trade is legal and does not threaten the survival of species in the wild. This does not mean that only wild-caught specimens are, or should be, regulated. Both wild-caught and captive-bred specimens are subject to CITES provisions, including provisions that specifically pertain to specimens that are bred in captivity.

Several commenters noted that possession of raptors in the United States is regulated at both State and Federal levels and is monitored by the Service's Migratory Bird Program. Therefore, they believe that U.S. regulation of international trade in raptors should be no more restrictive than what is required by CITES. Several commenters stated that unnecessarily restricting trade in captive-bred raptors increases the incentive to take raptors from the wild illegally, reduces genetic exchange, discourages captive breeding and conservation, increases costs, and makes U.S. breeders less competitive in the world market. One commenter noted that the falconry community has demonstrated great responsibility and value to the conservation of wild raptors.

We recognize and appreciate the contribution that the falconry community has made to the conservation of wild raptors. Our regulations do not go beyond what is required by CITES, and we do not believe that we are unnecessarily restricting trade in captive-bred raptors. With this final rule we have, in fact, eased restrictions on trade in Appendix-I specimens bred in captivity (see the preamble discussions for §§ 23.5 and 23.18) by revising the definition of ''bred for noncommercial purposes'' and allowing for the possibility of noncommercial trade from a commercial breeding operation whether or not it is registered with the CITES Secretariat.

One commenter asked why he is required to have a CITES permit to travel from the United States to Canada to hunt with his personally owned, captive-bred hybrid falcon since there is no trade or commerce involved. He also objected to having to cross at specific ports, pay fees, and have his bird inspected by FWS at border crossings. The activity described by the commenter is ''trade'' under CITES. ''Trade'' is defined in the Treaty as ''export, re-export, import, and introduction from the sea.'' Regulation of international trade in CITES species, including captive-bred and hybrid specimens, is required whether or not the export, re-export, import, or introduction from the sea is commercial. CITES regulates trade through a system of permits and certificates, and Parties establish an inspection process at ports of entry and exit as part of this system. Inspection officials at ports of entry and exit verify that CITES specimens are accompanied by valid CITES documents and take enforcement action when trade does not comply with the Convention. Inspection fees are outside the scope of this regulation and are therefore not addressed here.

Section-by-Section Analysis

In the following parts of the preamble, we discuss the substantive issues in sections for which we received public comments, and we provide responses to those comments. For an explanation of the changes to sections for which we did not receive comments, please see the preamble to the proposed rule (77 FR 14200, March 8, 2012).

What are the changes to 50 CFR Part 13?

Application procedures (§ 13.11): This section describes application procedures for Service permits. One commenter asserted that the statement in § 13.11(c) indicating that the Service ''will process all applications as quickly as possible'' is not specific enough and should be amended to say that the Service has 15 working days from receipt of applications to process and issue permits. This section (§ 13.11) contains information about application procedures not just for CITES permits but also for other types of permits issued by the Service, including, for example, injurious wildlife permits and permits under the ESA, the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*), the Wild Bird Conservation Act (16 U.S.C. 4901–4916), and the Migratory Bird Treaty Act (16 U.S.C. 703–712). Some of these applications are more complex and require more extensive review than others. For some applications under the ESA and the Marine Mammal Protection Act, we are required to publish a notice in the **Federal Register** and seek public comment before making a decision on a permit application. While we strive to process all applications as quickly as

possible, not all applications can be processed within the timeframe suggested by the commenter.

What are the changes to 50 CFR Part 17?

50 CFR part 17 contains special rules for some species classified as ''threatened'' under the ESA. Most of the special rules that pertain to species that are also listed under CITES were written before the publication of our 2007 CITES regulations. Some of the rules included detailed CITES requirements because those requirements were not contained in 50 CFR part 23 prior to 2007. We believe it is more appropriate to include CITES requirements in 50 CFR part 23. Therefore, we have removed specific CITES requirements from the special rules in 50 CFR part 17 and, if they were not there already, inserted them into our CITES regulations in 50 CFR part 23. These changes, with a few exceptions described in our proposed rule (77 FR 14200, March 8, 2012), do not alter the requirements of the special rules because the requirements added to or already contained in 50 CFR part 23 are functionally the same as those currently contained in the special rules. Under the special rules, specimens may only be imported into the United States if the requirements in 50 CFR part 23 have been met.

One commenter supported the removal of detailed information on CITES provisions for personal and household effects from the special rules in part 17 and pointing the readers instead to the appropriate sections in part 23. Another commenter stated that he objected to the proposal to ''shift some of the special rules in part 17 to part 23'' and noted that part 17 and part 23 have different mandates and part 23 should only implement CITES provisions, nothing more. The commenter is correct that the regulations in part 17 implement provisions of the ESA and the regulations in part 23 implement CITES. This is, in fact, the reason we have made the changes proposed. We removed components of the special rules in part 17 that are CITES requirements and inserted them into the CITES regulations in part 23. The special rules will remain in part 17; only the CITES components of those rules have been moved to part 23. We believe this will make clear what is required under CITES (in 50 CFR part 23) for trade in a particular specimen and what is required under the ESA (in 50 CFR part 17). As stated above, these changes do not alter the requirements of the special rules because the special rules require that the provisions in 50 CFR part 23 must also be met. Likewise, as detailed in § 23.3, trade in specimens of CITES species that are also listed under the ESA or covered by other U.S. laws must meet both the CITES requirements in 50 CFR part 23 and requirements in other applicable U.S. regulations.

What are the changes to 50 CFR Part 23?

Deciding if the regulations apply to your proposed activity (§ 23.2): We had proposed adding a paragraph to the table in § 23.2 to clarify that if a CITES specimen you possess or want to enter into intrastate or interstate commerce is subject to restrictions on its use after import then the regulations in part 23 apply. One commenter objected to this clarification and stated that adding restrictions to this section for intrastate or interstate commerce would be going beyond the intent of CITES and the mandate of part 23. The restrictions on the use after import of certain CITES specimens are described in § 23.55 and have been in place since 2007. We were merely referring the reader to § 23.55 to determine whether the specimen in question is subject to restrictions on its use after import, and highlighting that if it is subject to such restrictions, then the regulations in part 23 apply. We note that, in fact, this rule narrows appropriately the restrictions contained in § 23.55 (see the preamble discussion and the regulatory text for § 23.55).

Upon further evaluation, we have decided to remove the table from § 23.2 and replace it with a simple statement. Although the table was intended to assist the reader in determining whether the regulations in part 23 apply to his or her activity we believe it may be causing confusion. Therefore, we are removing the table and adding in its place the following sentence: ''If you are engaging in activities with specimens of CITES-listed species these regulations apply to you.''

Definitions (§ 23.5): Whenever possible we define terms using the wording of the Treaty and the resolutions.

Definitions of ''bred for noncommercial purposes'' and ''cooperative conservation program'': Article VII, paragraph 4, of the Treaty states that specimens of Appendix-I wildlife species bred in captivity for commercial purposes shall be deemed to be specimens of species included in Appendix II. Such specimens can therefore be traded without the need for an import permit (see §§ 23.18 and 23.46). It also provides in Article VII, paragraph 5, that specimens that are bred in captivity may be traded under an exemption certificate (see §§ 23.18 and 23.41). Although the Treaty does not use the term ''bred for noncommercial purposes'' in Article VII, paragraph 5, the Parties have agreed to use this term as the intended meaning of paragraph 5 because Article VII, paragraph 4, addresses specimens bred for commercial purposes.

Our current regulations contain definitions of ''bred for noncommercial purposes'' and ''cooperative conservation program.'' These terms were defined based on the interpretation of Article VII, paragraph 5, adopted at CoP11 in Resolution Conf. 11.14 and subsequently (until CoP14) contained in Resolution Conf. 12.10. Our definition of ''bred for noncommercial purposes'' specifies that a specimen only qualifies to be treated as bred for noncommercial purposes, and therefore eligible for an exemption certificate, if every donation, exchange, or loan of the specimen is between facilities that are involved in a cooperative conservation program. At CoP14, the Parties removed the definition of ''bred for noncommercial purposes'' from Resolution Conf. 12.10 (including the reference to cooperative conservation programs) because it was considered to be outside the scope of the resolution, which addresses the procedure for registering and monitoring operations that breed Appendix-I animal species for commercial purposes. The deletion of this paragraph from the resolution leaves it to Parties to adopt their own interpretation of Article VII, paragraph 5.

The changes adopted at CoP14, and our experiences since publication of our current regulations, led us to reconsider our definition of ''bred for noncommercial purposes.'' We are amending our definition of ''bred for noncommercial purposes'' by removing the requirement that the trade be conducted between facilities that are involved in a cooperative conservation program and, consequently, removing from our regulations the definition of ''cooperative conservation program,'' consistent with recent amendments to CITES resolutions. The change allows an Appendix-I specimen that was bred in captivity to be traded under a CITES exemption certificate when each donation, exchange, or loan of the specimen is noncommercial, including situations where the donation, exchange, or loan is not between two facilities that are participating in a cooperative conservation program. Our amendment to the definition is consistent with current CITES resolutions. (See also the discussion in the preamble for § 23.18.)

Several commenters opposed the removal of the definition of ''cooperative conservation program'' and the requirement that, to qualify for an exemption certificate, trade in a specimen bred for noncommercial purposes must be between facilities participating in a cooperative conservation program. One commenter believed this provision should be retained to promote species conservation and argued that we had not provided a sufficient explanation or justification for its removal. Another stated that linking breeding operations to conservation efforts is the least that should be required of those engaged in trade of captive-bred specimens of Appendix-I species.

We are removing this requirement because we believe it is overly restrictive. While we agree with the commenters that it is important to promote species conservation, we understand that it is not always feasible for a breeding operation to participate in or support a recovery activity in cooperation with a range country, sometimes due to political realities or civil unrest, for example. In addition, there are circumstances under which Appendix-I animals may be bred-in-captivity for noncommercial purposes (including, for example, noncommercial breeding by hobbyists) where we do not believe it is reasonable to prohibit trade under Article VII, paragraph 5, solely because the breeding facility is not participating in a cooperative conservation program. We will continue to scrutinize this trade carefully, to ensure that each donation, exchange, or loan of a specimen traded under Article VII, paragraph 5, is noncommercial. Another commenter asked that, if we delete the reference to cooperative conservation programs as proposed, that we amend the definition of ''bred for noncommercial purposes'' by adding to the end the phrase ''where the purpose is directed towards noncommercial use.'' We have declined to accept this suggestion as we consider it to be redundant.

Another commenter stated that we should remove both the definition of ''cooperative conservation program'' and ''bred for noncommercial purposes'' since neither of these terms is currently defined by CITES, and retaining or modifying a definition not used by CITES goes beyond CITES provisions and the part 23 mandate. We disagree that we should only provide definitions for terms defined by CITES and that doing so is beyond the part 23 ''mandate.'' The purpose of part 23 is to explain, as clearly as possible, how we implement the Treaty and what is required for legal international trade in CITES-listed species. Where we feel it is useful, we have provided definitions for terms used in the regulations to clarify the intended meaning in this context.

Two commenters suggested that falconry be specifically cited as an example of an activity that would qualify as ''bred for noncommercial purposes.'' We have not accepted this suggestion. Although there may be situations in which falconry birds are bred for noncommercial purposes, this is not always the case. Birds used in falconry are also bred and traded for economic gain, including for profit.

Coral definitions: We are amending our definitions of ''coral (dead),'' ''coral fragments,'' ''coral (live),'' and ''coral sand'' in § 23.5 to more closely align with the definitions in the Annex to Resolution Conf. 11.10 (Rev. CoP15). Due to problems we have encountered in the implementation of the requirements for trade in stony corals, we are further revising the definitions of ''coral fragments'' and ''coral sand'' to clarify the size of a specimen that meets the definition of ''coral fragments'' or ''coral sand'' and may therefore be considered exempt from the provisions of CITES. The same clarification regarding ''coral fragments'' was adopted by the Parties at CoP15.

Two commenters expressed concern that the proposed changes to the definition of ''coral fragments'' will allow a broadening of the subset of coral specimens that could be considered fragments, and therefore exempt from CITES provisions. The commenters suggested that we substitute the word ''all'' for ''any'' in the definition, so that it reads ''. . . between 2 and 30 mm measured in all directions.'' It was our intent, and the intent of the Parties at CoP15, to limit ''coral fragments'' to specimens smaller than 30 mm. We believe that the change proposed by the commenters further clarifies that intent. We agree that ''all'' is more precise and, to be consistent, have made the suggested change to the definitions of both ''coral fragments'' and ''coral sand.''

Definition of ''ranched wildlife'': The United States participated in a working group established to evaluate the use of source code ''R'' (for ''specimens originating from a ranching operation'') for species other than crocodilians and, if necessary, propose a revised definition of source code ''R'' for consideration at CoP15. At CoP15, based on the recommendations of the working group, the Parties adopted a revised definition of source code ''R.'' In our proposed rule (77 FR 14200, March 8, 2012), we indicated our intention to incorporate the new definition into § 23.5, consistent with the change to Resolution Conf. 12.3 (Rev. CoP15) adopted at CoP15.

Two individual State natural resource agencies and one State natural resource agency organization endorsed this change and stated that the new definition more closely describes the way in which their alligator programs operate and will allow them to export alligator skins produced in their States under the ''R'' source code. Two commenters strongly objected to the incorporation of the new definition into U.S. regulations and stated that ranching is merely a subset of wild take. Another commenter asked us to provide further rationale for incorporating the new definition into our regulations and noted that it is unclear how adoption of the new definition may impact protected species in the wild and, in addition, that allowing wild-sourced specimens to be traded as ''ranched'' will make it impossible to track the full impact of wild collection. The commenter urged us to maintain a clear distinction between specimens derived from a ranching operation in accordance with Resolution Conf. 11.16 (Rev. CoP15) and wild-sourced specimens.

We agree with those commenters who supported incorporation of the new definition of source code ''R'' into our regulations because it more accurately describes production systems often employed for certain species, such as the American alligator. We also agree with the comment suggesting that ranching production is associated with wild harvest. We note that, before a permit can be issued for specimens entering international trade as a result of either ranching production or wild harvest, a non-detriment finding must be made. Thus, the Scientific Authority will evaluate the impact of both of these activities on wild populations. We also believe it is important to have consistent application and implementation of CITES terms, which we intend to achieve by incorporation of the revised definition.

Incorporation by reference (§ 23.9): We are adding this new section to contain information on materials incorporated by reference, currently located in § 23.23. We believe that moving the information regarding materials incorporated by reference into its own section will make it easier for readers to locate and reference, and easier for us to update, as needed, in the future.

Prohibitions (§ 23.13): We are adding text to this section to clarify that violation of any of the provisions of 50 CFR part 23, including use of CITES

specimens imported into the United States contrary to what is allowed under § 23.55, is unlawful. One commenter expressed support for this clarification.

Another commenter stated that this provision would make it unlawful to use any CITES specimen for any purposes contrary to conditions imposed under § 23.55 and that this is too broad, as § 23.55 only applies to Appendix-I and certain Appendix-II specimens. The commenter seems to have misinterpreted the provisions in § 23.55. The table in § 23.55 lays out the allowed use of any CITES specimen after it has been imported into the United States. The vast majority of CITES specimens (including most Appendix-II and -III specimens) may be used for any lawful purpose after import, and this is stated in paragraphs (d), (e), and (f) of § 23.55. However, the import and subsequent use of many Appendix-I specimens and certain Appendix-II specimens may be only for noncommercial purposes, and this information is also provided in § 23.55. We are not adding new prohibitions here. The restrictions on use after import of certain CITES specimens have been in place since 2007. We simply want to clarify that violation of any of the provisions of 50 CFR part 23 is unlawful.

One commenter stated that, if an imported raptor was injured or for some reason unable to perform as a falconry bird, these changes would prevent the use of the raptor for breeding because FWS considers breeding to be commercial. We reiterate that we are not adding new prohibitions with regard to use after import. In fact, this final rule appropriately narrows the current restrictions that have been in place since 2007 (see the preamble discussion and the regulatory text for § 23.55). In addition, we do not consider all breeding to be commercial and refer the commenter to the discussions in the preamble for §§ 23.5 and 23.18 with regard to trade in Appendix-I specimens bred for commercial and noncommercial purposes.

Documents for the export of Appendix-I wildlife and plants (§ 23.18): Sections 23.18 and 23.19 contain decision trees to help readers determine what type of CITES document is needed for export of an Appendix-I specimen and where in the regulations they can find information regarding the different types of documents. We have reevaluated our requirements for export of Appendix-I wildlife and are amending the decision tree in § 23.18 accordingly. (See also the preamble discussion for § 23.5 regarding the definition of ''bred for noncommercial purposes.'')

As noted previously, Article VII, paragraph 4, of the Treaty states that specimens of Appendix-I wildlife species bred in captivity for commercial purposes shall be deemed to be specimens of species included in Appendix II. Such specimens can therefore be traded without the need for an import permit. Our regulations required commercial breeders of Appendix-I wildlife to be registered with the CITES Secretariat in order to export Appendix-I specimens, regardless of the purpose of the import. The decision tree in § 23.18 asks, at several points, whether the export of the specimen is for noncommercial purposes. However, because of the way the decision tree is structured, export of specimens bred in captivity (according to CITES criteria) at commercial operations that are not registered with the CITES Secretariat was prohibited, even in small numbers when the intended use of the specimens in the importing country is noncommercial.

Based on our experience since publication of our regulations in 2007, we have concluded that this interpretation is overly restrictive. The exemptions contained in Article VII allow alternatives to the procedures contained in Articles III, IV, and V for trade in CITES-listed species when certain criteria are met. However, if an Appendix-I specimen does not qualify for an exemption under Article VII, it should not, solely on that basis, also be deemed ineligible for a permit or certificate under Article III. For this reason, we are amending our regulations to allow for this possibility. We are amending the decision tree in § 23.18 by eliminating the boxes that ask if the export is for noncommercial purposes, which eliminates the requirement that commercial operations breeding Appendix-I species must be registered with the Secretariat to export specimens under any circumstances. We believe this change reflects the appropriate implementation of Articles III and VII.

One commenter stated that the CITES Secretariat has confirmed that an Appendix-I specimen can be exported from a commercial breeding facility, not registered with the Secretariat, for a noncommercial purpose. We agree with this interpretation and note that our revisions to this section remove the requirement that commercial operations breeding Appendix-I species must, in all cases, be registered with the Secretariat to export their specimens.

Several commenters opposed this change and asserted that commercial breeders should not be allowed to participate in noncommercial trade. They expressed concern that allowing such trade would cause enforcement difficulties by blurring the distinction between commercial and noncommercial facilities. One commenter stated that all facilities breeding Appendix-I specimens should be registered with the CITES Secretariat to facilitate national and international oversight and that commercial facilities that are not registered should not be allowed to export Appendix-I specimens. The commenter argued that our proposed revisions seem to be contrary to the intent of CITES, which is to limit the trade in Appendix-I specimens for commercial purposes.

We agree that trade in Appendix-I specimens must be subject to particularly strict regulation, as stated in the Treaty, and we will continue to monitor the trade in Appendix-I specimens very carefully. The Treaty does allow for trade in Appendix-I specimens that are bred in captivity for commercial purposes, and we implement this provision by requiring that operations breeding Appendix-I specimens for commercial purposes are registered with the CITES Secretariat, as agreed by the Parties in Resolution Conf. 12.10 (Rev. CoP15). The Treaty also allows for trade in Appendix-I specimens bred in captivity for noncommercial purposes, and we recognize that there are circumstances under which a commercial breeding operation may engage in trade where each donation, exchange, or loan of a specimen is noncommercial. We will continue to scrutinize such trade and will exercise our right and responsibility under the Treaty to verify whether the Management Authority of the importing country has made the appropriate determination of whether an import is not for primarily commercial purposes.

Several commenters suggested that language be added to the decision tree to indicate that falconry and propagation for falconry are considered ''primarily noncommercial.'' We do not agree that falconry and breeding of birds for use in falconry can always be considered activities that are ''primarily noncommercial'' and have therefore declined to accept this suggestion. Some commenters also recommended that we adopt a policy that five or fewer birds exported for falconry purposes will generally be considered noncommercial trade. We have not adopted this suggestion. Determinations regarding the commercial or noncommercial nature of a proposed activity are made on a case-by-case basis after review of all relevant factors (see § 23.62).

Several commenters expressed their belief that birds bred for falconry should qualify for a bred-in-captivity certificate and be traded under the source code ''C'' and not ''F.'' They stated that source code ''F'' is not appropriate for U.S. captive-bred raptors because it implies possible impacts to wild populations. One commenter also noted that use of source code ''F'' creates conflict with other countries, particularly in Europe, that do not implement Resolution Conf. 12.10 (Rev. CoP15).

The Parties have agreed, in Resolution Conf. 12.10 (Rev. CoP15), that the exemption in Article VII, paragraph 4, should be implemented through the registration by the Secretariat of operations that breed specimens of Appendix-I species in captivity for commercial purposes. Such specimens are ''deemed to be specimens of species included in Appendix II'' and therefore can be traded under an export permit, without the need for an import permit. Resolution Conf. 12.3 (Rev. CoP15) states that source code ''D'' should be used on permits for Appendix-I animals originating at an operation registered with the Secretariat and exported under the provisions of Article VII, paragraph 4.

Article VII, paragraph 5, of the Treaty provides that specimens that are bred in captivity may be traded under an exemption certificate (see § 23.41). As noted previously, although the Treaty does not use the term ''bred for noncommercial purposes'' in Article VII, paragraph 5, the Parties have agreed to use this term as the intended meaning of paragraph 5 because Article VII, paragraph 4, addresses specimens bred for commercial purposes. Resolution Conf. 12.3 (Rev. CoP15) states that source code ''C'' should be used on permits for Appendix-I animals bred in captivity and exported under the provisions of Article VII, paragraph 5.

We implement these provisions as follows. The exemptions provided in Article VII, paragraphs 4 and 5, allow for trade in Appendix-I specimens without the need for an import permit when the specimens have been bred in captivity and certain conditions are met. To qualify for these exemptions, an Appendix-I animal must have been bred in captivity, in accordance with CITES criteria in Resolution Conf. 10.16 (Rev.) and U.S. regulations in § 23.63, and it must have been either: (1) Bred for commercial purposes at a facility registered with the CITES Secretariat (Article VII, paragraph 4); or (2) bred for noncommercial purposes (Article VII, paragraph 5). Specimens exported under Article VII, paragraph 4 (i.e., those bred for commercial purposes at a facility registered with the CITES Secretariat), are ''deemed to be'' Appendix-II specimens, and we therefore issue an export permit with the source code ''D.'' For specimens exported under Article VII, paragraph 5 (i.e., those bred in captivity for noncommercial purposes), we issue a bred-in-captivity certificate with the source code ''C.'' When an Appendix-I specimen bred in captivity is exported under an exemption document (an export permit with a source code ''D'' or a bred-in-captivity certificate with a source code ''C''), no import permit is required.

We also allow for trade in Appendix-I specimens produced in captivity that do not qualify for the exemptions in Article VII. However, such specimens must be traded under Article III of the Treaty, and an import permit is required. These specimens are given the source code ''F,'' because neither source code ''C'' nor ''D'' applies.

One commenter noted that Article VII, paragraph 4, of the Treaty states that specimens of Appendix-I species bred or propagated for commercial purposes shall be deemed to be specimens of species included in Appendix II and questioned why we stated in the proposed rule that such specimens are still included in Appendix I. The commenter stated that there is no CITES provision that a specimen bred at a registered facility and ''deemed to be'' Appendix II for export reverts back to Appendix I on arrival in the importing country.

The language in Article VII, paragraph 4, stating that Appendix-I specimens bred in captivity are deemed to be specimens of species included in Appendix II allows such specimens to be traded commercially. It means that a Management Authority may grant an export permit or a re-export certificate without requiring the prior issuance of an import permit. It does not mean that the species has been transferred from Appendix I to Appendix II. As we indicated in the proposed rule, the species remains listed in Appendix I, and therefore the specimens are not eligible for any exemption limited specifically to an Appendix-II species or taxon, such as less-restrictive provisions for personal and household effects.

Information required on CITES documents (§ 23.23): This section details information that must be included on CITES documents. We require that CITES export and re-export documents for live wildlife contain a specific condition that the document is only valid if the transport complies with certain humane-transport standards. The CITES *Guidelines for transport and preparation for shipment of live wild animals and plants* (CITES *Guidelines*) and the International Air Transport Association (IATA) *Live Animals Regulations* were incorporated by reference into our regulations at § 23.23(c)(7) in 2007. At CoP14, recognizing that IATA regulations are amended annually and are therefore more responsive to changing needs, and that it is important to provide humane transport conditions for plants as well as wildlife, the Parties agreed to promote the full and effective use of IATA's *Live Animals Regulations* (for animals) and *Perishable Cargo Regulations* (for plants) as the standards for the preparation and transport of live specimens. Therefore, we are removing reference to the outdated CITES *Guidelines* and incorporating by reference the 13th edition of the IATA *Perishable Cargo Regulations* as the standard for the transport of CITES-listed plants. We are further updating our regulations by incorporating by reference the 40th edition of the IATA *Live Animals Regulations* to replace the 33rd edition that is incorporated by reference in our current regulations. One commenter supported the updating of our humane-transport standards. For the convenience of the reader, we have moved the information on materials incorporated by reference into a new section, § 23.9 (please see the preamble text for § 23.9). Another commenter supported our proposal to amend § 23.23(c)(16) to allow the use of official signature stamps on CITES documents, in recognition of this global practice.

Validity of CITES documents (§ 23.26): We are adding three additional circumstances in § 23.26(d) for which we may request verification of a CITES document. When the CITES Secretariat receives information about a quota for publication, there may be technical problems or questions about technical or administrative aspects of the quota that need clarification. Under guidelines contained in Resolution Conf. 14.7 (Rev. CoP15), if the Secretariat is unable to resolve these issues with the Party concerned, the Secretariat is directed to publish the quota with an annotation to indicate its concerns. We may request verification of a CITES document if it is issued for a species with an annotated quota that raises concerns about the validity of the shipment. We may also request verification of a CITES document for a shipment of captive-bred Appendix-I wildlife when the specimens did not originate from a breeding operation that is registered with the CITES Secretariat and we have reason to believe the import is for

commercial purposes. In addition, if we receive a CITES export document on which the actual quantity exported has not been validated or certified at the time of export, we may request verification of the document.

Two commenters strongly supported inclusion of the three additional circumstances under which we may seek verification of a CITES document. Another commenter urged us to include two more circumstances related to permits authorizing the export of specimens subject to a quota. Another commenter did not see a reason to restrict the Management Authority to a formal list of circumstances under which it may request verification of a CITES document and noted that any indication of wrongdoing should give the Management Authority the authority to verify the authenticity of a permit. We agree that there may be more circumstances, in addition to those listed in § 23.26(d), under which we may request verification of a CITES document from the CITES Secretariat or a foreign Management Authority. The circumstances listed in § 23.26(d) are provided as common examples, and the list is not intended to be exhaustive. We direct the commenters to the first sentence of that paragraph (d), which indicates that such circumstances include, but are not limited to, those listed in § 23.26(d).

One commenter was concerned that the proposed changes regarding permits where the quantity had not been validated upon export do not go far enough. He suggested that we incorporate the language adopted at CoP15, in Resolution Conf. 12.3 (Rev. CoP15), which states that Parties ''should liaise'' with the exporting country's Management Authority and consider any ''extenuating circumstances'' to determine the acceptability of the document in question. We have declined to accept this suggestion as we consider it to be redundant. The text in § 23.26(d) informs the public of circumstances under which we may request verification of a CITES document; lack of validation is one of those circumstances.

Requirements for a bred-in-captivity certificate (§ 23.41): Although we did not propose changes to this text, one commenter objected to the language in § 23.41(d)(2), which states that to qualify for a bred-in-captivity certificate a specimen must be bred for noncommercial purposes or be part of a traveling exhibition. The commenter believes this provision is contrary to Article VII, paragraph 5, of the Treaty and to Resolution Conf. 10.16 (Rev.). To clarify, the requirement in § 23.41(d)(2) that a specimen must be bred for noncommercial purposes or be part of a traveling exhibition to qualify for a bred-in-captivity certificate applies only to Appendix-I specimens and not to specimens of species listed in Appendix II or III. For Appendix-I specimens, we will only issue bred-in-captivity certificates for specimens bred in captivity for noncommercial purposes, in accordance with Article VII, paragraph 5, of the Treaty, including specimens that are part of a traveling exhibition, as provided in Article VII, paragraph 7. Article VII, paragraph 7, allows for the issuance of an exemption document for Appendix-I specimens that form part of a traveling exhibition in certain circumstances, including that they are either pre-Convention specimens (Article VII, paragraph 2) or bred in captivity for noncommercial purposes (Article VII, paragraph 5). We refer the commenter to the discussion in the preamble for § 23.18, where we describe in detail the way in which we implement the various CITES provisions related to trade in Appendix-I specimens under the exemption in Article VII, paragraph 5.

Wildlife hybrids (§ 23.43): Section 23.43 allows for an exemption from CITES document requirements for hybrid wildlife specimens that meet specific criteria. We are adding language to clarify that an individual who is unable to clearly demonstrate that his or her wildlife specimen meets the criteria for an exempt hybrid must obtain a CITES document. One commenter expressed support for this clarification.

International travel with personally owned live wildlife (§ 23.44): Since publication of our current regulations in 2007, there has been some confusion regarding the purpose and appropriate use of certificates of ownership for personally owned live wildlife (also known as ''pet passports''). We are clarifying that such documents are to be used for frequent, short-term travel by an individual when accompanied by his or her personally owned live wildlife (e.g., for vacations, to attend competitions, or for similar purposes of relatively short duration) and that this individual is to return with the wildlife to his or her country of usual residence at the end of the trip. We received one comment in support of this clarification.

One commenter expressed dissatisfaction with the process for renewing a certificate of ownership for personally owned, live wildlife. The commenter objected to having to complete an entire application when only a few items needed to be updated and to having to submit his original certificate along with the application for renewal, thus preventing cross-border travel while awaiting issuance of the new certificate. In addition, the commenter noted that having the renewed certificate issued before the end of the period of validity of his existing certificate effectively shortens the period of validity to less than 3 years. He also considered the estimated time of 30 minutes for completion of Form 3–200–64 to be ''overly conservative'' and stated that ''a more realistic, but still conservative estimate'' would be at least 60 minutes.

Form 3–200–64, the application form for issuance of a certificate of ownership for personally owned live wildlife, asks for detailed information regarding the animal to be covered under the certificate. When a certificate holder wishes to renew a certificate of ownership, however, he or she should complete and submit Form 3–200–52, the application for re-issuance or renewal of a permit. This is a simplified application on which the applicant can certify that there have been no changes to the original application or that there have been changes as noted on an attached page. We ask that individuals allow 30 to 60 days for processing of applications, and we do require submission of the original certificate before we will issue a new one. If applying well in advance (more than 60 days before expiration of the certificate), an applicant could submit a copy and continue to use the original certificate, keeping in mind that he or she must return to the United States before the certificate expires. Once travel is completed and the animal has re-entered the United States, the original certificate must be returned to the Management Authority. As stated above, we will not issue a new certificate until we have received the original certificate. We thank the commenter for his input regarding the length of time needed to complete Form 3–200–64. We are in the process of reviewing all of our application forms and will take his comments into consideration during that process.

Registration of a commercial breeding operation for Appendix-I wildlife (§ 23.46): Article VII, paragraph 4, of the Treaty states that specimens of Appendix-I animal species bred in captivity for commercial purposes shall be deemed to be specimens of species included in Appendix II. For such specimens, a Management Authority may grant an export permit or a re-export certificate without requiring the prior issuance of an import permit, thus allowing the specimens to be traded commercially. However, the species

remains listed in Appendix I, and therefore the specimens are not eligible for any exemption limited specifically to an Appendix-II species or taxon.

Resolution Conf. 12.10 (Rev. CoP15) provides guidelines for registering and monitoring operations that breed Appendix-I animals for commercial purposes. Section 23.46 implements the resolution by establishing a procedure for operations that breed Appendix-I animals for commercial purposes to become registered with the CITES Secretariat. At CoP15, the Parties adopted changes to the registration process to address the sometimes lengthy delays that can occur when an objection is raised regarding an application to register a breeding facility. We are revising § 23.46(b) to incorporate changes to the registration process adopted at CoP15, and we expect that these changes will significantly reduce potential delays.

Under Resolution Conf. 12.10 (Rev. CoP15), registered commercial breeding operations are to be monitored by the Management Authority, in collaboration with the Scientific Authority, and the Management Authority is to advise the CITES Secretariat of any major change in the nature of an operation or in the products it is producing for export. Our regulations include an annual reporting requirement to facilitate monitoring of registered operations. We are eliminating the annual reporting requirement in § 23.46 and establishing instead a process for renewal of registrations every 5 years. The registration renewal is intended to be less burdensome for the registrants, yet will allow us to monitor these facilities and identify major changes in their operating practices. One commenter supported these changes.

We received a number of comments from falconers and falconry organizations regarding our proposed requirement for renewal of registrations for commercial breeding operations for Appendix-I wildlife. Many of these commenters expressed either opposition or very limited support for requiring renewal of registrations. Five commenters noted that there is no requirement under CITES for renewal of registrations and expressed their belief that, once a facility is registered, the registration should not expire. While Resolution Conf. 12.10 (Rev. CoP15) does not specifically recommend renewal of registrations or expiration dates for registrations, it does state that Parties should monitor the management of each registered captive-breeding operation under its jurisdiction and advise the CITES Secretariat of any major changes in the operation. It is left to the Parties to determine how they will accomplish such monitoring. Our regulations (§ 23.46(e)(3)) require annual reporting by registered facilities to allow us to monitor the management of these operations to ensure that they continue to meet the criteria for registration. We are eliminating the annual reporting requirement and establishing in its place a 5-year renewal process that we believe will reduce the burden on both the registered operations and the Service while providing for the monitoring that is required under CITES. We also note that there is a provision in Resolution Conf. 12.10 (Rev. CoP15) for removing breeding operations from the Secretariat's registry, particularly if they fail to continue to meet requirements, so registrations are not necessarily meant to continue in perpetuity.

Some of the commenters stated that the renewal requirement would create a significant burden on registered operations. They noted that raptor breeders are already monitored by the Service, through the Migratory Bird Program (MBP), and therefore the process for renewal of a registration would be redundant. They argued that the annual report and individual transactions forms provided to MBP should suffice for any monitoring requirement for CITES. Two commenters were more supportive of a simple registration update form and associated fee, if the required data submission was simply a reference to the current MBP data. One commenter suggested that if renewal of a registration is mandated by the Service, a one-page application with accompanying photocopies of the past five annual reports from the operation to the MBP should be all that is required.

The regulations in § 23.46, regarding the process for registering a commercial breeding operation for Appendix-I wildlife, apply to operations breeding any Appendix-I species, not just raptors and other falconry birds. Although it is true, as one commenter has noted, that all of the U.S. facilities currently registered with the CITES Secretariat are breeding raptors, we do not anticipate that this will always be the case. Therefore, we need to establish registration and reporting procedures that will work not just for facilities breeding raptors, but for any commercial breeding operation that may be registered in the future. It is not our intention, however, to increase the burden for raptor breeders.

We understand that U.S. raptor breeders are regulated under the Migratory Bird Treaty Act (MBTA) and must provide reports to the MBP on specific activities related to the breeding of native raptors (as defined in part 21 of this subchapter). It is also true, however, that not all CITES-listed, Appendix-I raptors are covered by the MBTA. There is no requirement for an operation breeding birds that are not covered by the MBTA (including raptors that are not native raptors under the definition in part 21) to provide reports to the MBP on activities associated with those birds. We agree that, for operations breeding native raptors, documents submitted to the MBP would include most, if not all, of the information needed for the renewal of a CITES registration. If an applicant requesting renewal of a registration is breeding native raptors and reporting to the MBP, he or she can inform us on the application for renewal, and we will obtain copies of the relevant documents, covering the past 5-year period, from MBP. A registered operation that is breeding Appendix-I species that are not covered by the MBTA, and therefore not covered in reports provided to the MBP, will need to include updated information relevant to those species in its renewal application.

Four commenters that opposed renewal of registrations expressed concern about whether the Management Authority could process registration applications in a consistent and timely manner. They asserted that the Service has underestimated the cost and negative effect this requirement will have on both the breeders and the Management Authority and stated their belief that registration renewal will put registered breeding operations at risk every 5 years due to potential delays in the renewal application process.

We are establishing a simplified renewal process that will be much less burdensome and take much less time than the initial registration process. We expect that most renewals will be completed within 30 to 60 days, provided that the renewal application contains all of the information requested. The criteria for renewal are the same as the criteria for registration of a new operation. However, unlike the process for initially registering a commercial breeding operation, the renewal process does not require us to contact the CITES Secretariat, and there will therefore be no consultation with other CITES Parties, as required for the initial registration. The same application used to request registration (Form 3–200–65) will be used for renewals. Applicants for renewal will not need to respond to all of the questions. Instead, they will be asked to identify any changes in their operation, such as new breeding facilities or

changes in breeding stock, that have occurred over the last 5 years. Operations breeding only U.S. native raptors, that have no updates to report beyond the information included in the annual reports and transfer documents they have submitted to the MBP, can state as much on their renewal application and we will obtain copies from MBP of their reports covering the relevant 5-year period. We consider that this process will allow us to meet our obligations under CITES and will cause only a minimal burden on registered operations. If necessary, upon renewal or at any time we receive significant new information on a registered operation, we will provide the updated information to the CITES Secretariat.

One commenter was opposed to the language in § 23.46(f), which states that requests for renewal of a registration should be submitted at least 3 months before the registration expires. The commenter asserted that, in the absence of such a provision, the registration would remain in effect until renewed or denied, if the application was received at any time before expiration.

Although we recommend, in § 23.46(f), that applicants submit requests for renewal at least 3 months before the registration expires, we do not require that they do so. We included this language to encourage registrants to apply for renewal early enough so that their registration does not expire while we are reviewing their renewal request, thus disrupting their ability to export specimens for which they are registered. The commenter may be referring to language in the Service's general permitting regulations in 50 CFR part 13. Under § 13.22, if an application to renew a permit is submitted at least 30 days before the permit expires, continuation of some permitted activity is allowed, subject to certain conditions, until the Service acts on the request for renewal. However, this provision does not apply to any permitted activities authorized under CITES (see § 13.22(c)(3)). Registrations will now have an expiration date and will be void after that date. To avoid disruption of permitted activities, registrations must be renewed before the expiration date. As stated earlier, we do not anticipate that the renewal process will take longer than 30 to 60 days, provided we have received all of the necessary documentation. The recommendation that an application for renewal of a registration be submitted 3 months before the registration expires is intended to allow us time to make sure the application is complete, including obtaining information from MBP (if necessary), to help ensure that the facility can continue operations without disruptions or delays.

One commenter questioned why the Service was proposing to eliminate the annual reporting requirement for CITES-registered operations breeding Appendix-I specimens and replace it with a 5-year renewal process. The commenter stated that we had not explained why the information currently required on an annual basis was no longer relevant. Another commenter supported a requirement that registrations be renewed, but urged us to limit the length of time a registration is valid to 3 years, instead of 5, stating that conditions at captive breeding facilities can change dramatically over a 5-year period. A third commenter asserted that neither the current annual reporting requirement nor the proposed registration renewal are sufficient to monitor registered facilities and urged us to engage in ''unannounced compliance checks'' on a regular basis.

We expect that the same information provided in an annual report will be provided, for a 5-year period, in a renewal application. Consolidation and submission of information on a 5-year cycle will give us with the information necessary for monitoring activities at registered operations while at the same time reducing the time and resources needed both by the Service, for collecting and reviewing reports, and by the registered operations, for preparing and submitting reports. Further, by establishing a renewal process, and therefore an expiration date, for registration of commercial operations, we will be able to more easily and formally address any potential problems that might be identified.

We are establishing a 5-year registration (instead of a 3-year registration as recommended by the commenter) based on our experience, since 2007, with trade from CITES-registered breeding operations in the United States. Once registered, an operation must still obtain CITES documents for any specimens it wishes to export. The information provided in an application for an export permit gives us an indication of changes that may be occurring at a registered operation and gives us some understanding of the current status of operations at the facility. If, in reviewing permit applications, we believe that further evaluation of the operation is warranted, we have the authority to do so, including conducting inspections of the facility. Under newly designated § 23.46(e)(3) and § 13.21(e)(2), anyone obtaining a CITES permit or authorization agrees, as a condition of their permitted activity, to allow the Service to enter their operation at any reasonable hour to inspect wildlife held or to inspect, audit, or copy applicable records. However, due to the likelihood that we will be in contact with a registered operation multiple times over the course of their registration, we do not believe the additional burden on the Service or the registrant of a 3-year renewal cycle is necessary or beneficial. If we encounter problems or difficulties associated with the 5-year renewal cycle for registrations, we will reevaluate the process and propose changes.

We also received comments on this section that were not related to the changes we had proposed regarding the process for initial registration or the renewal of existing registrations. Two commenters expressed concern about the way in which we implement the requirement in § 23.46(d)(2) that a breeding operation must provide sufficient information for us to determine that its parental stock was legally acquired. They stated that the Service asks for documentation that founding stock, not the parental (breeding) stock, at the facility was legally removed from the wild or imported into the United States. These commenters argued that Resolution Conf. 12.10 (Rev. CoP15) does not require this level of documentation and that it is an unreasonable burden on breeding operations, especially since ''there is no laundering of wild-taken young raptors going through breeding projects.''

The terms ''parental stock'' and ''founder stock'' are sometimes used interchangeably. We define ''parental stock'' in § 23.5 as ''the original breeding or propagating specimens that produced the subsequent generations of captive or cultivated specimens.'' We believe that this definition is consistent with the Treaty and with CITES resolutions. When an applicant is asked to provide documentation on the legal acquisition of the parental stock, we are asking that they show that the specimens that were either removed from the wild or imported into the United States to establish a breeding operation were legally obtained. We agree with the commenters that breeding operations are not likely to be laundering illegally obtained specimens. We attribute this, at least in part, to the oversight and documentation requirements that have been established to ensure that such activities do not occur.

Two commenters stated that we should eliminate the existing requirement for a registered facility to

provide an import permit. It is not clear from the comments what requirement they are referencing. Once a breeding operation is registered for certain Appendix-I species, specimens of those species that are bred at the facility are treated as if they are specimens of a species listed in Appendix II for permitting purposes. This means that, under CITES, only an export permit is required; there is no requirement for the issuance of an import permit. However, some Parties have stricter domestic measures and require import permits in situations where an import permit is not required under the Treaty. For example, countries in the European Union routinely require import permits for Appendix-II species, and the Russian Federation has recently notified the CITES Parties (see Notification to the Parties No. 2013/008) that, regardless of the origin of the birds, it will only allow the import of certain falcons if the Russian Management Authority has issued an import permit. For this reason, we advise exporters to communicate with the Management Authority of the importing country well in advance of export to make sure they understand and comply with all requirements. It is the responsibility of the exporter to ensure that all legal requirements (not just for CITES) in both the importing and exporting country have been met before exporting any CITES-listed specimen.

Replacement documents (§ 23.52): A Management Authority may issue a replacement CITES document when the original document has been lost, damaged, stolen, or accidentally destroyed. Section 23.52 contains provisions for issuance and acceptance of replacement CITES documents. We are clarifying the procedures and amending the criteria for issuance and acceptance of replacement CITES documents by the United States. We are more closely aligning the criteria for issuance and acceptance of replacement CITES documents by the United States with those for issuance and acceptance of retrospective documents found at § 23.53. Amendments to the criteria include: Requirements that specimens are presented to the appropriate official at the time of import and that the request for a replacement document is made at that time; the need for proof of original valid documents; and a statement of responsibility. We are also clarifying that an individual who qualifies to receive multiple single-use CITES documents under a master file or annual program may not use one of the documents issued under a master file or annual program as a replacement document, but must apply for and receive a separate replacement document.

One commenter supported the proposed changes to § 23.52. Another commenter was opposed to all of the changes proposed for this section and disagreed with our suggestion that the criteria for issuance and acceptance of replacement documents should be more closely aligned with the criteria for issuance and acceptance of retrospective documents. The commenter expressed concern that for replacement permits for recreational hunting trophies ''the conditions and timelines will be challenging to fulfill'' and stated that we should propose regulations to facilitate the issuance of retrospective and replacement permits instead of making it an ''onerous undertaking.''

We agree that the criteria for issuance and acceptance of replacement CITES documents are, and should be, different from those for retrospective CITES documents, and our regulations reflect those differences. We note that in the preamble to Resolution Conf. 12.3 (Rev. CoP15), the Parties recognize that ''the efforts of importing countries to fulfill their obligations under Article VIII, paragraph 1 (b), may be seriously obstructed by the retrospective issuance of permits or certificates for specimens having left the exporting or re-exporting country without such documents'' and that ''the retrospective issuance of permits and certificates has an increasingly negative impact on the possibilities for properly enforcing the Convention and leads to the creation of loopholes for illegal trade.'' With regard to replacement documents, the resolution states that, when a permit or certificate has been cancelled, lost, stolen, or destroyed, the issuing Management Authority should ''immediately'' inform the Management Authority of the country of destination (as well as the Secretariat for commercial shipments). Based on our experience since the publication of our 2007 CITES regulations, we identified a need to clarify what is required for issuance and acceptance of a replacement document. As we noted in our proposed rule, we have experienced situations in which importers or their agents have attempted to submit ''replacement'' documents when no document had ever been issued or when the original document was invalid. In addition, individuals have significantly delayed submission of required documents for clearance of a shipment while they tried to obtain a replacement document without our knowledge. We believe the revised provisions in this section will help individuals understand the process for obtaining a replacement document if their CITES document has been lost, damaged, stolen, or accidentally destroyed and will help us to meet our obligations under the Treaty.

Retrospective CITES documents (§ 23.53): In certain limited circumstances, CITES documents may be issued and accepted to authorize an export or re-export that has already occurred or to correct technical errors on a document accompanying a shipment that has already occurred. We are adding text to clarify that we may issue or accept a retrospective document in circumstances where a technical error was made by the issuing Management Authority at the time the original document was issued. As we have for replacement documents, we clarify in this section that an individual may not use a CITES document issued under a master file or an annual program as a retrospective document, but must apply for and receive a separate retrospective document (see the discussion in the preamble for replacement documents, § 23.52). We also clarify that ''personal or household effects'' in § 23.53(d)(7)(i) means specimens that meet the definition of ''personal effect'' or ''household effect'' in § 23.5. One commenter supported these changes.

Use of CITES specimens after import into the United States (§ 23.55): This section provides conditions for the import and subsequent use of certain CITES specimens. Its purpose is to prevent commercial use of specimens after import into the United States when the trade allowed under CITES is only for a noncommercial purpose. Under Article II of the Treaty, trade in Appendix-I specimens ''must only be authorized in exceptional circumstances.'' Unless an Appendix-I wildlife or plant specimen qualifies for an exemption under Article VII of the Treaty, it can be imported only when the use is not for primarily commercial purposes. The import and subsequent use of Appendix-I specimens and certain Appendix-II specimens, including transfer, donation, or exchange, may be only for noncommercial purposes. Other Appendix-II specimens and any Appendix-III specimen may be used for any otherwise lawful purpose after import, unless the trade allowed under CITES is only for noncommercial purposes. See the preambles in our previous rulemaking documents, 71 FR 20167, April 19, 2006 (proposed rule), and 72 FR 48402, August 23, 2007 (final rule), for further discussion.

Since publication of our regulations in 2007, we have given further

consideration to the allowed use of a specimen within the United States when the listing status of the species changes after a specimen has been imported. We are amending this section to clarify that the allowed use after import into the United States is determined by the status of the specimen under CITES and the ESA at the time it is imported, except for a CITES specimen that was imported before the species was listed in Appendix I, or listed in Appendix II with an annotation disallowing commercial use, or listed in Appendix II or III and threatened under the ESA. Where an individual can clearly demonstrate that his or her specimen was imported with no restrictions on its use after import, prior to the species being listed under CITES with restrictions on its use after import, we will continue to allow use of the specimens as allowed at the time of import.

We have considered the individual who may, for example, have imported Appendix-II specimens that had no restrictions on their domestic use and be lawfully utilizing the specimens as part of a commercial breeding operation. Under our current regulations, he or she may be precluded from continuing such activities if the species is subsequently listed in Appendix I. We do not believe it is necessary for ensuring the conservation and sustainable use of the species to retroactively apply current import/export restrictions to domestic activities involving specimens that were legally imported prior to the imposition of those restrictions. Therefore, where an individual can clearly demonstrate that his or her specimens were legally imported prior to the Appendix-I listing, we will not treat those specimens as specimens of an Appendix-I species with regard to their use within the United States.

Consistent with our current regulations, we continue to believe that restrictions on the allowed use after import of specimens of Appendix-I species may be relaxed if the status of the species improves and it is subsequently listed in Appendix II or removed from the Appendices. If the status of a species has changed so that it no longer requires the strict protections (including the prohibition on commercial trade) provided by an Appendix-I listing, and it is not listed under the ESA, we see no conservation need for requiring that specimens imported when the species was listed in Appendix I continue to be used only for noncommercial purposes. Other applicable laws, however, may continue to restrict use of the specimen.

Under this final rule, if an Appendix-II specimen is imported with no restrictions on its use (i.e., it is not protected under the ESA and it is not subject to an annotation requiring that it be used only for noncommercial purposes) and the species is subsequently transferred to Appendix I, if you can clearly demonstrate that your specimen was imported prior to the Appendix-I listing, use of the specimen within the United States will not change (i.e., it will not be restricted to noncommercial use) with the change in the status of the species under CITES. As is currently the case, the allowed use of an Appendix-I specimen imported for noncommercial purposes may change if the species is subsequently transferred to Appendix II or removed from the Appendices. In such a case, the allowed use of the specimen within the United States will be determined by the current listing status of the species, not the status of the species at the time it was imported.

One commenter opposed any regulation of the use after import of CITES specimens, stating that it is beyond the control of CITES. The same commenter suggested that trophy trade ''deserves preferential treatment'' because of its conservation value and lack of biological consequence after lawful import. The commenter stated that ''unnecessary restrictions on long-term use have a negative effect on the trade and the benefits of the trade.''

Other commenters expressed support for restricting the use after import of certain specimens and for some of the proposed changes. One commenter stated that we should retain the current restriction on domestic trade of all Appendix-I specimens, including those that were imported into the United States as Appendix-II specimens. Another commenter expressed support for our current treatment of specimens imported when the species was listed in Appendix I and then subsequently transferred to Appendix II (which we did not propose to revise). The commenter stated that allowing a change in treatment of such specimens within the United States was pragmatic from an enforcement point of view and noted that the change in listing status would mean that the previous conservation concerns would no longer exist. However, the same commenter was opposed to our proposed change in treatment for specimens imported when the species was listed in Appendix II and subsequently transferred to Appendix I, stating that it does not make sense to change the rules for one category on the basis of conservation and enforcement and then not apply the same logic to another category. The commenter believes that allowing an individual to demonstrate that a specimen was imported before the species was transferred to Appendix I creates a loophole for illegal use of wildlife. One commenter, although not necessarily opposed to the proposed revisions, questioned the logistics of implementing and enforcing the changes. Two commenters urged us to retain the option of restricting domestic commercial use of specimens if there are reasonable grounds to conclude that doing so is necessary for the conservation of the species. One of them cautioned that domestic markets for specimens of Appendix-I species can be strong drivers of poaching and illegal trade.

This issue has been the subject of considerable discussion. The changes to this section are intended to be a balance of fairness to individuals who have complied with the law in their acquisition of CITES-listed specimens and the conservation needs of listed species. We recognized in our 2007 regulations that there is no conservation benefit to be derived from a prohibition on the commercial use of specimens imported when the species was listed in Appendix I or in Appendix II with an annotation prohibiting commercial use after the species has been transferred to Appendix II or the annotation removed—or possibly delisted altogether. We did not propose changes to the regulations with regard to these specimens because it is not reasonable to prohibit the commercial use of such specimens, but allow the import and commercial use of other specimens of the same species, as would be possible under an Appendix-II listing or if the species has been removed from the Appendices altogether.

Upon further reflection, we conclude that it would similarly not result in a conservation benefit to disallow the commercial use within the United States of specimens imported when the species was listed in Appendix II if the species is subsequently transferred to Appendix I. We have further evaluated this section since publication of our 2007 regulations and do not believe there is a basis to retrospectively apply restrictions on the use of specimens imported when the species was listed in Appendix II because the required findings for allowing the trade in those specimens were made prior to import and did not include a determination regarding commerciality. We consider this to be comparable to the exemption in Article VII, paragraph 2, for pre-Convention specimens, which allows a specimen of an Appendix-I species to be

traded for commercial purposes if it was acquired prior to listing under the Convention. Allowing specimens imported when the species was listed in Appendix II to continue to be used for commercial purposes within the United States, even after the species has been transferred to Appendix I or has an annotation added to the Appendix-II listing that prohibits commercial trade, recognizes the legal framework that applied to the specimens at the time they were traded. The arguments for prohibiting commercial use of specimens imported when the species was listed in Appendix II, after it has been listed in Appendix I or annotated to prohibit commercial use, could be as aptly applied to pre-Convention specimens, but the Convention allows that pre-Convention specimens are not subject to its requirements (if the Management Authority issues a certificate to that effect), whether the species is listed in Appendix I, II, or III.

It is important to emphasize that our regulations in § 23.55 apply only to use within the United States. If a species has been transferred from Appendix II to Appendix I, specimens imported when the species was listed in Appendix II become Appendix-I specimens and international trade in such specimens must be in accordance with the Treaty requirements for trade in Appendix-I specimens. It is only the allowed use within the United States that does not change under our revised regulations.

We do not believe that it should be difficult for individuals engaged in commercial activities to provide the documentation necessary to demonstrate that their specimens were acquired prior to the Appendix-I listing. However, we will assess these situations carefully to determine if this change results in undue enforcement challenges.

We are making minor changes to the text in the proposed rule for the table in § 23.55, for clarity and precision. We added the phrase ''without an annotation for noncommercial purposes'' immediately following ''Appendix II'' in paragraph (c) of § 23.55, to draw a clear distinction between the Appendix-II specimens covered by paragraph (b) and those covered by paragraph (c). We also further revised the text in the right-hand column of the table in § 23.55 associated with paragraphs (a), (b), and (c) to make it easier to read and understand.

Factors considered in making a finding of not for primarily commercial purposes (§ 23.62): We did not propose changes to this section, but one commenter has expressed concern that, although the determination of whether or not an Appendix-I specimen is to be used for ''primarily commercial purposes'' is to be made by the importing country, the U.S. Management Authority considers it is also a duty of the exporting country, which is contrary to CITES provisions. We agree with the commenter that it is the responsibility of the Management Authority in the importing country, prior to issuing an import permit, to determine whether an Appendix-I specimen is to be used for primarily commercial purposes. However, as noted previously, we will exercise our right and responsibility under the Treaty to verify whether the Management Authority of the importing country has made the appropriate determination of whether an import is not for primarily commercial purposes.

Trade in native CITES furbearer species (§ 23.69): Our previous regulations at § 23.69 defined ''CITES furbearers'' to mean bobcat (*Lynx rufus*), river otter (*Lontra canadensis*), Canada lynx (*Lynx canadensis*), and the Alaskan populations of gray wolf (*Canis lupus*) and brown bear (*Ursus arctos*). For consistency and clarity, we have further amended our definition of ''CITES furbearers'' to include all U.S. populations of gray wolf and brown bear. All five of the species included in our definition of ''CITES furbearers'' are listed in CITES Appendix II. Certain populations of three of these species, Canada lynx, gray wolf, and brown bear, are also listed under the ESA. We initially considered that only the Alaskan populations of gray wolf and brown bear should be included in our definition of ''CITES furbearers'' because the Alaskan populations are not ESA-listed. However, the same is true for the Canada lynx, which is included in our definition throughout its U.S. range. Upon further review, we believe it is more appropriate to base the definition of ''CITES furbearers'' on the CITES listings of these species. The definition in § 23.69 includes those native furbearers for which States may request approval of a CITES export program. Although the State of Alaska is the only State that currently has CITES export approval for gray wolf or brown bear, we do not want to prohibit other States from seeking export approval for these species in the future if the legal and conservation status of their populations change. Section 23.69 details the CITES requirements for import, export, or re-export of fur skins from CITES furbearers and the requirements that must be met for export approval of State or tribal programs for CITES furbearers. We remind readers that activities involving specimens from populations of CITES furbearers that are protected under the ESA must also meet the requirements for ESA-listed species in part 17 and elsewhere in this title (see § 23.3).

We received support for the amendment of our definition of ''CITES furbearers'' from two commenters who believed it to be a sensible change and noted that it would facilitate possible future requests from States for CITES export approvals if the legal and conservation status of listed species changes. One of these commenters recommended that we also include the American black bear in our definition of ''CITES furbearer'' in this section. Although we are not necessarily opposed to this suggestion, we have not received requests from States wishing to develop a CITES export program for black bear. If there are States interested in developing such a program in the future, we will work with them to explore the possibility of including the American black bear in our definition of ''CITES furbearers'' and creating a CITES export program for black bear.

Tagging of CITES fur skins and crocodilian skins (§§ 23.69 and 23.70): We are amending § 23.70 to incorporate changes to the tagging requirements for crocodilian skins adopted by the Parties at CoP15. We are also amending §§ 23.69 and 23.70 to clarify the appropriate use of CITES replacement tags for CITES fur skins and crocodilian skins. These sections specify that skins with broken, cut, or missing tags may not be exported and provide a procedure for obtaining replacement tags where this is the case. However, the regulations are not intended to allow for the use of CITES replacement tags in place of tags that have been deliberately removed to facilitate processing or for other reasons. Replacement tags are intended to be used to replace CITES tags that have been inadvertently cut or damaged, or where the original CITES tags are lost. Although CITES tags sometimes break during transport or processing and may sometimes fail as a result of a defect, it has been our experience that the failure rate is very low (less than 5 percent) and that replacement tags are needed infrequently. We are also amending the phrases in § 23.69, paragraphs (c)(3) and (c)(3)(i), and in § 23.70, paragraphs (d)(3) and (d)(3)(i), referring to ''broken, cut, or missing'' tags to be more consistent with the terminology used in Resolution Conf. 11.12 (Rev. CoP15).

Two commenters supported the amendments to this section consistent with the changes to Resolution Conf. 11.12 (Rev. CoP15). However, they and

another commenter expressed concern about our clarifications regarding the proper use of replacement tags. They noted that tags are sometimes deliberately removed for processing and asked that we develop a policy to recognize that ''lawfully acquired and documented hides'' whose tags have been removed for finishing should qualify for replacement tags. One of these commenters also noted that the current process for obtaining replacement tags is time-consuming and ''frequently negatively impacts business transactions,'' and asked that a protocol be developed to allow tanners to obtain replacement tags from FWS in a timely manner. The commenter stated that, when a tanner attempts to export skins from which he has removed the tags due to the particular processing used, he is limited as to the proportion of skins with replacement tags that can be included in an individual shipment. The commenter believes this limitation is arbitrary.

As for all CITES species, before we can issue a CITES document to allow export of CITES furbearer skins or crocodilian skins, we must find that the specimens were legally acquired and that the export is not detrimental to the survival of the species. We have worked with States and Tribes to develop procedures that allow us to make the necessary findings for native species programmatically (i.e., at the State or tribal level) rather than on a permit-by-permit basis. When States and Tribes have established a management program that ensures sustainable harvest and they have the means to identify or mark specimens that have been legally taken under their system, we are able to make findings for specimens harvested within their jurisdiction, thereby approving their program. A tag issued by the State or Tribe demonstrates that a particular specimen was harvested under an approved program and that the appropriate findings have been made. As noted previously, the regulations are not intended to allow for the use of CITES replacement tags in place of tags that have been deliberately removed to facilitate processing. We are always willing, however, to work with State and tribal governments to explore ways to improve our established procedures. The comment regarding limitations on the proportion of skins with replacement tags in a particular shipment appears to be a reference to the special rule for threatened crocodilians (50 CFR 17. 42(c)) under the ESA. The special rule states that, if a shipment of threatened crocodilian skins contains more that 25 percent replacement tags, the U.S. Management Authority will consult with the Management Authority of the re-exporting country before clearing the shipment (see 50 CFR 17.42(c)(3)(i)(C)). We note that this provision applies only to threatened crocodilians (as defined in § 17.42(c)(1)(i)) and not to the American alligator.

The same two commenters suggested that we delete the second sentence in § 23.70(e)(2), which describes information to be included on a marked American alligator skull. With this sentence deleted, § 23.70(e)(2) would read, ''Each American alligator skull must be marked as required by State and tribal law or regulation.'' They argue that this would allow each State or Tribe to determine whether marking of individual skulls is necessary. We fully support this suggestion. Marking of skulls is not a CITES requirement, and it was included in our regulations because we were aware that some States and Tribes required that American alligator skulls be marked. We agree that it is appropriate to allow each State and Tribe to decide whether or not to require marking of skulls and are incorporating the recommended revision into this rule.

These commenters also requested that we remove the requirement in § 23.70(f)(1) that crocodilian parts, other than meat and skulls, must be packed in transparent, sealed containers. They note that certain parts, particularly alligator backstrips, are large and heavy and would be more easily transported in sealed wooden crates or cardboard boxes that would be less likely than transparent plastic or vinyl containers to crack or split during handling. We believe that this is a reasonable suggestion. However, the recommendation that tails, feet, backstrips, and other parts be exported in transparent, sealed containers was accepted by the CITES Parties at CoP9 (1994) and is currently contained in Resolution Conf. 11.12 (Rev. CoP15). Because it is not just a U.S. requirement, changing this provision, both in terms of what the United States allows on export and what other countries allow upon import, cannot be achieved by simply revising our regulations. We will, however, explore with other Parties the possibility of revising Resolution Conf. 11.12 (Rev. CoP15) at CoP17 to update the provisions for transport of crocodilian parts.

Sport-hunted trophies (§ 23.74): At the time our current regulations were written, the CITES Parties had not defined ''sport-hunted trophy.'' We therefore developed the definition in § 23.74(b) based on our experience with international trade in these items and the commonly understood meaning of the term from the dictionary and other wildlife regulations. (See 72 FR 48402, August 23, 2007, for further background.)

Prior to CoP15, as part of its regular review of resolutions, the Secretariat suggested that the Parties consider developing a definition of ''hunting trophy'' that could be added to a CITES resolution. The United States participated in discussions through an online forum prior to CoP15 and in a working group established at CoP15 to consider a CITES definition of ''hunting trophy.'' At CoP15, the Parties adopted a definition of ''hunting trophy'' in Resolution Conf. 12.3 (Rev. CoP15). The major difference between the definition in our CITES regulations and the definition adopted by the Parties is that the definition in Resolution Conf. 12.3 (Rev. CoP15) allows manufactured items derived from the hunted animal to be considered part of a hunting trophy, whereas our definition in 50 CFR part 23 specifically excludes such items. We continue to have concerns about the possible import of fully manufactured products as part of a hunting trophy that were actually purchased at a store or from a taxidermist, for example, and were not made from the sport-hunted trophy animal. Therefore, we have incorporated into § 23.74(b) the definition contained in Resolution Conf. 12.3 (Rev. CoP15) with some additional text to clarify the conditions under which we will allow the import into the United States of manufactured items as part of a hunting trophy.

Five commenters expressed strong opposition to incorporating the definition of ''hunting trophy'' adopted at CoP15 because they do not believe that manufactured items should be considered part of a trophy. Some noted that the Parties have not yet agreed on the treatment of hunting trophies with respect to CITES provisions for personal and household effects and purpose codes on permits, and they argued that we should wait for those discussions to be concluded before revising our definition. Others pointed to the ''rise of sport-hunting as a loophole for illegal trade'' and expressed concern that the proposed change would present enforcement challenges and could allow laundering of commercial items as sport-hunted trophies. One commenter did not believe that we had provided sufficient justification for including products manufactured from the trophy animal in the definition of ''sport-hunted trophy.'' Another commenter noted that the United States has the

authority to adopt stricter domestic measures and should do so in this case.

Although it is true that discussions regarding CITES provisions for treatment of personal and household effects and the use of purpose codes on CITES documents are ongoing, the definition of ''hunting trophy'' is not dependent on the outcome of those discussions. We share the concern that adopting the definition of ''hunting trophy'' in Resolution Conf. 12.3 (Rev. CoP15) could result in enforcement challenges and trade in commercial products as hunting trophies. For these reasons, we are adding the provisions in § 23.74(b)(4) to describe the conditions under which we will allow import of manufactured or handicraft items as part of a sport-hunted trophy. Our new definition is consistent with the definition adopted by CITES Parties, but provides us additional measures to ensure that this trade is limited to items made from the sport-hunted animal for the personal use of the hunter.

Two commenters expressed support for the definition of ''hunting trophy'' adopted at CoP15 and for incorporation of the new definition into U.S. regulations. These commenters objected, however, to the additional text we have proposed to clarify the circumstances under which we would allow import into the United States of manufactured items as part of a hunting trophy.

Both commenters objected to the requirement in § 23.74(b)(4)(i) that items manufactured from the sport-hunted animal be contained in the same shipment as raw or tanned parts of the animal, noting that the definition in Res. Conf. 12.3 (Rev. CoP15) allows for the possibility that manufactured items made from a sport-hunted animal are the only items a hunter wishes to export and import. As we have stated previously, we have concerns about the import of fully manufactured products as a hunting trophy when the items were not actually made from the sport-hunted trophy animal. Requiring that manufactured items be contained in the same shipment as raw or tanned parts helps provide assurance that these items were, in fact, manufactured from the sport-hunted trophy animal. One commenter objected to the requirement that these manufactured items must be for the personal use of the hunter. To meet both the CITES definition of ''hunting trophy'' in Res. Conf. 12.3 (Rev. CoP15) and our definition of ''sport-hunted trophy'' in § 23.74, the animal must have been killed by the hunter for his or her personal use. If we are to consider items manufactured from the trophy animal to be part of the sport-hunted trophy, they must therefore also be for the personal use of the hunter.

Both commenters objected to the text in § 23.74(b)(4)(ii), which states that the quantity of manufactured items imported as a sport-hunted trophy must be no more than could ''reasonably be expected given the number of animals taken by the hunter.'' One felt this provision was too broad and the other felt that it provides too much discretion for inspectors to determine ''reasonable quantities.'' These same commenters also objected to the text in § 23.74(b)(4)(iii) requiring that the accompanying CITES document contain a complete itemization and description of all items included in the sport-hunted trophy shipment. We disagree with these comments and believe that the provisions in § 23.74(b)(4) provide reasonable measures for us to ensure that the expansion of our existing definition of ''sport-hunted trophy,'' to include items manufactured from the trophy animal, will not result in negative impacts to populations subject to sport hunting.

The definition of ''sport-hunted trophy'' has been the subject of considerable discussion and debate both here in the United States and at CITES meetings. We have been active participants in those discussions and have carefully considered whether and how to change our existing definition in § 23.74. As we indicated in the preamble to our proposed rule, we will carefully monitor imports of sport-hunted trophies, particularly imports of manufactured items as parts of sport-hunted trophies, to evaluate the impact of this change. If we identify problems with implementation of the new definition that result in increased conservation risks to these species, we will revisit our definition of ''sport-hunted trophy'' and propose revisions as needed.

We are moving the CITES marking requirements for African elephant trophies and the definition of ''lip mark area'' from the African elephant special rule (50 CFR 17.40(e)) into § 23.74. (See the discussion in the preamble on proposed changes to 50 CFR part 17.) In addition, at CoP15, the Parties adopted a change to the accepted methods for marking of elephant ivory to allow the use of new technologies for permanent marking, including the use of lasers. We are incorporating this change and clarifying the marking requirements for elephant ivory consistent with Resolution Conf. 10.10 (Rev. CoP15). Two commenters expressed support for these changes.

One commenter noted the difference between requirements for reporting the year on marks or tags for different species and suggested that the year on a mark or tag should represent the year of harvest in all cases, as recommended in Resolution Conf. 14.7. We agree with the commenter that it would be helpful to standardize the marking requirements for sport-hunted trophies, to the extent possible. However, we note that Resolution Conf. 14.7 provides general guidance with regard to nationally established export quotas. The marking requirements in § 23.74 are for specimens of species for which the Parties have adopted resolutions specific to trade in those species (i.e., elephant, leopard, markhor, and black rhinoceros, each of which contains marking requirements). The marking requirements in § 23.74 mirror the requirements in the various resolutions specific to trade in these specimens. In response to the comment, we are adding a clarification to the marking requirements for African elephant hunting trophies to indicate that the year included in the formula for marking (in Resolution Conf. 10.10 (Rev. CoP15)) is the year in which the elephant was harvested for export. We will continue to work with other CITES Parties to clarify and standardize marking requirements for sport-hunted trophies, where practicable.

Trade in vicuña (§ 23.75): We are adding a new section to the regulations to address the requirements for international trade in specimens of vicuña. Certain populations of vicuña are listed in Appendix II for the exclusive purpose of allowing international trade in wool sheared from live animals, cloth made from that wool, and products made from the cloth or wool. The CITES Parties have adopted specific requirements for labeling of these vicuña products in international trade. These requirements are currently contained in our special rule for threatened vicuña in 50 CFR part 17. We believe it is more appropriate to include these specific CITES requirements in our CITES regulations, and therefore we are removing them from part 17 and inserting them into a new section (§ 23.75) in part 23. (See the discussion in the preamble regarding changes to part 17.) One commenter expressed support for these proposed changes.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563): Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act: Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions) (5 U.S.C. 601 *et seq.*). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for ''significant impact'' and a threshold for a ''substantial number of small entities.'' See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

The U.S. Small Business Administration (SBA) defines a small business as one with annual revenue or employment that meets or is below an established size standard. We expect that the majority of the entities involved with international trade in CITES specimens would be considered small as defined by the SBA. The declared value for U.S. international trade in CITES wildlife (not including plants) was $819 million in 2000, $428 million in 2001, $345 million in 2002, $394 million in 2003, $1.5 billion in 2004 (including one export of a single panda to China with a declared value of $1 billion), $737 million in 2005, $748 million in 2006, $1.0 billion in 2007, $846 million in 2008, $637 million in 2009, $665 million in 2010, and $871 million in 2011.

These new regulations create no substantial fee or paperwork changes in the permitting process. The regulatory changes are not major in scope and will create only a modest financial or paperwork burden on the affected members of the general public. The change from the current annual reporting requirement for registered facilities breeding Appendix-I wildlife to a 5-year renewal requirement actually reduces the paperwork burden for these facilities.

This final rule will benefit businesses engaged in international trade by providing updated and clearer regulations for the international trade of CITES specimens. We do not expect these benefits to be significant under the Regulatory Flexibility Act. The authority to enforce CITES requirements already exists under the ESA and is carried out by regulations contained in 50 CFR part 23. The requirements that must be met to import, export, and re-export CITES species are based on the text of CITES, which has been in effect in the United States since 1975.

We therefore certify that this final rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

Small Business Regulatory Enforcement Fairness Act: This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more. This rule provides the importing and exporting community in the United States with updated and more clearly written regulations implementing CITES. This rule will not have a negative effect on this part of the economy. It will affect all importers, exporters, and re-exporters of CITES specimens equally, and the benefits of having updated guidance on complying with CITES requirements will be evenly spread among all businesses, whether large or small. There is not a disproportionate share of benefits for small or large businesses.

b. Will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, tribal, or local government agencies; or geographic regions. This final rule will result in a small increase in fees for registered operations breeding Appendix-I species due to the requirement for renewal of registrations every 5 years.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rule will assist U.S. businesses and individuals traveling abroad in ensuring that they are meeting all current CITES requirements, thereby decreasing the possibility that shipments may be delayed or even seized in another country that has implemented CITES resolutions not yet incorporated into U.S. regulations.

Unfunded Mandates Reform Act: Under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

a. This final rule will not significantly or uniquely affect small governments. A Small Government Agency Plan is not required. As the lead agency for implementing CITES in the United States, we are responsible for monitoring import and export of CITES wildlife and plants, including their parts, products, and derivatives, and issuing import and export documents under CITES. The structure of the program imposes no unfunded mandates. Therefore, this rule will have no effect on small governments' responsibilities.

b. This rule will not produce a Federal requirement of $100 million or greater in any year and is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings: Under Executive Order 12630, this rule does not have significant takings implications. A takings implication assessment is not required because this final rule will not further restrict the import, export, or re-export of CITES specimens. Rather, the rule updates and clarifies the regulations for the import, export, and re-export of CITES specimens, which will assist the importing and exporting community in conducting international trade in CITES specimens.

Federalism: These revisions to part 23 do not contain significant Federalism implications. A federalism summary impact statement under Executive Order 13132 is not required.

Civil Justice Reform: Under Executive Order 12988, the Office of the Solicitor has determined that this final rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. Specifically, this rule has been reviewed to eliminate errors and ensure clarity, has been written to minimize potential disagreements, provides a clear legal

standard for affected actions, and specifies in clear language the effect on existing Federal law or regulation.

Paperwork Reduction Act: This rule contains a collection of information that OMB has approved under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

OMB approved the information collection requirements associated with CITES permit applications and reports and assigned OMB Control Number 1018–0093, which expires May 31, 2017. This approval includes the application for the initial registration of commercial facilities that breed CITES Appendix-I animals (FWS Form 3–200–65) as well as other CITES requirements. This rule does not change the information collection requirements currently approved under 1018–0093. OMB has reviewed the following new requirements and assigned OMB Control Number 1018–0150, which expires April 30, 2017. When this final rule is effective, we will incorporate burden for the new information collections into OMB Control No. 1018–0093 and discontinue OMB Control Number 1018–0150.

• *Renewal of Registration for Commercial Breeding Operations (§ 23.46).* We are limiting the length of time a registration is valid to no more than 5 years. Applicants will use FWS Form 3–200–65, the same form used to request the initial registration, to request renewal of a registration. We will use the information collected through the renewal process to determine if an operation still meets the requirements for registration under CITES.

• *Reporting take of grizzly bears (§ 17.40(b)(1)(i)(B)).* Grizzly bears may be taken in self-defense or in defense of others, but such taking must be reported by the individual who has taken the bear or his designee within 5 days of occurrence to the appropriate Service Law Enforcement Office and to appropriate State and tribal authorities.

• *Reporting take of mountain lions (§ 17.40(h)(5)).* Free-living mountain lions in Florida may be taken for human safety reasons. Such take must be reported in writing within 5 days to the Service's Office of Law Enforcement.

• *Marking of vicuña products (§ 23.75(f)), beluga sturgeon caviar (§ 23.71), and African elephant sport-hunted trophies (§ 23.74(e)(2)).* CITES requires that specimens of these species in international trade are marked or labeled in a specific manner. Export permits, issued by the range countries for these species, must include the required marking/labeling information in order for the documents to be considered valid and for the United States to allow the import. Foreign export permits are reviewed by U.S. Fish and Wildlife inspectors at the time of import. These marking requirements are not new. All were contained in special rules in 50 part 17 (17.40 and 17.44). They are CITES marking requirements that were included in the special rules in part 17 at a time when we did not have such detailed information in our CITES regulations (prior to publication of the 2007 revisions to part 23). We are moving them from part 17 into part 23 to make a clear distinction between CITES requirements and ESA requirements.

• *Beluga sturgeon exemption (§ 17.44(y)(5)).* Our regulations allow for aquaculture facilities in countries where beluga sturgeon do not naturally occur to request an exemption from ESA permitting requirements for trade in beluga sturgeon caviar if they meet certain conditions. The facility must provide information demonstrating that it meets these conditions (i.e.; they are using best management practices, they do not rely on wild beluga sturgeon for brood stock, and they have entered into a formal agreement with a beluga sturgeon range State to enhance the survival of wild beluga sturgeon). Facilities granted such an exemption must file biennial reports with the Service documenting continued compliance with these conditions.

• *Exempt wildlife hybrids (§ 23.43(f)(2)).* Our regulations allow the international trade of certain wildlife hybrids without CITES documents, if an individual can provide documentation at the port of entry/exit that his or her animal meets the criteria for the exemption. This provision has been in place since 2007. With this final rule we have provided examples of the type of documentation an individual could use to demonstrate that his/her animal qualifies for the exemption. The information provided must clearly identify the specimen and demonstrate its recent lineage. Such information may include, but is not limited to, the following:

(1) Records that identify the name and address of the breeder and identify the specimen by birth or hatch date and by sex, band number, microchip number, or other mark.

(2) A certified pedigree issued by an internationally recognized association that contains scientific names of the animals in the specimen's recent lineage and clearly illustrates its genetic history. If the pedigree contains codes, a key or guide that explains the meaning of the codes must be provided.

• *Exception to use of CITES specimens after import (§ 23.55).* Our regulations provide an exception to the restrictions on use after import into the United States of certain CITES specimens. To take advantage of this exception, documentation (written records or other documentary evidence) must be provided that clearly demonstrates the specimen was imported prior to the CITES listing, with no restrictions on its use after import. If documentation does not clearly demonstrate that this exception applies, the specimen may be used only for noncommercial purposes. OMB Control No.: 1018–0150.

Title: Renewal of Registration for Appendix I Commercial Breeding Operations (CITES) and Other CITES Requirements, 50 CFR 17 and 23.

Service Form Number(s): 3–200–65.

Description of Respondents: Registered commercial facilities that breed Appendix-I (CITES) animals; individuals; businesses; and State, local, and tribal government agencies.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Once every 5 years for renewal of registration; on occasion for other requirements.

Activity	Number of annual respondents	Number of annual responses	Completion time per response (hours)	Total annual burden hours*
Renewal of Registration (FWS Form 3–200–65)	5	5	20	100
Report Take—Grizzly Bears	25	25	.25	6
Report Take—Mountain Lions	15	15	.25	4
Marking/Labeling:				
Vicuna products	20	150	.5	75
African Elephant Sport-Hunted Trophies	450	450	.5	225
Beluga Sturgeon Caviar	1	1	.5	1

Activity	Number of annual respondents	Number of annual responses	Completion time per response (hours)	Total annual burden hours*
Beluga Sturgeon Exemption	1	1	16	16
Exempt Wildlife Hybrids	75	150	.5	75
Exception to Restrictions on Use of Certain CITES Specimens After Import into the United States	500	500	.5	250
Totals	1,092	1,297		752

*rounded.

Total Annual Non-hour Cost Burden: $250 (application fee of $50 for each renewal of registration for commercial breeding facilities).

During the proposed rule stage, we solicited comments on the new information collection (FWS Form 3–200–65). We received 9 comments, all from falconers and raptor breeders, regarding information collection requirements for renewal of registrations for breeding facilities. We responded to all comments in the preamble (see the sections on *International travel with personally owned live wildlife (§ 23.44)* and *Registration of a commercial breeding operation for Appendix-I wildlife (§ 23.46)*), and provide a summary here.

One falconer expressed dissatisfaction with the process for renewing a certificate of ownership for personally owned, live wildlife (§ 23.44). The commenter objected to having to complete an entire application when only a few items needed to be updated. He also considered the estimated time of 30 minutes for completion of Form 3–200–64 to be ''overly conservative'' and stated that ''a more realistic, but still conservative estimate'' would be at least 60 minutes.

Form 3–200–64, the application form for issuance of a certificate of ownership for personally owned live wildlife, asks for detailed information regarding the animal to be covered under the certificate. When a certificate holder wishes to renew a certificate of ownership, however, he or she should complete and submit Form 3–200–52, the application for re-issuance or renewal of a permit. This is a simplified application on which the applicant can certify that there have been no changes to the original application or that there have been changes as noted on an attached page. We thank the commenter for his input regarding the length of time needed to complete Form 3–200–64. We have reviewed all of our application forms and took his comments into consideration during the renewal process for OMB Control Number 1018–0093.

Some of the commenters stated that the new requirement for renewal of commercial breeding operation for Appendix-I wildlife (§ 23.46) would create a significant burden on registered operations. They noted that raptor breeders are already monitored by the Service, through the Migratory Bird Program (MBP), and therefore the process for renewal of a registration would be redundant. They argued that the annual report and individual transactions forms provided to MBP should suffice for any monitoring requirement for CITES. Two commenters were more supportive of a simple registration update form and associated fee, if the required data submission was simply a reference to the current MBP data. One commenter suggested that if renewal of a registration is mandated by the Service, a one-page application with accompanying photocopies of the past five annual reports from the operation to the MBP should be all that is required.

The regulations in § 23.46, regarding the process for registering a commercial breeding operation for Appendix-I wildlife, apply to operations breeding any Appendix-I species, not just raptors and other falconry birds. Although it is true, as one commenter has noted, that all of the U.S. facilities currently registered with the CITES Secretariat are breeding raptors, we do not anticipate that this will always be the case. Therefore, we need to establish registration and reporting procedures that will work not just for facilities breeding raptors, but for any commercial breeding operation that may be registered in the future. It is not our intention, however, to increase the burden for raptor breeders.

We understand that U.S. raptor breeders are regulated under the Migratory Bird Treaty Act (MBTA) and must provide reports to the MBP on specific activities related to the breeding of native raptors (as defined in part 21 of this subchapter). It is also true, however, that not all CITES-listed, Appendix-I raptors are covered by the MBTA. There is no requirement for an operation breeding birds that are not covered by the MBTA (including raptors that are not native raptors under the definition in part 21) to provide reports to the MBP on activities associated with those birds. We agree that, for operations breeding native raptors, documents submitted to the MBP would include most, if not all, of the information needed for the renewal of a CITES registration. If an applicant requesting renewal of a registration is breeding native raptors and reporting to the MBP, he or she can inform us on the application for renewal, and we will obtain copies of the relevant documents, covering the past 5-year period, from MBP. A registered operation that is breeding Appendix-I species that are not covered by the MBTA, and therefore not covered in reports provided to the MBP, will need to include updated information relevant to those species in its renewal application.

You may send comments on any aspect of these information collection requirements to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Mail Stop 2042–PDM, Arlington, VA 22203.

National Environmental Policy Act (NEPA): This final rule has been analyzed under the criteria of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), the Department of the Interior procedures for compliance with NEPA (Departmental Manual (DM) and 43 CFR part 46), and Council on Environmental Quality regulations for implementing the procedural provisions of NEPA (40 CFR 1500–1508). This final rule does not amount to a major Federal action significantly affecting the quality of the human environment. An environmental impact statement or evaluation is not required. This final rule is a regulation that is of an administrative, legal, technical, or procedural nature, and its environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis under NEPA. The FWS has determined that this final rule is categorically excluded from further NEPA review as provided by 516 DM 2, Appendix 1.9,

of the Department of the Interior National Environmental Policy Act Revised Implementing Procedures and 43 CFR 46.210(i). No further documentation will be made.

Government-to-Government Relationship with Tribes: Under the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian Tribes and have determined that there are no effects. Individual tribal members must meet the same regulatory requirements as other individuals who trade internationally in CITES species.

Energy Supply, Distribution, or Use: On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. This rule revises the current regulations in 50 CFR part 23 that implement CITES. The regulations provide procedures to assist individuals and businesses that import, export, and re-export CITES wildlife and plants, and their parts, products, and derivatives, to meet international requirements. This final rule will not significantly affect energy supplies, distribution, and use. Therefore, this action is a not a significant energy action and no Statement of Energy Effects is required.

List of Subjects

50 CFR Part 13

Administrative practice and procedure, Exports, Fish, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

50 CFR Part 23

Animals, Endangered and threatened species, Exports, Fish, Foreign trade, Forest and forest products, Imports, Incorporation by reference, Marine mammals, Plants, Reporting and recordkeeping requirements, Transportation, Treaties, Wildlife.

Regulation Promulgation

For the reasons given in the preamble, under the authority of 16 U.S.C. 1531 et seq., we amend title 50, chapter I, of the Code of Federal Regulations as follows:

PART 13—[AMENDED]

■ 1. The authority citation for part 13 continues to read as follows:

Authority: 16 U.S.C. 668a, 704, 712, 742j-l, 1374(g), 1382, 1538(d), 1539, 1540(f), 3374, 4901–4916; 18 U.S.C. 42; 19 U.S.C. 1202; 31 U.S.C. 9701.

§ 13.3 [Amended]

■ 2. Section 13.3 is amended by removing the words '' 'Endangered Species Convention' (the Convention on International Trade in Endangered Species of Wild Fauna and Flora)'' from the first sentence and adding in their place the words '' 'Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)'.''

■ 3. Section 13.11 is amended by:

■ a. Adding the words ''the Service's permits Web page at *http://www.fws.gov/permits/;* and the'' immediately following the colon in the first sentence of paragraph (b)(3);

■ b. Removing the words ''Room 700'' from the first sentence of paragraph (b)(3) and adding in their place the words ''Room 212'';

■ c. Adding the word ''street'' immediately before the word ''address'' in the last sentence of paragraph (b)(3); and

■ d. Adding an entry to the table in paragraph (d)(4) under the section titled ''Endangered Species Act/CITES/Lacey Act'' immediately following the entry for ''CITES Registration of Commercial Breeding Operations for Appendix-I Wildlife'' to read as set forth below.

§ 13.11 Application procedures.

* * * * *

(d) * * *

(4) * * *

Type of permit	CFR Citation	Permit application fee	Amendment fee
* * * *	*	*	*
Endangered Species Act/CITES/Lacey Act			
* * * *	*	*	*
—Renewal of Registration of Commercial Breeding Operations for Appendix-I wildlife ..	50 CFR 23	50	.....
* * * *	*	*	*

■ 4. Section 13.12(b) is amended by:

■ a. Revising the introductory text to read as set forth below;

■ b. In the table, under the heading ''Threatened wildlife and plant permits:'' removing the entry for ''American alligator—buyer or tanner''; and

■ c. In the table, removing the final entry, ''Endangered Species Convention permits.''

§ 13.12 General information requirements on applications for permits.

* * * * *

(b) *Additional information required on permit applications.* As stated in paragraph (a)(3) of this section, certain additional information is required on all permit applications. For CITES permit applications, see part 23 of this subchapter. Additional information required on applications for other types of permits may be found by referring to the sections of this subchapter cited in the following table:

* * * * *

PART 17—[AMENDED]

■ 5. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

§ 17.9 [Amended]

■ 6. Section 17.9(a)(2) is amended by:

■ a. Removing the words ''Office of'' and adding in their place the words ''Division of''; and

■ b. Removing the words ''Room 700'' and adding in their place the words ''Room 212''.

§ 17.21 [Amended]

■ 7. Section 17.21(g)(2) is amended by:
■ a. Removing the words ''Office of'' in the first sentence and adding in their place the words ''Division of''; and
■ b. Adding the words ''Room 212,'' in the first sentence immediately following the words ''Fairfax Drive,''.

■ 8. Section 17.40 is amended by:
■ a. Revising paragraph (b)(1)(i)(B) to read as set forth below;
■ b. Removing the words ''Assistant Regional Director, Division of Law Enforcement, U.S. Fish and Wildlife Service'' from paragraphs (b)(1)(i)(C)(*3*), (b)(1)(i)(D), and (b)(1)(ii)(A) and adding in their place the words ''U.S. Fish and Wildlife Service law enforcement office'';
■ c. Removing paragraph (e)(1)(iv);
■ d. Revising paragraph (e)(3)(iii)(D) to read as set forth below;
■ e. Revising the heading of paragraph (f) to read as set forth below;
■ f. Revising the first sentence of paragraph (h)(5) to read as set forth below;
■ g. Revising the heading of paragraph (m) to read as set forth below;
■ h. Removing the first sentence following the heading of paragraph (m);
■ i. Revising paragraphs (m)(1)(ii) and (m)(1)(iii) to read as set forth below;
■ j. Revising paragraph (m)(2) to read as set forth below;
■ k. Removing the words ''an information notice'' from the introductory text of paragraph (m)(3) and adding in their place the words ''a public bulletin'';
■ l. Removing paragraphs (m)(3)(i) and (m)(3)(iv); and
■ m. Redesignating paragraphs (m)(3)(ii) and (m)(3)(iii) as paragraphs (m)(3)(i) and (m)(3)(ii).

§ 17.40 Special rules—mammals.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(B) Grizzly bears may be taken in self-defense or in defense of others, but such taking shall be reported by the individual who has taken the bear or his designee within 5 days of occurrence to the Resident Agent in Charge, Office of Law Enforcement, U.S. Fish and Wildlife Service, 2900 4th Avenue North, Suite 301, Billings, MT 59101 (406–247–7355), if occurring in Montana or Wyoming, or the Special Agent in Charge, Office of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 9, Sherwood, OR 97140 (503–521–5300), if occurring in Idaho or Washington, and to appropriate State and Tribal authorities. Grizzly bears taken in self-defense or in defense of others, including the parts of such bears, shall not be possessed, delivered, carried, transported, shipped, exported, received, or sold, except by Federal, State, or Tribal authorities.

* * * * *

(e) * * *

(3) * * *

(iii) * * *

(D) The trophy is legibly marked in accordance with part 23 of this subchapter.

* * * * *

(f) Leopard (*Panthera pardus*) * * *

* * * * *

(h) * * *

(5) Any take pursuant to paragraph (h)(4) of this section must be reported in writing to the U.S. Fish and Wildlife Service, Office of Law Enforcement, 4401 N. Fairfax Drive, LE–3000, Arlington, VA 22203, within 5 days.

* * *

* * * * *

(m) Vicuña (*Vicugna vicugna*).

(1) * * *

(ii) *Import, export, and re-export.* Except as provided in paragraph (m)(2) of this section, it is unlawful to import, export, or re-export, or present for export or re-export without valid permits as required under parts 17 and 23 of this subchapter, any vicuña or vicuña parts and products. For import of embryos, blood, other tissue samples, or live vicuña, permits required under § 17.32 and part 23 will be issued only for bona fide scientific research contributing to the conservation of the species in the wild.

(iii) *Other activities.* Except as provided in paragraph (m)(2) of this section, it is unlawful to sell or offer for sale, deliver, receive, carry, transport, or ship in interstate or foreign commerce and in the course of a commercial activity any vicuña or vicuña parts and products.

* * * * *

(2) *What activities involving vicuña are allowed by this rule?* You may import, export, or re-export, or conduct interstate or foreign commerce in raw wool sheared from live vicuñas, cloth made from such wool, or manufactured or handicraft products and articles made from or consisting of such wool or cloth without a threatened species permit issued according to § 17.32 only when the following provisions have been met:

(i) The specimens originated from a population listed in CITES Appendix II.

(ii) The provisions in parts 13, 14, and 23 of this subchapter are met, including the specific labeling provisions in part 23.

(iii) *Personal and household effects.* Under the provisions of this special rule, raw wool sheared from live vicuñas, cloth made from such wool, or manufactured or handicraft products and articles made from or consisting of such wool or cloth are not granted the personal or household effects exemption described in part 23 of this subchapter. In addition to the provisions of this paragraph (m)(2), such specimens may only be imported, exported, or re-exported when accompanied by a valid CITES document.

(iv) *Labeling of wool sheared from live vicuñas.* Any shipment of raw wool sheared from live vicuñas must be sealed with a tamper-proof seal and have the following:

(A) An identification tag with a code identifying the country of origin of the raw vicuña wool and the CITES export permit number; and

(B) The vicuña logotype as defined in 50 CFR part 23 and the words ''VICUÑA—COUNTRY OF ORIGIN'', where country of origin is the name of the country from which the raw vicuña wool was first exported.

(v) At the time of import, the country of origin and each country of re-export involved in the trade of a particular shipment have not been identified by the CITES Conference of the Parties, the CITES Standing Committee, or in a Notification from the CITES Secretariat as a country from which Parties should not accept permits.

* * * * *

■ 9. Section 17.44 is amended by:
■ a. Revising the heading of paragraph (y) to read as set forth below;
■ b. Removing the first sentence following the heading of paragraph (y);
■ c. Revising paragraph (y)(3)(i)(A) to read as set forth below;
■ d. Revising paragraph (y)(3)(ii) to read as set forth below;
■ e. Removing paragraph (y)(4)(iii);
■ f. Redesignating paragraphs (y)(4)(iv) through (y)(4)(vi) as (y)(4)(iii) through (y)(4)(v);
■ g. Revising newly redesignated paragraph (y)(4)(iii) to read as set forth below;
■ h. Revising the fourth sentence of paragraph (y)(5) introductory text to read as set forth below;
■ i. Removing the words ''an information bulletin'' from the introductory text of paragraph (y)(6) and adding in their place the words ''a public bulletin''; and
■ j. Removing the words ''Room 700'' in the NOTE to paragraph (y)(6) and adding in their place the words ''Room 212''.

§ 17.44 Special rules—fishes.

* * * * *

(y) Beluga sturgeon *(Huso huso).*

* * *

(3) * * *

(i) * * *

(A) Beluga sturgeon caviar, including beluga sturgeon caviar in interstate commerce in the United States, must be labeled in accordance with the CITES labeling requirements in 50 CFR part 23.

* * * * *

(ii) *Personal and household effects.* You may import, export, or re-export, or conduct interstate or foreign commerce in beluga sturgeon specimens that qualify as personal or household effects under 50 CFR part 23 without a threatened species permit otherwise required under § 17.32. Trade suspensions or trade restrictions administratively imposed by the Service under paragraphs (y)(6) or (y)(7) of this section may also apply to personal and household effects of beluga sturgeon caviar.

* * * * *

(4) * * *

(iii) *CITES compliance.* Trade in beluga sturgeon specimens must comply with CITES requirements in 50 CFR part 23. Except for specimens that qualify as personal or household effects under 50 CFR part 23, all beluga sturgeon specimens, including those exempted from threatened species permits under this special rule, must be accompanied by valid CITES documents upon import, export, or re-export. Beluga sturgeon caviar, including beluga sturgeon caviar in interstate commerce in the United States, must be labeled in accordance with the CITES labeling requirements in 50 CFR part 23.

(5) * * * Facilities outside the littoral states wishing to obtain such exemptions must submit a written request to the Division of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 212, Arlington, VA 22203, and provide information that shows at a minimum, all of the following: * * *

* * * * *

■ 10. Section 17.62 is amended by:

■ a. Revising paragraph (a)(4), and removing the undesignated paragraph and paragraphs (1) through (8) following paragraph (a)(4); and

■ b. Revising the third sentence of paragraph (c)(3), and adding a sentence to the end of that paragraph, to read as set forth below.

§ 17.62 Permits for scientific purposes or for the enhancement of propagation or survival.

* * * * *

(a) * * *

(4) When the activity applied for involves a species also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, additional requirements in part 23 of this subchapter must be met.

* * * * *

(c) * * *

(3) * * * If the specimens are of taxa also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, specific information must be entered on the Customs declaration label affixed to the outside of each shipping container or package. See part 23 of this subchapter for requirements for trade in CITES specimens between registered scientific institutions.

* * * * *

■ 11. Section 17.72 is amended by:

■ a. Revising paragraph (a)(4), and removing the undesignated paragraph and paragraphs (1) through (8) following paragraph (a)(4); and

■ b. Revising the third sentence of paragraph (c)(3), and adding a sentence to the end of that paragraph, to read as set forth below.

§ 17.72 Permits—general.

* * * * *

(a) * * *

(4) When the activity applied for involves a species also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, additional requirements in part 23 of this subchapter must be met.

* * * * *

(c) * * *

(3) * * * If the specimens are of taxa also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, specific information must be entered on the Customs declaration label affixed to the outside of each shipping container or package. See part 23 of this subchapter for requirements for trade in CITES specimens between registered scientific institutions.

* * * * *

PART 23—[AMENDED]

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

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora (March 3, 1973), 27 U.S.T. 1087; and Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

■ 13. Section 23.2 is revised to read as follows:

§ 23.2 How do I decide if these regulations apply to my shipment or me?

If you are engaging in activities with specimens of CITES-listed species these regulations apply to you.

■ 14. Section 23.5 is amended by:

■ a. Amending the definition of *Bred for noncommercial purposes* by removing the words ''and is conducted between facilities that are involved in a cooperative conservation program'' from the end of the sentence;

■ b. Removing the definition of *Cooperative conservation program;*

■ c. Revising the definitions of *Coral (dead), Coral fragments, Coral (live),* and *Coral sand* to read as set forth below;

■ d. Revising the first sentence, and adding a sentence to the end, of the definition of *Coral rock* to read as set forth below;

■ e. Adding, in alphabetical order, a definition of *Coral (stony)* to read as set forth below;

■ f. Revising the definition of *Cultivar* to read as set forth below;

■ g. Revising the definition of *Introduction from the sea* to read as set forth below; and

■ h. Adding, in alphabetical order, a definition of *Ranched wildlife* to read as set forth below.

§ 23.5 How are the terms used in these regulations defined?

* * * * *

Coral (dead) means pieces of stony coral that contain no living coral tissue and in which the structure of the corallites (skeletons of the individual polyps) is still intact and the specimens are therefore identifiable to the level of species or genus. See also § 23.23(c)(13).

Coral fragments, including coral gravel and coral rubble, means loose pieces of broken finger-like stony coral between 2 and 30 mm measured in all directions that contain no living coral tissue and are not identifiable to the level of genus (see § 23.92 for exemptions).

Coral (live) means pieces of stony coral that are alive and are therefore identifiable to the level of species or genus. See also § 23.23(c)(13).

Coral rock means hard consolidated material greater than 30 mm measured in any direction that consists of pieces of stony coral that contain no living coral tissue and possibly also cemented sand, coralline algae, or other sedimentary rocks. * * * See also § 23.23(c)(13).

Coral sand means material that consists entirely or in part of finely crushed stony coral no larger than 2 mm measured in all directions that contains no living coral tissue and is not

identifiable to the level of genus (see § 23.92 for exemptions).

Coral (stony) means any coral in the orders Helioporacea, Milleporina, Scleractinia, Stolonifera, and Stylasterina.

* * * * *

Cultivar means a horticulturally derived plant variety that: has been selected for a particular character or combination of characters; is distinct, uniform, and stable in these characters; and when propagated by appropriate means, retains these characters. The cultivar name and description must be formally published in order to be recognized under CITES.

* * * * *

Introduction from the sea means transportation into a country of specimens of any species that were taken in the marine environment not under the jurisdiction of any country, i.e., taken in those marine areas beyond the areas subject to the sovereignty or sovereign rights of a country consistent with international law, as reflected in the United Nations Convention on the Law of the Sea.

* * * * *

Ranched wildlife means specimens of animals reared in a controlled environment that were taken from the wild as eggs or juveniles where they would otherwise have had a very low probability of surviving to adulthood. See also § 23.34.

* * * * *

§ 23.7 [Amended]

■ 15. Section 23.7 is amended by:

■ a. In paragraph (a) under the ''Office to contact'' table heading, removing the words ''Room 700'' and adding in their place the words ''Room 212''; and

■ b. In paragraph (b) under the ''Office to contact'' table heading, removing the words ''Room 750'' and adding in their place the words ''Room 110''.

§ 23.8 [Amended]

■ 16. Section 23.8 is amended by removing the words ''Numbers 1018–0093 and 1018–0137'' from the end of the first sentence and adding in their place the words ''Number 1018–0093''.

■ 17. Section 23.9 is added to subpart A to read as set forth below:

§ 23.9 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may inspect copies at the U.S. Management Authority, Fish and Wildlife Service, 4401 N. Fairfax Dr., Room 212, Arlington, VA 22203 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) International Air Transport Association (IATA), 800 Place Victoria, P.O. Box 113, Montreal, Quebec, Canada H4Z 1M1, 1–800–716–6326, *http://www.iata.org.*

(1) Live Animals Regulations (LAR) 40th edition, effective October 1, 2013, into §§ 23.23, 23.26, and 23.56.

(2) Perishable Cargo Regulations (PCR) 13th edition, effective July 1, 2013, into §§ 23.23, 23.26, and 23.56.

■ 18. Section 23.13 is amended by:

■ a. Redesignating paragraph (d) as paragraph (f);

■ b. Adding a new paragraph (d) and a new paragraph (e) to read as set forth below; and

■ c. In the newly redesignated paragraph (f), removing the words ''(a) through (c)'' and adding in their place the words ''(a) through (e)''.

§ 23.13 What is prohibited?

* * * * *

(d) Use any specimen of a species listed in Appendix I, II, or III of CITES for any purpose contrary to what is allowed under § 23.55.

(e) Violate any other provisions of this part.

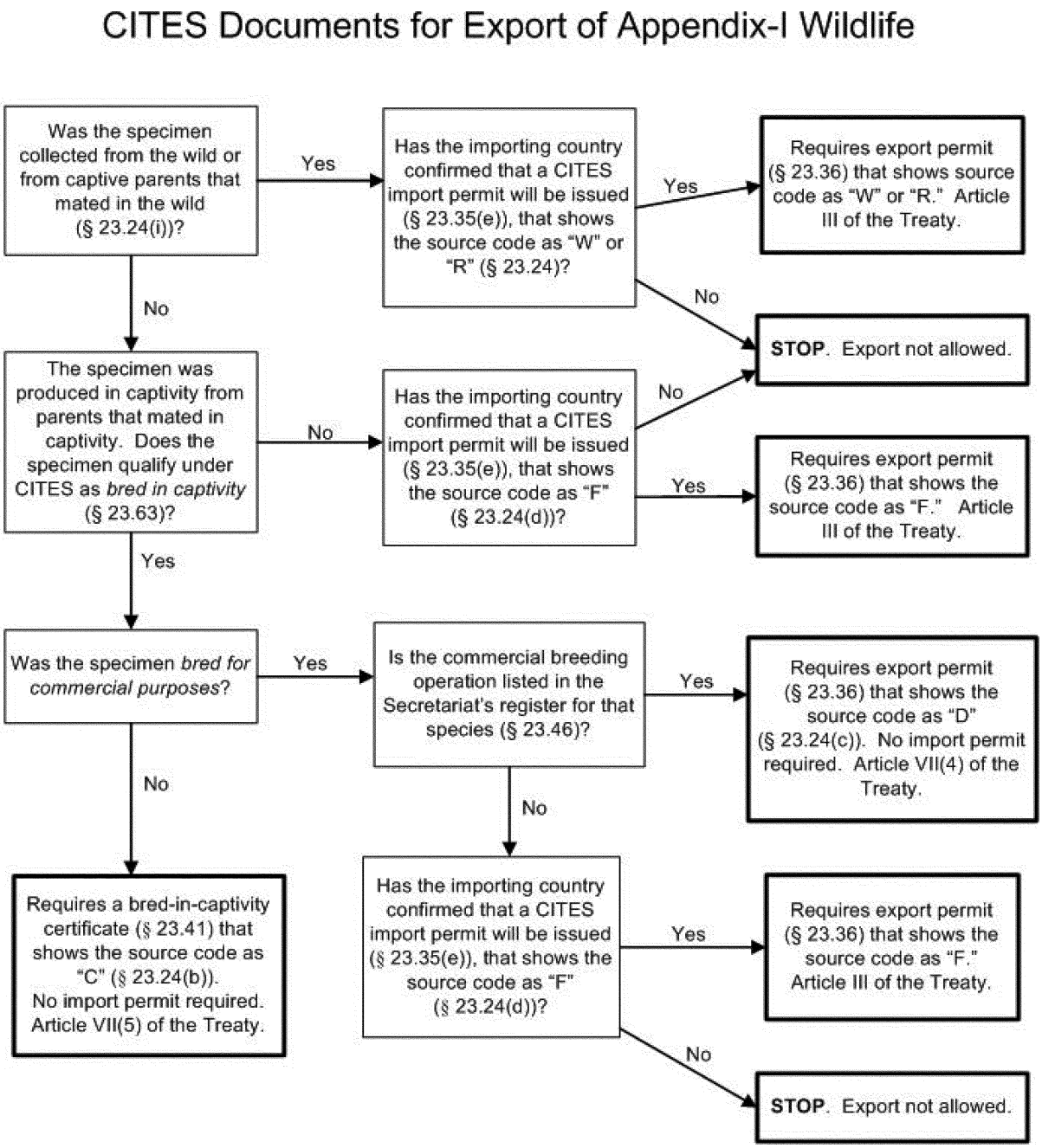
* * * * *

■ 19. Section 23.18 is amended by revising the decision tree to read as follows:

§ 23.18 What CITES documents are required to export Appendix-I wildlife?

* * * * *

BILLING CODE 4310–55–P

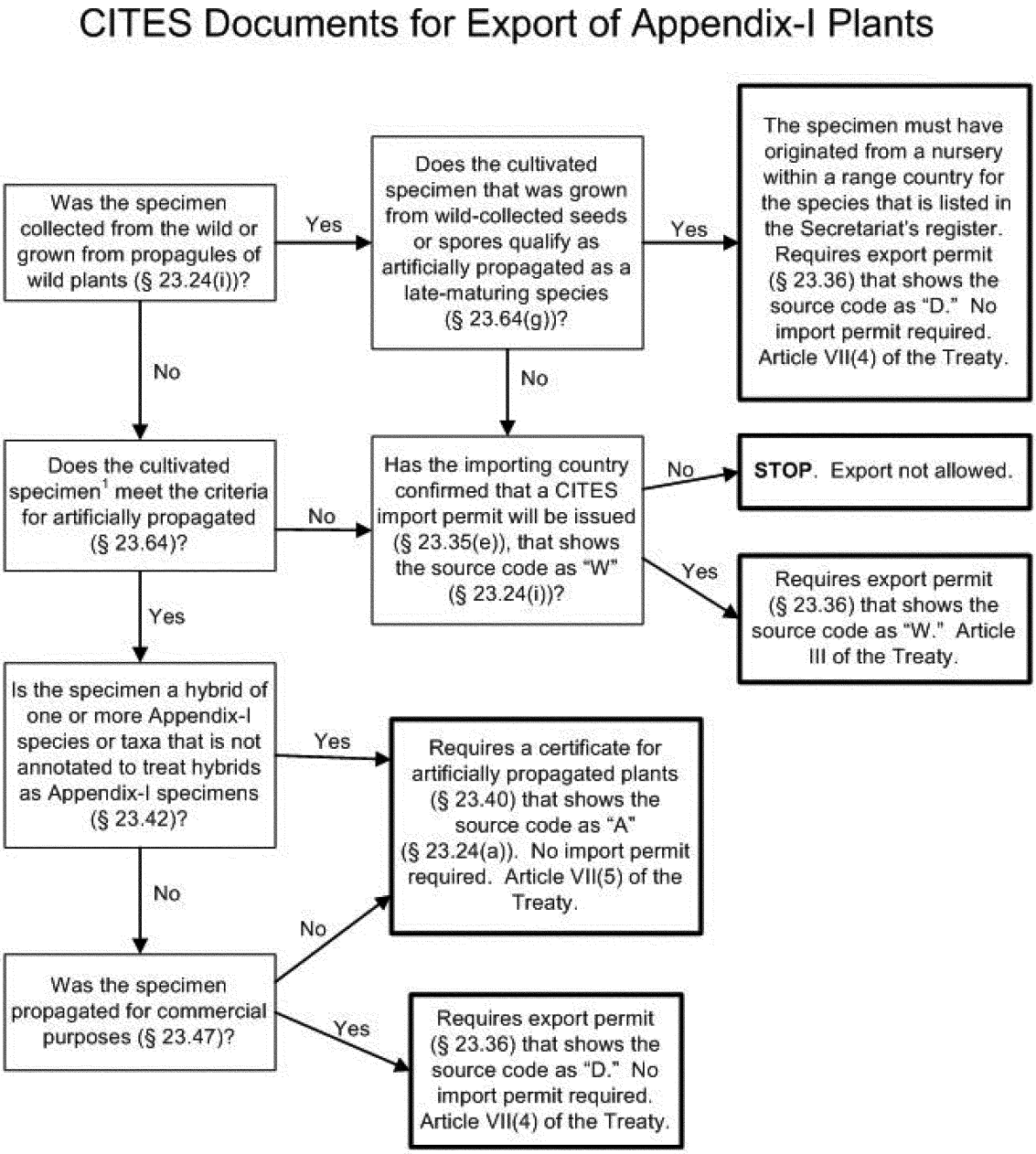


■ 20. Section 23.19 is amended by revising the decision tree to read as follows:

§ 23.19 What CITES documents are required to export Appendix-I plants?

* * * * *

BILLING CODE 4310–55–C



[1] Cultivated specimens (see §23.5) that do not meet the criteria as artificially propagated are treated as wild.

■ 21. Section 23.23 is amended by:

■ a. Removing the words ''on a form printed'' in the first sentence of paragraph (b) and adding in their place the word ''issued'';

■ b. Revising paragraph (c)(1) to read as set forth below;

■ c. Revising paragraph (c)(7) to read as set forth below;

■ d. Revising the introductory text of paragraph (c)(12) to read as set forth below;

■ e. Revising the introductory text of paragraph (c)(13) to read as set forth below;

■ f. Redesignating paragraphs (c)(13)(i)(B) and (c)(13)(i)(C) as (c)(13)(i)(C) and (c)(13)(i)(D);

■ g. Revising paragraph (c)(13)(i)(B) to read as set forth below;

■ h. Adding the words ''or signature stamp'' immediately following the words ''original handwritten signature'' in the first sentence of paragraph (c)(16);

■ i. Revising paragraph (c)(18) to read as set forth below;

■ j. Revising the introductory text of paragraph (c)(21) to read as set forth below;

■ k. Removing the word ''calendar'' from paragraph (e)(5)(i);

■ l. Adding a new paragraph (e)(10)(iv) to read as set forth below; and

■ m. Removing the words ''include hybrids'' from paragraph (f)(2)(ii) and

adding in their place the words ''treat hybrids as Appendix-I specimens''.

§ 23.23 What information is required on U.S. and foreign CITES documents?

* * * * *

(c) * * *

Required information	Description
(1) Appendix	The CITES Appendix in which the species, subspecies, or population is listed (see § 23.21 when a Party has taken a reservation on a listing). For products that contain or consist of more than one CITES species, the Appendix in which each species is listed must be indicated on the CITES document.
* * * * * * *	
(7) Humane transport of live specimens.	If the CITES document authorizes the export or re-export of live specimens, a statement that the document is valid only if the transport conditions comply with the *International Air Transport Association Live Animals Regulations* or the *International Air Transport Association Perishable Cargo Regulations* (incorporated by reference, see § 23.9). A shipment containing live animals must comply with the requirements of the *Live Animals Regulations* (LAR). A shipment containing live plants must comply with the requirements for plants in the *Perishable Cargo Regulations* (PCR).
* * * * * * *	
(12) Quantity	The quantity of specimens authorized in the shipment and, if appropriate, the unit of measurement using the metric system. For products that contain or consist of more than one CITES species, the quantity of each species must be indicated on the CITES document.
* * * * * * *	
(13) Scientific name	The scientific name of the species, including the subspecies when needed to determine the level of protection of the specimen under CITES. For products that contain or consist of more than one CITES species, the scientific name of each species must be indicated on the CITES document. Scientific names must be in the standard nomenclature as it appears in the CITES Appendices or the references adopted by the CoP. A list of current references is available from the CITES website or us (see § 23.7). A CITES document may contain higher-taxon names in lieu of the species name only under one of the following circumstances: (i) * * * (B) If the species cannot be determined for worked specimens of black coral, specimens may be identified at the genus level. If the genus cannot be determined for worked specimens of black coral, the scientific name to be used is the order Antipatharia. Raw black coral and live black coral must be identified to the level of species.
* * * * * * *	
(18) Source	The source of the specimen. For products that contain or consist of more than one CITES species, the source code of each species must be indicated on the CITES document. For re-export, unless there is information to indicate otherwise, the source code on the CITES document used for import of the specimen must be used. See § 23.24 for a list of codes.
* * * * * * *	
(21) Validation or certification	Except as provided for replacement (§ 23.52(f)) or retrospective (§ 23.53(f)) CITES documents, the actual quantity of specimens exported or re-exported: * * *

* * * * *

(e) * * *

Type of document	Additional required information
* * * * * * *	
(10) * * *	(iv) For products that contain or consist of more than one CITES species, the information in paragraphs (e)(10)(i) through (iii) of this section for each species must be indicated on the CITES document.
* * * * * * *	

§ 23.24 [Amended]

■ 22. Section 23.24 is amended by:

■ a. Removing the words ''which should be'' in the first sentence of the introductory text and adding in their place the words ''which may be'';

■ b. Adding the words ''(see § 23.5)'' immediately following the words ''Captive-bred'' in paragraph (d)(2)(i);

■ c. Removing paragraph (d)(2)(iii);

■ d. Removing the words ''to be used'' in paragraph (f) and adding in their place the words ''may be used''; and

■ e. Removing the words ''(wildlife that originated from a ranching operation).'' in paragraph (g) and adding in their place the words ''(*see § 23.5*).''.

■ 23. Section 23.26 is amended by:

■ a. Revising paragraph (c)(8) to read as set forth below;

■ b. Redesignating paragraphs (d)(4) through (d)(8) as (d)(5) through (d)(9);

■ c. Adding new paragraph (d)(4) to read as set forth below;

■ d. Further redesignating newly designated paragraphs (d)(7) through (d)(9) as paragraphs (d)(8) through (d)(10);

■ e. Adding new paragraph (d)(7) to read as set forth below; and

■ f. Adding new paragraph (d)(11) to read as set forth below.

§ 23.26 When is a U.S. or foreign CITES document valid?

* * * * *

(c) * * *

Key phrase	Conditions for an acceptable CITES document
*	*
(8) Humane transport	Live wildlife or plants were transported in compliance with the *International Air Transport Association Live Animals Regulations* (for animals) or the *International Air Transport Association Perishable Cargo Regulations* (for plants) (incorporated by reference, see § 23.9).
*	*

(d) * * *

(4) The CITES document includes a species for which the Secretariat has published an annotated quota.

* * * * *

(7) We know or have reasonable grounds to believe that an Appendix-I specimen was not bred at a facility registered with the CITES Secretariat and that the purpose of the import is commercial.

* * * * *

(11) The export permit or re-export certificate does not contain validation or certification by an inspecting official at the time of export of the actual quantity exported or re-exported.

■ 24. Section 23.27 is amended by:

■ a. Adding two sentences to the end of paragraph (a) to read as set forth below; and

■ b. Adding the words ''exporting or re-exporting'' immediately following the words ''Officials in each'' in the first sentence of paragraph (c).

§ 23.27 What CITES documents do I present at the port?

(a) * * * Article VI, paragraph 6, of the Treaty requires that the Management Authority of the importing country cancel and retain the export permit or re-export certificate and any corresponding import permit presented. In the United States, for imports of CITES-listed plant specimens, CITES inspecting officials cancel and submit original CITES documents to the U.S. Management Authority.

* * * * *

■ 25. Section 23.34 is amended by:

■ a. Removing the words ''Exempt plant material'' from the left-hand column of paragraph (b)(3) and adding in their place the words ''Grown from exempt plant material'';

■ b. Redesignating paragraphs (b)(6) through (b)(8) as paragraphs (b)(7) through (b)(9);

■ c. Adding a new paragraph (b)(6) to read as set forth below; and

■ d. Revising footnote 1 at the end of paragraph (b) to read as set forth below.

§ 23.34 What kinds of records may I use to show the origin of a specimen when I apply for a U.S. CITES document?

* * * * *

(b) * * *

Source of specimen	Types of records
*	*
(6) Ranched wildlife	(i) Records, such as permits, licenses, and tags, that demonstrate that the specimen was legally removed from the wild under relevant Federal, tribal, State, or local wildlife conservation laws or regulations: (A) If taken on private or tribal land, permission of the landowner if required under applicable law. (B) If taken in a national, State, or local park, refuge or other protected area, permission from the applicable agency, if required. (ii) Records that document the rearing of specimens at the facility: (A) Number of specimens (by sex and age- or size-class) at the facility. (B) How long the specimens were reared at the facility. (C) Signed and dated statement by the owner or manager of the facility that the specimens were reared at the facility in a controlled environment. (D) Marking system, if applicable. (E) Photographs or video of the facility.
*	*

[1] If the wildlife was born in captivity from an egg collected in the wild or from parents that mated or exchanged genetic material in the wild, see paragraphs (b)(6) and (b)(9) of this section. If the plant was propagated from a non-exempt propagule collected from a wild plant, see paragraph (b)(9) of this section.

* * * * *

■ 26. Section 23.36 is amended by:

■ a. Adding, in alphabetical order, two entries to the table in paragraph (b)(1), to read as set forth below;

■ b. In paragraph (b)(1) of the table, removing the entry ''Export of Skins/Products of Bobcat, Canada Lynx, River Otter, Brown Bear, Gray Wolf, and American Alligator Taken under an Approved State or Tribal Program'' and adding in its place the entry ''Export of Skins of Bobcat, Canada Lynx, River Otter, Brown Bear, Gray Wolf, and American Alligator Taken under an Approved State or Tribal Program'';

■ c. In paragraph (b)(1) of the table, removing the entry ''Trophies by Taxidermists'' and adding in its place the entry ''Trophies by Hunters or Taxidermists''; and

■ d. In the last entry of paragraph (b)(1), adding the words ''(Live Animals/Samples/Parts/Products)'' immediately following the words ''Wildlife, Removed from the Wild''.

§ 23.36 What are the requirements for an export permit?

* * * * *

(b) * * *

Type of application for an export permit	Form No.
(1) CITES:	
* * * * * * *	
Caviar/Live Eggs/Meat of Paddlefish or Sturgeon, From an Aquaculture Facility	3–200–80
* * * * * * *	
Master File for the Export of Live Animals Bred in Captivity	3–200–85
* * * * * * *	

* * * * *

§ 23.40 [Amended]

■ 27. Section 23.40 is amended by:
■ a. Removing the words ''include hybrids in the listing'' from paragraph (d)(2)(iii) and adding in their place the words ''treat hybrids as Appendix-I specimens'';
■ b. Adding the words ''or spore'' in paragraph (e)(1) immediately following the words ''from a wild seed'';
■ c. Removing the words ''include hybrids in the listing'' from paragraph (e)(2) and adding in their place the words ''treat hybrids as Appendix-I specimens''; and
■ d. Adding the words ''(See § 23.47.)'' after the last sentence in paragraph (e)(2).

§ 23.41 [Amended]

■ 28. Section 23.41 is amended by adding the words '', 3–200–80, or 3–200–85'' immediately following the words ''Form 3–200–24'' in paragraph (c).

§ 23.42 [Amended]

■ 29. Section 23.42 is amended by removing the words ''include hybrids'' from paragraph (b) and adding in their place the words ''treat hybrids as Appendix-I specimens''.

■ 30. Section 23.43 is amended by revising paragraph (f)(2) and adding a new paragraph (f)(3) to read as set forth below.

§ 23.43 What are the requirements for a wildlife hybrid?

* * * * *

(f) * * *

(2) For import, export, or re-export of an exempt wildlife hybrid without CITES documents, you must provide information at the time of import or export to clearly demonstrate that your specimen has no purebred CITES specimens in the previous four generations of its ancestry. If you are unable to clearly demonstrate this, you must obtain CITES documents. The information you provide must clearly identify the specimen and demonstrate its recent lineage. Such information may include, but is not limited to, the following:

(i) Records that identify the name and address of the breeder and identify the specimen by birth or hatch date and by sex, band number, microchip number, or other mark.

(ii) A certified pedigree issued by an internationally recognized association that contains scientific names of the animals in the specimen's recent lineage and clearly illustrates its genetic history. If the pedigree contains codes, you must provide a key or guide that explains the meaning of the codes.

(3) Although a CITES document is not required for an exempt wildlife hybrid, you must follow the clearance requirements for wildlife in part 14 of this subchapter, including the prior notification requirements for live wildlife.

■ 31. Section 23.44 is amended by revising the section heading and adding a new paragraph (e)(7) to read as set forth below.

§ 23.44 What are the requirements for traveling internationally with my personally owned live wildlife?

* * * * *

(e) * * *

(7) You must return the wildlife to the United States before the certificate expires.

■ 32. Section 23.46 is amended by:
■ a. Removing the words ''facilitate a dialogue for resolution of the identified problems within 60 days.'' from the end of the last sentence of paragraph (b)(3) and adding in their place the words ''allow a further 30 days for resolution of the identified problems.'';
■ b. Revising paragraph (b)(4) to read as set forth below;
■ c. Removing paragraphs (b)(5) and (b)(6);
■ d. Redesignating paragraphs (b)(7) through (b)(12) as paragraphs (b)(5) through (b)(10);
■ e. Revising the first sentence of newly redesignated paragraph (b)(7), and adding a sentence following the first sentence of that paragraph to read as set forth below;
■ f. Adding a sentence immediately following the first sentence of newly redesignated paragraph (b)(8) to read as set forth below;
■ g. Amending the last sentence of newly redesignated paragraph (b)(8) by removing the words '', and the Animals Committee will review the operation to determine whether it should remain registered'';
■ h. Amending newly redesignated paragraph (b)(10) by removing the words ''bred at a commercial breeding operation that is registered with the CITES Secretariat as provided in this section'' and adding in their place the words ''bred in captivity (see § 23.63)'';
■ i. Removing paragraph (e)(3);
■ j. Redesignating paragraph (e)(4) as paragraph (e)(3);
■ k. Adding a new paragraph (e)(4) to read as set forth below;
■ l. Redesignating paragraphs (f) through (h) as paragraphs (h) through (j);
■ m. Adding a new paragraph (f) to read as set forth below;
■ n. Adding a new paragraph (g) to read as set forth below; and
■ o. Removing the words ''Form 3–200–24'' from newly designated paragraph (i) and adding in their place the words ''the appropriate form (see § 23.36)''.

§ 23.46 What are the requirements for registering a commercial breeding operation for Appendix-I wildlife and commercially exporting specimens?

* * * * *

(b) * * *

(4) If the objection is not withdrawn or the identified problems are not resolved within the 30-day period, the Secretariat will submit the application to the Standing Committee at its next regular meeting. The Standing Committee will determine whether the objection is justified and decide whether to accept the application.

* * * * *

(7) If a Party believes that a registered operation does not meet the bred-in-captivity requirements, it may, after consultation with the Secretariat and the Party concerned, propose to the Standing Committee that the operation be deleted from the register. At its following meeting, the Standing Committee will consider the concerns raised by the objecting Party, and any

comments from the registering Party and the Secretariat, and determine whether the operation should be deleted from the register. * * *

(8) * * * In the United States, we will monitor registered operations, in part, by requiring each operation to apply for renewal and demonstrate that it continues to qualify for registration at least once every 5 years. (See paragraphs (e)(4) and (f) of this section.) * * *

* * * * *

(e) * * *

(4) Registrations will be valid for a period not to exceed 5 years. Registrants who wish to remain registered must request renewal before the end of the period of validity of the registration.

(f) *U.S. application to renew a registration.* Requests for renewal of a registration should be submitted at least 3 months before the registration expires. Complete Form 3–200–65 and submit it to the U.S. Management Authority.

(g) *Criteria for renewal of U.S. registrations.* To renew your registration, you must provide sufficient information for us to find that your proposed activity continues to meet all of the criteria in paragraph (d) of this section.

* * * * *

■ 33. Section 23.47 is amended by adding a sentence to the end of paragraph (a) to read as set forth below.

§ 23.47 What are the requirements for export of an Appendix-I plant artificially propagated for commercial purposes?

(a) * * * This section does not apply to hybrids of one or more Appendix-I species or taxa that are not annotated to treat hybrids as Appendix-I specimens (see § 23.40).

* * * * *

■ 34. Section 23.52 is amended by:

■ a. Removing the last sentence of paragraph (a) and adding in its place two new sentences to read as set forth below;

■ b. Adding a new paragraph (b)(6) to read as set forth below;

■ c. Revising the introductory text of paragraph (d) to read as set forth below;

■ d. Redesignating paragraphs (d)(1) and (d)(2) as (d)(1)(i) and (d)(1)(ii);

■ e. Adding new introductory text to paragraph (d)(1) to read as set forth below;

■ f. Adding a new paragraph (d)(1)(iii) to read as set forth below; and

■ g. Adding a new paragraph (d)(2) to read as set forth below.

§ 23.52 What are the requirements for replacing a lost, damaged, stolen, or accidentally destroyed CITES document?

(a) * * * To renew a U.S. CITES document, see part 13 of this subchapter. To amend a U.S. CITES document, see part 13 of this subchapter if the activity has not yet occurred or, if the activity has already occurred, see § 23.53 of this part.

(b) * * *

(6) In the United States, you may not use an original single-use CITES document issued under a CITES master file or CITES annual program as a replacement document for a shipment that has already left the country.

* * * * *

(d) *Criteria.* The criteria in this paragraph (d) apply to the issuance and acceptance of U.S. and foreign documents.

(1) When applying for a U.S. replacement document, you must provide sufficient information for us to find that your proposed activity meets all of the following criteria:

(i) * * *

(ii) * * *

(iii) The specimens were presented to the appropriate official for inspection at the time of import and a request for a replacement CITES document was made at that time.

(2) For acceptance of foreign CITES replacement documents in the United States, you must provide sufficient information for us to find that your proposed activity meets all of the following criteria:

(i) The specimens were presented to the appropriate official for inspection at the time of import and a request for a replacement CITES document was made at that time.

(ii) The importer or the importer's agent submitted a signed, dated, and notarized statement at the time of import that describes the circumstances that resulted in the CITES document being lost, damaged, stolen, or accidentally destroyed.

(iii) The importer or the importer's agent provided a copy of the original lost, stolen, or accidentally destroyed document at the time of import showing that the document met the requirements in §§ 23.23, 23.24, and 23.25.

* * * * *

■ 35. Section 23.53 is amended by:

■ a. Revising paragraph (a) to read as set forth below;

■ b. Adding a new paragraph (b)(8) to read as set forth below;

■ c. Revising paragraph (d)(6)(ii) to read as set forth below; and

■ d. Adding the words ''as defined in § 23.5'' to the end of the sentence in paragraph (d)(7)(i).

§ 23.53 What are the requirements for obtaining a retrospective CITES document?

(a) Retrospective CITES documents may be issued and accepted in certain limited situations after an export or re-export has occurred, but before the shipment is cleared for import. When specific conditions are met, a retrospective CITES document may be issued to authorize trade that has taken place without a CITES document or to correct certain technical errors in a CITES document after the authorized activity has occurred.

(b) * * *

(8) In the United States, you may not use a U.S. CITES document issued under a CITES master file or CITES annual program as a retrospective CITES document.

* * * * *

(d) * * *

(6) * * *

(ii) The Management Authority made a technical error when issuing the CITES document that was not prompted by information provided by the applicant.

* * * * *

■ 36. Section 23.55 is amended by:

■ a. Revising the introductory text to read as set forth below;

■ b. Revising the table's headings to read as set forth below;

■ c. Revising paragraph (c) to read as set forth below;

■ d. Revising the text in the first block of the right-hand column of the table, which corresponds to paragraphs (a), (b), and (c) in the left-hand column of the table, to read as set forth below;

■ e. Adding the word ''lawful'' immediately before the word ''purpose'' in the second block of the right-hand column of the table, which corresponds to paragraphs (d), (e), and (f) in the left-hand column of the table;

■ f. Redesignating paragraph (d)(5) as (d)(6);

■ g. Adding a new paragraph (d)(5) to read as set forth below; and

■ h. Revising paragraph (f) to read as set forth below.

§ 23.55 How may I use a CITES specimen after import into the United States?

In addition to the provisions in § 23.3, you may only use CITES specimens after import into the United States for the following purposes:

If the species is listed in	Allowed use within the United States
(a) * * *	The specimen may be used only for noncommercial purposes (see § 23.5).
(b) * * *	
(c) Appendix II without an annotation for noncommercial purposes, or Appendix III, and threatened under the ESA, except as provided in a special rule in §§ 17.40 through 17.48 or under a permit granted under §§ 17.32 or 17.52.	*Exception:* If the specimen was lawfully imported, with no restrictions on its use after import, before the species was listed as described in paragraphs (a), (b), or (c) of this section, you may continue to use the specimen as indicated for paragraphs (d), (e) and (f) of this section provided you can clearly demonstrate (using written records or other documentary evidence) that your specimen was imported prior to the CITES listing, with no restrictions on its use after import. If you are unable to clearly demonstrate that this exception applies, the specimen may be used only for noncommercial purposes.
* * * * * * *	
(d) * * *	
(5) Certificate for artificially propagated plants with a source code of ''A'' for artificially propagated hybrid specimens derived from one or more unannotated Appendix-I species or other taxa.	
* * * * * * *	
(f) Appendix III, other than those in paragraph (c) of this section.	

■ 37. Section 23.56 is amended by revising paragraph (a)(2) to read as set forth below.

§ 23.56 What U.S. CITES document conditions do I need to follow?

(a) * * *

(2) For export and re-export of live wildlife and plants, transport conditions must comply with the *International Air Transport Association Live Animals Regulations* (for animals) or the *International Air Transport Association Perishable Cargo Regulations* (for plants) (incorporated by reference, see § 23.9).

* * * * *

§ 23.64 [Amended]

■ 38. In § 23.64, paragraph (g)(4)(ii) is amended by adding the words ''or spores'' immediately following the words ''to collect seeds''.

■ 39. Section 23.69 is amended by:

■ a. Revising the heading of the section and the first sentence of paragraph (a) to read as set forth below;

■ b. Revising the first two sentences of paragraph (c)(3) to read as set forth below;

■ c. Removing the words ''broken, cut, or missing'' from the first sentence of paragraph (c)(3)(i) and adding in their place the words ''inadvertently removed, damaged, or lost'';

■ d. Removing the words ''is broken or cut'' from the third sentence of paragraph (c)(3)(i) and adding in their place the words ''has been inadvertently removed or damaged'';

■ e. Removing the word ''missing'' in the fourth sentence of paragraph (c)(3)(i) and adding in its place the word ''lost'';

■ f. Adding the words ''or to export products made from fur skins'' immediately following the words ''approved program'' in paragraph (e)(2); and

■ g. Adding the words ''or products made from fur skins'' immediately following the words ''To re-export fur skins'' in paragraph (e)(3).

§ 23.69 How can I trade internationally in fur skins and fur skin products of bobcat, river otter, Canada lynx, gray wolf, and brown bear harvested in the United States?

(a) * * * For purposes of this section, CITES furbearers means bobcat (*Lynx rufus*), river otter (*Lontra canadensis*), Canada lynx (*Lynx canadensis*), gray wolf (*Canis lupus*), and brown bear (*Ursus arctos*) harvested in the United States. * * *

* * * * *

(c) * * *

(3) Fur skins without a CITES tag permanently attached may not be exported or re-exported. If the CITES tag has been inadvertently removed, damaged, or lost you may obtain a replacement tag. * * *

* * * * *

■ 40. Section 23.70 is amended by:

■ a. Adding the word ''tamper-resistant,'' immediately following the word ''Be'' in paragraph (d)(1)(i);

■ b. Revising paragraph (d)(1)(ii) to read as set forth below;

■ c. Adding the word ''skin'' immediately before the words ''production or harvest'' in paragraph (d)(1)(iii);

■ d. Revising paragraph (d)(2) to read as set forth below;

■ e. Removing the first two sentences of paragraph (d)(3) introductory text and adding one sentence in their place to read as set forth below;

■ f. Removing the words ''broken, cut, or missing'' from the first sentence of paragraph (d)(3)(i) and adding in their place the words ''inadvertently removed, damaged, or lost'';

■ g. Removing the words ''is broken or cut'' from the fourth sentence of paragraph (d)(3)(i) and adding in their place the words ''has been inadvertently removed or damaged'';

■ h. Removing the word ''missing'' in the fifth sentence of paragraph (d)(3)(i) and adding in its place the word ''lost'';

■ i. Adding the word ''skin'' immediately before the words ''production or harvest'' in the first sentence of paragraph (d)(3)(ii);

■ j. Removing the second sentence in paragraph (e)(2);

■ k. Adding the words '', except for products made from American alligators,'' immediately following the words ''State or tribal program'' in paragraph (h)(1);

■ l. Adding the words ''or to export products made from American alligators,'' immediately following the words ''approved program,'' in paragraph (h)(2);

■ m. Redesignating paragraph (h)(3) as paragraph (h)(4); and

■ n. Adding a new paragraph (h)(3) to read as set forth below.

§ 23.70 How can I trade internationally in American alligator and other crocodilian skins, parts, and products?

* * * * *

(d) * * *

(1) * * *

(ii) Be permanently stamped with the two-letter ISO code for the country of origin, a unique serial number, a standardized species code (available on our Web site; see § 23.7), and for

specimens of species from populations that have been transferred from Appendix I to Appendix II for ranching, the year of skin production or harvest. For American alligator, the export tags include the US–CITES logo, an abbreviation for the State or Tribe of harvest, a standard species code (MIS = *Alligator mississippiensis*), the year of skin production or harvest, and a unique serial number.

* * * * *

(2) Skins, flanks, and chalecos must be individually tagged.

(3) Skins without a non-reusable tag permanently attached may not be exported or re-exported. * * *

* * * * *

(h) * * *

(3) To re-export crocodilian specimens, complete Form 3–200–73 and submit it to either FWS Law Enforcement or the U.S. Management Authority.

* * * * *

■ 41. Section 23.71 is amended by:

■ a. Revising paragraph (a) to read as set forth below;

■ b. Adding a sentence to the end of paragraphs (b)(1)(i), (b)(1)(iv), and (b)(1)(v) to read as set forth below;

■ c. Revising paragraph (b)(1)(ii) to read as set forth below;

■ d. Adding a sentence to the end of paragraph (b)(2)(iv) to read as set forth below;

■ e. Revising paragraph (b)(3)(iii) to read as set forth below;

■ f. Removing the words ''and caviar products that consist'' from paragraph (g) and adding in their place the words ''that consists'';

■ g. Adding the words ''or Form 3–200–80'' immediately following the words ''Form 3–200–76'' in the third sentence of paragraph (h);

■ h. Removing the words ''to FWS Law Enforcement'' from the end of the last sentence in paragraph (h) and adding in their place the words ''either to FWS Law Enforcement or the U.S. Management Authority''; and

■ i. Adding new paragraph (i) to read as set forth below.

§ 23.71 How can I trade internationally in sturgeon caviar?

(a) *U.S. and foreign provisions.* For the purposes of this section, *sturgeon caviar* or *caviar* means the processed roe of any species of sturgeon or paddlefish (order Acipenseriformes). It does not include sturgeon or paddlefish eggs contained in shampoos, cosmetics, lotions, or other products for topical application. The import, export, or re-export of sturgeon caviar must meet the requirements of this section and the other requirements of this part. The import, export, or re-export of Acipenseriformes specimens other than caviar must meet the other requirements of this part. See subparts B and C for prohibitions and application procedures.

(b) * * *

(1) * * *

(i) * * * In the United States, the design of the label will be determined by the labeler in accordance with the requirements of this section.

(ii) *Primary container* means any container (tin, jar, pail or other receptacle) in direct contact with the caviar.

* * * * *

(iv) * * * In the United States, this may be done by the person who harvested the roe.

(v) * * * This includes any facility where caviar is removed from the container in which it was received and placed in a different container.

* * * * *

(2) * * *

(iv) * * * This is either the calendar year in which caviar was harvested or, for caviar imported from shared stocks subject to quotas, the quota year in which it was harvested.

* * * * *

(3) * * *

(iii) Lot identification number or, for caviar that is being re-exported, the CITES document number under which it was imported may be used in place of the lot identification number.

* * * * *

(i) *CITES register of exporters and of processing and repackaging plants.* The CITES Secretariat maintains a ''Register of licensed exporters and of processing and repackaging plants for specimens of sturgeon and paddlefish species'' on its Web site. If you hold a current import-export license issued by FWS Law Enforcement and wish to be added to the CITES register, you may submit your contact information and processing or repackaging plant codes to the U.S. Management Authority for submission to the CITES Secretariat.

■ 42. Section 23.74 is amended by:

■ a. Revising paragraph (b) to read as set forth below;

■ b. Revising paragraph (d) to read as set forth below; and

■ c. Adding a new paragraph (e) to read as set forth below.

§ 23.74 How can I trade internationally in personal sport-hunted trophies?

* * * * *

(b) *Sport-hunted trophy* means a whole dead animal or a readily recognizable part or derivative of an animal specifically identified on accompanying CITES documents that meets the following criteria:

(1) Is raw, processed, or manufactured;

(2) Was legally obtained by the hunter through hunting for his or her personal use;

(3) Is being imported, exported, or re-exported by or on behalf of the hunter as part of the transfer from its country of origin ultimately to the hunter's country of usual residence; and

(4) Includes worked, manufactured, or handicraft items made from the sport-hunted animal only when:

(i) Such items are contained in the same shipment as raw or tanned parts of the sport-hunted animal and are for the personal use of the hunter;

(ii) The quantity of such items is no more than could reasonably be expected given the number of animals taken by the hunter as shown on the license or other documentation of the authorized hunt accompanying the shipment; and

(iii) The accompanying CITES documents (export document and, if appropriate, import permit) contain a complete itemization and description of all items included in the shipment.

* * * * *

(d) *Quantity.* The following provisions apply to the issuance and acceptance of U.S. and foreign documents for sport-hunted trophies originating from a population for which the Conference of the Parties has established an export quota. The number of trophies that one hunter may import in any calendar year for the following species is:

(1) No more than two leopard (*Panthera pardus*) trophies.

(2) No more than one markhor (*Capra falconeri*) trophy.

(3) No more than one black rhinoceros (*Diceros bicornis*) trophy.

(e) *Marking or tagging.* (1) The following provisions apply to the issuance and acceptance of U.S. and foreign documents for sport-hunted trophies originating from a population for which the Conference of the Parties has established an export quota. Each trophy imported, exported, or re-exported must be marked or tagged in the following manner:

(i) Leopard and markhor: Each raw or tanned skin must have a self-locking tag inserted through the skin and permanently locked in place using the locking mechanism of the tag. The tag must indicate the country of origin, the number of the specimen in relation to the annual quota, and the calendar year in which the specimen was taken in the wild. A mounted sport-hunted trophy

must be accompanied by the tag from the skin used to make the mount.

(ii) Black rhinoceros: Parts of the trophy, including, but not limited to, skin, skull, or horns, whether mounted or loose, should be individually marked with reference to the country of origin, species, the number of the specimen in relation to the annual quota, and the year of export.

(iii) Crocodilians: See marking requirements in § 23.70.

(iv) The export permit or re-export certificate or an annex attached to the permit or certificate must contain all the information that is given on the tag.

(2) African elephant (*Loxodonta africana*). The following provisions apply to the issuance and acceptance of U.S. and foreign documents for sport-hunted trophies of African elephant. The trophy ivory must be legibly marked by means of punch-dies, indelible ink, or other form of permanent marking, under a marking and registration system established by the country of origin, with the following formula: The country of origin represented by the corresponding two-letter ISO country code; the last two digits of the year in which the elephant was harvested for export; the serial number for the year in question; and the weight of the ivory in kilograms. The mark must be highlighted with a flash of color and placed on the lip mark area. The lip mark area is the area of a whole African elephant tusk where the tusk emerges from the skull and which is usually denoted by a prominent ring of staining on the tusk in its natural state.

■ 43. Section 23.75 is added to subpart E to read as set forth below:

§ 23.75 How can I trade internationally in vicuña (*Vicugna vicugna*)?

(a) *U.S. and foreign general provisions.* The import, export, or re-export of specimens of vicuña must meet the requirements of this section and the other requirements of this part (see subparts B and C of this part for prohibitions and application procedures). Certain populations of vicuña are listed in Appendix II for the exclusive purpose of allowing international trade in wool sheared from live vicuñas, cloth made from such wool, and products manufactured from such wool or cloth. All other specimens of vicuña are deemed to be specimens of a species included in Appendix I.

(b) *Vicuña Convention* means the Convenio para la Conservación y Manejo de la Vicuña, of which vicuña range countries are signatories.

(c) *Vicuña logotype* means the logotype adopted by the vicuña range countries under the Vicuña Convention.

(d) *Country of origin* for the purposes of the vicuña label means the name of the country where the vicuña wool in the cloth or product originated.

(e) *Wool sheared from live vicuñas, cloth from such wool, and products manufactured from such wool or cloth* may be imported from Appendix-II populations only when they meet the labeling requirements in paragraph (f) of this section.

(f) *Labeling requirements.* Except for cloth containing CITES pre-Convention wool of vicuña, you may import, export, or re-export vicuña cloth only when the reverse side of the cloth bears the vicuña logotype and the selvages bear the words ''VICUÑA—COUNTRY OF ORIGIN''. Specimens of other products manufactured from vicuña wool or cloth must bear a label that has the vicuña logotype and the designation ''VICUÑA—COUNTRY OF ORIGIN—ARTESANIA''. Each specimen must bear such a label. For import into the United States of raw wool sheared from live vicuña, see the labeling requirements in 50 CFR 17.40(m).

■ 44. Section 23.84 is amended by:

■ a. Removing the word ''four'' and adding in its place the word ''three'' in the first sentence of paragraph (b);

■ b. Removing the words ''assist the Nomenclature Committee in the development and maintenance of'' in paragraph (b)(2)(i) and adding in their place the words ''develop and maintain'';

■ c. Adding paragraph (b)(2)(iii) to read as set forth below; and

■ d. Removing paragraph (b)(3).

§ 23.84 What are the roles of the Secretariat and the committees?

* * * * *

(b) * * *

(2) * * *

(iii) The CoP appoints a specialist in zoological nomenclature to the Animals Committee and a specialist in botanical nomenclature to the Plants Committee. These specialists are ex officio and non-voting, and are responsible for developing or identifying standard nomenclature references for wildlife and plant taxa and making recommendations on nomenclature to Parties, the CoP, other committees, working groups, and the Secretariat.

■ 45. Section 23.92 is amended by:

■ a. Removing the words ''paragraph (b)'' and adding in their place the words ''paragraphs (b) and (c)'' in paragraph (a);

■ b. Removing the words ''and do not need CITES documents'' from the first sentence of paragraph (b);

■ c. Revising paragraph (b)(2) to read as set forth below;

■ d. Adding the introductory text of a new paragraph (c) and a paragraph (c)(1) to read as set forth below; and

■ e. Redesignating paragraphs (b)(3) through (b)(8) as paragraphs (c)(2) through (c)(7).

§ 23.92 Are any wildlife or plants, and their parts, products, or derivatives, exempt?

* * * * *

(b) * * *

(2) *Plant hybrids.* Specimens of an Appendix-II or -III plant taxon with an annotation that specifically excludes hybrids.

(c) The following are exempt from CITES document requirements when certain criteria are met.

(1) *Plant hybrids.* Seeds and pollen (including pollinia), cut flowers, and flasked seedlings or tissue cultures of hybrids that qualify as artificially propagated (see § 23.64) and that were produced from one or more Appendix-I species or taxa that are not annotated to treat hybrids as Appendix-I specimens.

* * * * *

Appendix A to 50 CFR Chapter I—[Removed]

■ 46. Remove Appendix A to Chapter I.

Dated: March 27, 2014

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–11329 Filed 5–23–14; 8:45 am]

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FEDERAL REGISTER PAGES AND DATE, MAY

24527–24994 1
24995–25482 2
25483–25640 5
25641–26108 6
26109–26358 7
26359–26588 8
26589–26828 9
26829–27158 12
27159–27476 13
27477–27728 14
27729–28392 15
28393–28604 16
28605–28808 19
28809–29068 20
29069–29322 21
29323–29660 22
29661–30002 23
30003–30430 27

CFR PARTS AFFECTED DURING MAY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8984 (Superceded by Proc. 9129) 29321
9108 25641
9109 25643
9110 25645
9111 25647
9112 25649
9113 25651
9114 25653
9115 25655
9116 25657
9117 25659
9118 26357
9119 27475
9120 27719
9121 27721
9122 27723
9123 27725
9124 27727
9125 29067
9126 29315
9127 29317
9128 29319
9129 29321
9130 30003

Executive Orders:
13667 (See Proc. 8693) 28387

Administrative Orders:
Notices:
Notice of May 7, 2014 26589
Notice of May 12, 2014 27477
Notice of May 15, 2014 28807
Notice of May 19, 2014 29069

5 CFR

151 25483
179 29071
733 25483
734 25483
2634 28605
2635 28605

6 CFR

5 29072

7 CFR

28 27479
205 24527
246 24995
271 28606
272 28606
274 28606
276 28606
277 28606
319 24995
331 26829
925 27159
946 ..... 24997, 26109, 26591
985 26359
1005 ..... 24999, 25003, 26591
1006 ..... 24999, 26591
1007 ..... 24999, 25003, 26591
1487 25661
3550 28809

Proposed Rules:
985 25710
1005 ..... 25032, 26638
1007 ..... 25032, 26638
1217 27212
3550 28851

8 CFR

103 27161
235 27161

Proposed Rules:
204 26870
214 ..... 26870, 26886
248 26870
274a 26870, 26886

9 CFR

121 26829

10 CFR

72 ..... 25486, 28393
429 ..... 25486, 27388
430 26591
431 ..... 26591, 27388

Proposed Rules:
51 24595
52 25715
61 27772
429 ..... 26638, 29272, 29380, 29632, 29692
430 ..... 26639, 27774, 29272, 29380
431 ..... 26650, 27778, 29632
600 27795

12 CFR

6 24528
14 28393
21 28393
26 28393
34 28393
35 28393
41 28393
133 28393
136 28393
160 28393
163 28393
164 28393
171 28393
196 28393
208 24528
217 24528
324 24528
620 30005

652.....28810, 29074
1238.....25006
Proposed Rules:
3.....24596, 24618
217.....24596, 24618
251.....27801
324.....24596, 24618
701.....24623
1005.....28458
1016.....27214
1026.....25730

13 CFR

121.....29661
Proposed Rules:
121.....28631

14 CFR

23.....26111
39 .....24541, 24546, 24548, 24551, 24553, 24556, 26603, 26606, 26608, 26610, 27480, 27483, 30005, 30008, 30015
71 .....26365, 26612, 26613, 27175, 27176, 27177, 27178, 27179, 27729, 29323, 29324, 30017, 30019
73 .....27730, 29074, 29661
91.....28811
97.....29662, 29664
121.....28811
125.....28811
135.....28811
Proposed Rules:
39 .....24628, 25033, 25753, 26651, 26901, 26905, 26906, 27505, 27814, 28647, 29384, 29693, 29694
71 .....25755, 25756, 25757, 29138, 29696, 29697, 30054
120.....24631
193.....27817
234.....29770
244.....29770
250.....29770
255.....29770
256.....29770
257.....29770
259.....29770
398.....24632
399.....29770

15 CFR

732.....27418
734.....27418
736.....27418
740.....27418
742.....27418
744 .....24558, 24563, 27418
748.....27418
758.....27418
772.....27418, 30021
774.....27418, 30021
Proposed Rules:
922.....26654

16 CFR

803.....25662
Proposed Rules:
259.....27820
1112.....28458
1230.....28458

17 CFR

1.....26831
Proposed Rules:
240.....25194, 29508
249.....25194

18 CFR

35.....29075
154.....29075
341.....29075
385.....29075
410.....26613, 26615

19 CFR

10.....29077, 30356
24.....29077
162.....29077
163.....29077, 30356
178.....29077, 30356

20 CFR

Proposed Rules:
404.....24634

21 CFR

172.....29078
510.....28813
520.....28813
876.....28401
880.....28404
Proposed Rules:
1.....25758, 29699
101.....30055, 30056
866.....29387
884.....24634, 24642

22 CFR

120.....27180
121.....27180
124.....27180
234.....26834
Proposed Rules:
1305.....26659

24 CFR

8.....29671
Proposed Rules:
203.....26376
Ch. IX.....29700
3284.....25035

25 CFR

23.....27189
Proposed Rules:
151.....24648

26 CFR

1 .....26113, 26616, 26836, 26838
Proposed Rules:
1 .....26190, 27230, 27508, 28468, 29700, 29701
31.....29701
301.....29701

29 CFR

4022.....25667, 27731
Proposed Rules:
1614.....27824
2590.....26192

30 CFR

70.....24814
71.....24814
72.....24814
75.....24814
90.....24814
Proposed Rules:
925.....28852
935.....28854
948.....28858, 28860
1241.....28862

31 CFR

542.....25414
589.....26365

32 CFR

60.....25675
68.....27732
79.....28407
199.....29085
241.....27487
312.....25505
320.....26120
706.....25007
Proposed Rules:
197.....26381
243.....27516

33 CFR

100 .....25678, 26373, 27488, 28429, 28834, 29088, 29091, 30025
117 .....24567, 25681, 28431, 28432, 28433, 29677
147.....29095
165 .....26122, 26843, 26846, 26848, 26851, 27489, 27490, 27754, 28433, 28434, 28834, 29091, 29098, 29099, 29100, 29101, 29102, 29678, 30025, 30043
Proposed Rules:
100.....26195, 26661
110.....26195
117.....24654
140.....26391
142.....26391
150.....26391
165 .....24656, 25009, 25763, 27521, 28468, 28876, 29139, 29392

34 CFR

Proposed Rules:
Ch. III.....24661, 27230, 27233, 27236, 29701, 30056

36 CFR

1191.....26125

37 CFR

1.....27755
370.....25009
Proposed Rules:
2.....26664
370.....25038

38 CFR

17.....30043
36.....26620
Proposed Rules:
62.....26669
63.....27826

40 CFR

52 .....25010, 25014, 25019, 25021, 25506, 26143, 26628, 27190, 27193, 27490, 27493, 27761, 27763, 28435, 28607, 28612, 29324, 29327, 29352, 29354, 29358, 29359, 29361, 29680, 30045
60.....25681, 28439
70.....27490
80.....25025, 29362
81 .....25508, 27193, 27493
82.....29682
98.....25682
180 .....26150, 26153, 26158, 27496, 28444, 29103
300 .....25031, 26853, 29108
Proposed Rules:
Ch. I.....28664
49.....25049
51.....27446
52 .....25054, 25059, 25063, 25066, 25074, 25533, 25540, 26909, 27241, 27257, 27524, 27528, 27533, 27543, 27546, 27830, 27834, 28471, 28649, 28650, 28659, 29142, 29395, 29705, 29712, 29726
60.....27690
61.....25388
70.....27546
80.....25074
81 .....25077, 25540, 25555
170.....27546
180.....29729
300 .....26836, 26922, 29148
770.....26678

42 CFR

73.....26860
405.....25436
410.....25436
413.....27106
416.....27106
417.....29844
422.....29844
423.....29844
424.....29844
440.....27106
442.....27106
482.....27106
483.....27106
485.....27106
486.....27106
488.....27106
491.....25436, 27106
493.....25436, 27106
Proposed Rules:
2.....26929
88.....25766
405.....26538, 27978
412 .....26040, 26308, 27978
413.....27978
415.....27978
418.....26538
422.....27978
424.....27978
485.....27978
488.....25767, 27978
495.....29732
1000.....26810
1001.....26810
1002.....26810
1003.....27080
1005.....27080
1006.....26810

44 CFR

64.....25519
67.....25522, 25531
Proposed Rules:
67.....27264

45 CFR

144 30240
146 30240
147 30240
148 30240
153 30240
154 30240
155 30240
156 30240
158 30240
1172 26631
1626 30052

Proposed Rules:

170 29732

46 CFR

1 26374
10 26374
11 26374
12 26374
13 26374
14 26374
15 26374

Proposed Rules:

45 30061
69 29149
197 26391

47 CFR

1 ....26164, 26862
2 ....24569, 26863, 30053
15 24569
25 ....26863, 27502, 27503
51 28840
54 29111
64 25682
73 ....27196, 27503, 28442, 28996
76 28615

Proposed Rules:

73 ....25558, 26198, 27834, 27835, 27836, 29010

48 CFR

202 26092
231 26092
244 26092
246 26092
252 26092
436 29369
452 29369
552 ....28442, 29136

49 CFR

385 27766
395 26868

Proposed Rules:

383 30062
384 30062
385 ....27265, 28471
386 ....27265, 28471
390 ....27265, 28471
391 30062
395 28471

50 CFR

Ch. I 30400
13 30400
17 ....25683, 25689, 26014, 26175, 28847, 30400
23 30400
216 26188
218 26188
300 ....28448, 28452
622 ....26375, 27768
635 ....25707, 28849
648 ....28850, 29371
660 ....24580, 27196, 27198, 28455, 29377
679 29136

Proposed Rules:

17 ....25084, 25797, 25806, 26392, 26504, 26679, 26684, 27547, 27548, 29150
216 ....27550, 28879
402 27060
424 27066
622 28880
635 ....27553, 30064
648 ....26685, 26690, 27274, 29154, 30065
679 ....25558, 27557

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List May 22, 2014

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