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Contents

Federal Register

Vol. 79, No. 250

Wednesday, December 31, 2014

Separate Parts In This Issue

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.

7 CFR
761.....78689
762.....78689
764.....78689
765.....78689

9 CFR
317.....79044
381.....79044

14 CFR
29.....78694

Proposed Rules:
39 (2 documents) 78726, 78729

16 CFR

Proposed Rules:
305.....78736
1422.....78738

18 CFR

Proposed Rules:
46.....78739

19 CFR

Proposed Rules:
351.....78742

21 CFR

Proposed Rules:
1271.....78744

22 CFR
22.....79064

26 CFR
1 (2 documents) 78696, 78954
53.....78954
602.....78954

30 CFR

Proposed Rules:
100.....78749

32 CFR
199 (3 documents) 78698, 78703, 78707

39 CFR
3020.....78714

40 CFR
60.....79018

Proposed Rules:
50.....78750
51.....78750
52 (3 documents) 78750, 78752, 78755
53.....78750
58.....78750
63.....78768
81.....78755

42 CFR
403.....78716
405.....78716
410.....78716
411.....78716
412.....78716
413.....78716
414.....78716
425.....78716
489.....78716
495.....78716
498.....78716

44 CFR
64.....78719
67.....78722

47 CFR

Proposed Rules:
79.....78768

50 CFR
223.....78723
224 (2 documents) 78723, 78725

Proposed Rules:
17.....78775

Rules and Regulations

Federal Register
Vol. 79, No. 250
Wednesday, December 31, 2014

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Parts 761, 762, 764, and 765

RIN 0560–AI29

Farm Loan Programs; Programs Changes

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The Farm Service Agency (FSA) is amending Farm Loan Programs (FLP) loan making and servicing regulations to reflect several changes required by the Agricultural Act of 2014 (2014 Farm Bill). The changes were implemented administratively upon the passage of the 2014 Farm Bill; this rule makes conforming amendments in the FSA regulations.

DATES: *Effective:* December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Bradley A. Johnson, telephone: (202) 720–5847. Persons with disabilities or who require alternative means for communications (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

The FSA FLP direct loans and loan guarantees provide credit to farmers whose financial risk exceeds a level acceptable to commercial lenders. Through direct and guaranteed Farm Ownership loans (FO), Operating Loans (OL), and Conservation Loans (CL); direct Microloans (ML), direct Emergency Loans (EM) and Land Contract (LC) guarantees, FSA assists tens of thousands of farmers each year in starting and maintaining profitable farm businesses. FSA loan funds may be used to pay normal operating or family living expenses; make capital improvements; refinance certain debts; and purchase farmland, livestock, equipment, feed and other materials essential to farm operations. FSA services extend beyond the typical loan by offering farmers ongoing consultation and advice, to help to make their farm successful. These loans are a temporary source of credit. Farmers with direct loans generally are required to graduate to other credit when their financial condition will allow them to do so.

In addition, the YL Program provides operating loans of up to $5,000 to eligible individual youths, ages 10 to 20, to finance income producing, agriculture related projects. The project must be of modest size, educational and initiated, developed and carried out by youths participating in 4-H Clubs, Future Farmers of America (FFA), or a similar organization.

Throughout this rule, any reference to ''farm'' or ''farmer'' also includes ''ranch'' or ''rancher'', respectively.

This rule makes changes in the FSA regulations required by several provisions of the 2014 Farm Bill (Pub. L. 113–79) regarding FSA's loan making and servicing programs. More specifically, the changes:

- Increase the percent of guarantee for CLs;
- Reduce the interest rate for direct FOs made under a joint financing arrangement;
- Eliminate the oil, gas, and mineral appraisal requirement;
- Increase the maximum loan amount for a direct FO made under the downpayment program;
- Eliminate the rural residency requirement for the YLs ;
- Allow a borrower who had YL debt forgiveness to receive future Government loans under certain circumstances;
- Exclude MLs to beginning or veteran farmers from the existing OL term limitations, and add a special ML interest rate available to beginning and veteran farmers;
- Eliminate the term limit for guaranteed OLs; and
- Amend the definition of a beginning farmer, specifically the maximum owned acreage requirement.

CL; Increase Percent of Guarantee

Guaranteed CLs promote conservation practices on farms that help protect natural resources, and provide credit for farmers to implement these conservation measures on their land. Unlike FSA's traditional FO and OL Programs that are targeted toward family and less financially established farmers, eligibility requirements for the CL Program permit FSA to provide assistance to applicants who may not be a family farmer or are financially strong.

Section 5002 of the 2014 Farm Bill amended section 304(e) of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1924e) to increase the percent of guarantee for CLs from 75 percent to 80 percent, and authorized a 90 percent guarantee for a qualified beginning or socially disadvantaged (SDA) farmer. Lenders will now be able to have a greater guarantee on CLs.

Previously, CL received a 75 percent guarantee, which was less than the typical 90 percent guarantee on an FO or farm OL guarantee. Partially due to this lower percentage of guarantee, the use of CLs have been extremely limited since guaranteed FO or OL funds may also be used for conservation purposes.

This rule amends 7 CFR 762.129 and 762.130 to increase the percent of guarantee for CL. The increase in CL guarantee to 80 percent and the even higher 90 percent guarantee to beginning or SDA farmers will increase the use of CL guarantees used to implement conservation practices, which benefit not only the farmer, but the environment as well.

Direct FO as Part of Joint Financing Arrangement; Interest Rate

Direct FOs made as part of a participation (joint financing) arrangement are eligible for a special joint financing interest rate. These loans require that a commercial lender or private party provide a portion of the financing, such that the FO does not exceed 50 percent of the total amount financed. FOs may be used to purchase a farm, enlarge an existing farm, construct or improve farm structures, pay closing costs, and for soil and water conservation and protection. Repayment terms may be as long as 40 years and the maximum FO indebtedness is limited to $300,000.

Section 5003 of the 2014 Farm Bill amended section 307(a)(3) of the CONACT (7 U.S.C. 1927(a)(3)) to reduce the interest rate for FOs that are part of a joint financing arrangement. This joint financing interest rate is the direct FO

regular interest rate minus 2 percent, with a floor of 2.5 percent.

Previously, the joint financing interest rate for FOs was 5 percent and has been since March 24, 1997. For several years, the joint financing interest rate of 5 percent has been higher than the direct FO interest rate. As a result, there has been no financial incentive for the farmer to finance a portion of the real estate purchase with another lender, unless she or he qualified as a beginning or SDA farmer who was able to receive a downpayment FO with a lower interest rate.

This rule amends 7 CFR 764.154 to change the interest rate for FOs that are part of a joint financing arrangement. This reduced interest rate for FOs made under a joint financing agreement will encourage farmers to seek commercial lender financing, and therefore reduce FSA financing of the farm to 50 percent or less. FSA expects to be able to leverage the use of our typically limited direct FO funds, to assist an even greater number of eligible family farmers.

Mineral Rights Appraisal; Eliminate Requirement

FSA uses appraisals to determine the value of real and personal property. Appraisals ensure there is adequate security to support FSA loan making and servicing actions.

Section 5004 of the 2014 Farm Bill eliminated the requirement that in order for FSA to have the rights to oil, gas, or other minerals as FO collateral, the products' value must be considered in the appraised value of the real estate securing the loan.

Section 307(d) of the CONACT (7 U.S.C. 1927(d)), previously required that for FOs; the value of oil, gas, or other minerals must be included in the appraised value of the real estate security in order for FSA to have a valid lien on those products. This rule removes this mineral appraisal requirement in 7 CFR 761.7 and 765.252 for all future FLP loans. For all loans made after February 7, 2014, the date of the 2014 Farm Bill was enacted, FSA will have a security interest in oil, gas, or other minerals on or under the property regardless of whether the value of those products were included in the appraisal value of the property. This security interest is reflected in the FSA mortgage forms.

Downpayment FOs; Increase Maximum Loan Amount

FSA downpayment FOs are used to assist beginning and SDA farmers in purchasing a farm. The loans have a lower interest rate than other FO loans and require participation by another lender, along with cash down payment requirement of 5 percent.

Section 5005 of the 2014 Farm Bill amended section 310E(b)(1)(C) of the CONACT (7 U.S.C. 1935(b)(1)(C)) to increase the maximum loan limit for downpayment FOs to 45 percent of $667,000. This amount is $300,150; however, section 305 of the CONACT (7 U.S.C. 1925) limits the maximum loan amount for each FO, including downpayment FOs, to $300,000.

Previously, downpayment FOs were limited to a maximum of $225,000 (45 percent of $500,000) and all other types of direct FOs were limited to $300,000. This difference in maximum loan amounts was a limiting factor in many loan transactions, particularly as loan amounts have increased due to rising farm real estate values. The rule amends 7 CFR 764.203 to increase the maximum loan limit for downpayment FO loans to $300,000.

YL; Eliminate Rural Residency Requirement

FSA makes YL of up to $5,000 to eligible individual youths, ages 10 to 20, to finance income producing and agricultural related projects. The project must be modest in size, educational, and initiated, developed and carried out by youths participating in a 4-H Club, FFA, or similar organization.

Section 5102 of the 2014 Farm Bill amended section 311(b)(1) of the CONACT (7 U.S.C. 1941(b)(1)) to eliminate the rural residency requirement for YL. Eligible youth in suburban and urban areas will now be eligible for YL.

Previously, to be eligible for a YL the applicant had to reside in a rural area. FSA regulations further defined this as ''residing in a rural area, city, or town with a population of 50,000 or fewer people.'' The rule amends 7 CFR 764.302 to eliminate the rural residency requirement for YL. The removal of this requirement now allows FSA to extend YL assistance to youth residing in suburban and urban areas to finance eligible agricultural related projects.

YL; Forgiveness of Debt

Forgiveness of YL debt, due to circumstances beyond the borrower's control, will no longer preclude the borrower from obtaining additional loans from any U.S. Government agency. Additionally, borrowers with YL debt forgiveness, or who are delinquent on a YL, will now be able to receive student loans. The servicing and collection of YLs is not affected by the statute and will continue under the present regulations.

Section 5103 of the 2014 Farm Bill amended section 311(b) of the CONACT (7 U.S.C. 1941(b)) to authorize the Secretary of Agriculture to, on a case by case basis, provide debt forgiveness of a YL if the borrower was unable to repay the loan due to circumstances beyond the control of the borrower. The Secretary may also determine that the debt forgiveness was caused by national disaster, act of terrorism, or other man-made disaster that resulted in an inordinate level of damage severely affecting the YL borrower. The debt forgiveness provided by this section is not to be used by other Federal agencies in determining eligibility of the borrower for any loan made or guaranteed by that agency.

In no case will a borrower provided debt forgiveness or a delinquent borrower be denied a loan or loan guarantee from the Federal government to pay for educational expenses of the borrower. As a practical matter, FSA has always provided debt forgiveness, in the form of debt settlement, to YL borrowers on the same terms as any other borrower. To determine if the forgiveness is beyond the borrower's control, consideration of the circumstances will be added to the Agency Handbooks and this rule revises the definition of ''debt forgiveness'' in 7 CFR 761.2. This will ensure that, if the inability to pay giving rise to the debt forgiveness was due to circumstances beyond the borrower's control, it will not be used in consideration of a FSA loan application. As this is a mandate on the entire Federal Government with particular emphasis on loans for educational expenses, FSA will also make information regarding this change available to all YL borrowers who receive debt forgiveness and any other Federal agency that is considering a loan application from the borrower after debt forgiveness or while they are delinquent.

With regard to YL debt servicing prior to debt forgiveness, the Debt Collection Improvement Act of 1996 (DCIA) (Pub. L. 104–134, April 26, 1996) requires that delinquent debts be reported to Treasury so that centralized collection can be pursued through the Treasury Offset Program and outside collection agencies. Section 373 of the CONACT (7 U.S.C. 2008h) also limits FSA direct loan borrowers to only one debt forgiveness from FSA. These requirements were not changed by the 2014 Farm Bill.

ML; Exclude From OL Term Limit Rule and Special Interest Rate for Beginning or Veteran Farmers

FSA initiated the ML Program in 2013 to better serve the unique financial operating needs of beginning, niche, or the smallest of family farm operations. ML offers more flexible access to credit for these types of family farm operations, who often face limited financing options.

Section 5106 of the 2014 Farm Bill amended section 311 of the CONACT (7 U.S.C. 1941) to exclude MLs made to beginning or veteran farmers from the direct OL term limit. Section 12201 of the 2014 Farm Bill defines a ''veteran farmer or rancher'' as someone who has served in the Armed Forces of the United States and who has not farmed, or has farmed for 10 years or less. This rule amends 7 CFR 761.2 to include the definition of a veteran farmer.

As previously mentioned, the term ''farm'' or ''farmer'' also includes the term ''ranch'' or ''rancher,'' respectively. Therefore, all references to the term ''farm'' or ''farmer'' will also respectively include ''ranch'' or ''rancher,'' including the definition of a ''veteran farmer.'' Once the farmer is no longer a beginning farmer or once a veteran has farmed more than 10 years, any ML they receive will count toward the OL term limit. Section 5106 of the 2014 Farm Bill also amended section 316 of the CONACT (7 U.S.C. 1946) to make available a special interest rate on ML equal to half the rate on 5-year treasuries plus 1 percent, but never less than 5 percent, to beginning or veteran farmers.

Previously, only MLs made to beginning farmers were excluded from the OL term limit. This rule amends 7 CFR 764.252 to expand the exclusion to include veteran farmers.

In addition, previously the ML interest rate was either the regular OL rate or a limited resource rate. This rule amends 7 CFR 764.254 to add the 2014 Farm Bill special ML interest rate that will be at the same rate as the limited resource OL rate, but will not be subject to special servicing reviews by FSA since it will not be considered a limited resource interest rate. For a beginning or a veteran farmer applying for a ML, they will now be able to choose between the direct OL interest rate and the special ML interest rate. These changes in the ML program will benefit both beginning and veteran farmers, who typically have fewer financial resources and limited options available to finance their farming operation.

Guaranteed OL; Eliminate Term Limit

Section 5107 of the 2014 Farm Bill amended section 319 of the CONACT (7 U.S.C. 1949) to eliminate all guaranteed OL term limits. Family farmers will no longer be restricted in the number of years they can receive a guaranteed OL.

Guaranteed OLs are used to assist family farmers to obtain credit for normal operating expenses, machinery, equipment, and livestock purchases, minor real estate repairs or improvement, and to refinance debt. The repayment term may vary, but are never longer than 7 years. OLs used to pay for normal operating expenses are set up as a line of credit and are typically repaid within 12 months.

Previously, guaranteed OL borrowers were limited to no more than 15 years in which they could receive OLs. As a result, many family farmers who continued to have difficulty in meeting lender credit standards and had received 15 years of OL, were unable to receive additional guaranteed OLs. The rule amends 7 CFR 762.122 to eliminate all guaranteed OL term limits. These family farmers will now be able to obtain additional guaranteed OLs, which typically will provide them with access to credit on better rates and terms.

Beginning Farmer; Amending Definition To Modify Acreage Ownership Limitation

Section 5303 of the 2014 Farm Bill amended section 343 of the CONACT (7 U.S.C. 1991) to change the owned real farm property limit from 30 percent of the median farm acreage to 30 percent of the average farm acreage. FSA makes and guarantees loans to beginning farmers who are unable to obtain financing from commercial lenders. Each fiscal year, FSA targets a portion of its direct and guaranteed FO and OL funds to beginning farmers.

Previously, to meet FSA's definition of a beginning farmer, the loan applicant must not have owned real farm property that exceeded 30 percent of the median farm acreage, except for an OL applicant. According to the 2012 Census of Agriculture, nationally the median size farm is 80 acres, while the average size farm is 434 acres. The farm acreage limit, previously based on the median, set a limit so low in many counties it precluded applicants who owned small acreages of real farm property from qualifying as a beginning farmer. This eliminated many otherwise qualified applicants from accessing FSA farm loan funds targeted to beginning farmers. The rule amends 7 CFR 761.2 to change the owned real farm property limit. The farm acreage limit, now based on the average, will now allow many qualified applicants access to farm loan funds targeted to beginning farmers, which previously were not available to them.

Notice and Comment

In general, the Administrative Procedure Act (5 U.S.C. 553) requires that a notice of proposed rulemaking be published in the **Federal Register** and interested persons be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation, except when the rule involves a matter relating to public property, loans, grants, benefits, or contracts. This rule involved matters relating to loans and is therefore being published as a final rule without the opportunity for comments.

Effective Date

The Administrative Procedure Act provides generally that before rules are issued by Government agencies, the rule is required to be published in the **Federal Register**, and the required publication of a substantive rule is to be not less than 30 days before its effective date. One of the exceptions is when the agency finds good cause for not delaying the effective date. As noted above, the changes in this rule are conforming changes because the 2014 Farm Bill allowed no discretion in the changes and thus were implemented administratively after the enactment of the 2014 Farm Bill. Using the administrative procedure provisions in 5 U.S.C. 553, FSA finds that there is good cause for making this rule effective less than 30 days after publication in the **Federal Register**. Therefore, this final rule is effective when published in the **Federal Register**.

Executive Order 12866 and 13563

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

The Office of Management and Budget (OMB) designated this rule as not

significant under Executive Order 12866, ''Regulatory Planning and Review,'' and, therefore, OMB was not required to review this final rule.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally require an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under APA or any other law, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. All FSA direct loan borrowers and all farm entities affected by this rule are small businesses according to the North American Industry Classification System and the U. S. Small Business Administration. There is no diversity in size of the entities affected by this rule, and the costs to comply with it are the same for all entities.

In this rule, FSA is revising regulations that affect both loan making and loan servicing. FSA does not expect these changes to impose any additional cost to the lenders or borrowers. Therefore, FSA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA (7 CFR part 1940, subpart G). The changes contained in the rule are all mandatory changes required by the 2014 Farm Bill and involved no discretion by FSA, either in whether to implement or how to implement the changes; therefore, they are not subject to review under NEPA. FSA is making these changes through a final rule to update the regulations to match the changes previously implemented administratively with an agency directive in February 2014. As such, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened Federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal Financial assistance and direct Federal development. For reasons set forth in the Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities within this rule are excluded from the scope of Executive Order 12372.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State and local laws and regulations unless they represent an irreconcilable conflict with this rule. Before any judicial action may be brought concerning the provisions of this rule the administrative appeal provisions of 7 CFR parts 11 and 780 are to be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, the relationship between the Federal government and the States, or the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

FSA has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under Executive Order 13175. If a Tribe requests consultation, FSA will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by the 2014 Farm Bill.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State, local, or Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for final rule with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) for State, local, or Tribal governments, or private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

This regulatory changes in this final rule do not require any changes to the currently information collection request of OMB control numbers, 0560–0155, 0560–0233, 0560–0236, 0560–0237, 0560–0238 and 0560–0230.

E-Government Act Compliance

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

Federal Assistance Programs

The title and number of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this final rule would apply are: 10.099 Conservation Loans; 10.404 Emergency Loans; 10.406 Farm Operating Loans; and10.407 Farm Ownership Loans.

List of Subjects

7 CFR Part 761

Accounting, Loan programs—agriculture, Rural areas.

7 CFR Part 762

Agriculture, Banks, Banking, Credit, Loan programs—agriculture, Agricultural commodities, Livestock.

7 CFR Part 764

Agriculture, Disaster assistance, Loan programs—agriculture, Agricultural commodities, Livestock.

7 CFR Part 765

Agriculture, Credit, Loan programs—agriculture, Agricultural commodities, Livestock.

For the reasons discussed above, FSA amends 7 CFR chapter VII as follows:

PART 761—FARM LOAN PROGRAM; GENERAL PROGRAM ADMINISTRATION

The authority citation for part 761 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

Subpart A—General Provisions

■ 1. Amend § 761.2(b) as follows:
■ a. Amend the definition of ''Beginning farmer'' in paragraph (5) by removing the word ''median'' each time it appears and adding the word ''average'' in its place;
■ b. Revise the definition of ''Debt forgiveness''; and
■ c. Add the definition of ''Veteran farmer'' in alphabetical order.

The additions read as follows:

§ 761.2 Abbreviations and definitions.

* * * * *

(b) * * *

* * * * *

Debt forgiveness is a reduction or termination of a debt under the Act in a manner that results in a loss to the Agency.

(1) Debt forgiveness may be through:

(i) Writing down or writing off a debt pursuant to 7 U.S.C. 2001;

(ii) Compromising, adjusting, reducing, or charging off a debt or claim pursuant to 7 U.S.C. 1981; or

(iii) Paying a loss pursuant to 7 U.S.C. 2005 on a FLP loan guaranteed by the Agency.

(2) Debt forgiveness does not include:

(i) Debt reduction through a conservation contract;

(ii) Any writedown provided as part of the resolution of a discrimination complaint against the Agency;

(iii) Prior debt forgiveness that has been repaid in its entirety;

(iv) Consolidation, rescheduling, reamortization, or deferral of a loan; or

(v) Forgiveness of YL debt, due to circumstances beyond the borrower's control.

The Agency will use the criteria in 7 CFR 766.104(a)(1) to determine if the circumstances were beyond the borrower's control.

* * * * *

Veteran farmer is a farmer who has served in the Armed Forces (as defined in 38 U.S.C. 101(10)) and who—

(1) has not operated a farm; or

(2) has operated a farm for not more than 10 years.

* * * * *

§ 761.7 [Amended]

■ 2. In § 761.7, remove paragraph (b)(3).

PART 762—GUARANTEED FARM LOANS

■ 3. The authority citation for part 762 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

§ 762.122 [Amended]

■ 4. In § 762.122, remove paragraph (b) and redesignate paragraphs (c) through (e) as (b) through (d).

■ 5. In § 762.129, revise paragraphs (a), (b) and (c) to read as follows:

The revision reads as follows:

§ 762.129 Percent of guarantee and maximum loss.

(a) *Percent of guarantee.* The percent of guarantee will not exceed 90 percent based on the credit risk to the lender and the Agency both before and after the transaction. The Agency will determine the percentage of guarantee. See paragraph (b) of this section for exceptions.

(b) *Exceptions.* The guarantee will be determined by the Agency except:

(1) For OLs and FOs, the guarantee will be issued at 95 percent if:

(i) The sole purpose of a guaranteed FO or OL is to refinance an Agency direct farm loan. When only a portion of the loan is used to refinance a direct Agency loan, a weighted percentage of a guarantee will be provided; or

(ii) When the purpose of a guaranteed FO is to participate in the downpayment loan program; or

(iii) When a guaranteed OL is made to a farmer who is participating in the Agency's down payment loan program. The guaranteed OL must be made during the period that a borrower has the down payment loan outstanding; or

(iv) When a guaranteed OL is made to a farmer whose farm land is subject to the jurisdiction of an Indian tribe and whose loan is secured by one or more security instruments that are subject to the jurisdiction of an Indian tribe.

(2) For CLs, the guarantee will be issued at 80 percent; however, the guarantee will be issued at 90 percent if:

(i) The applicant is a qualified SDA farmer; or

(ii) The applicant is a qualified beginning farmer.

(c) *CLP and PLP guarantees.* All guarantees issued to CLP or PLP lenders will not be less than 80 percent.

* * * * *

§ 762.130 [Amended]

■ 6. In § 762.130(a)(2)(ii) remove ''75'' and add ''80 or 90'' in its place.

PART 764—DIRECT LOAN MAKING

■ 7. The authority citation for part 764 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

Subpart E—Downpayment Loan Program

■ 8. Revise § 764.154(a)(3) to read as follows:

§ 764.154 Rates and terms.

(a) * * *

(3) If the FO loan is part of a joint financing arrangement and the amount of the Agency's loan does not exceed 50 percent of the total amount financed, the interest rate charged will be the greater of the following:

(i) The Agency's Direct Farm Ownership rate, available in each Agency office, minus 2 percent; or

(ii) 2.5 percent.

* * * * *

■ 9. Revise § 764.203(b)(3) to read as follows:

§ 764.203 Limitations.

* * * * *

(b) * * *

(3) $667,000; subject to the direct FO dollar limit specified in 7 CFR 761.8(a)(1)(i).

* * * * *

Subpart G—Operating Loan Program

■ 10. Revise § 764.252 to read as follows:

§ 764.252 Eligibility requirements.

(a) The applicant must comply with the general eligibility requirements established in § 764.101.

(b) The applicant and anyone who will sign the promissory note, except as provided in paragraph (c) of this section, must not have received debt forgiveness from the Agency on any direct or guaranteed loan.

(c) The applicant and anyone who will sign the promissory note, may receive direct OL loans to pay annual farm operating and family living expenses, provided that the applicant

meets all other applicable requirements under this part, if the applicant:

(1) Received a write-down under section 353 of the Act;

(2) Is current on payments under a confirmed reorganization plan under Chapter 11, 12, or 13 of Title 11 of the United States Code; or

(3) Received debt forgiveness on not more than one occasion after April 4, 1996, resulting directly and primarily from a Presidentially-designated emergency for the county or contiguous county in which the applicant operates. Only applicants who were current on all existing direct and guaranteed FLP loans prior to the beginning date of the incidence period of a Presidentially-designated emergency and received debt forgiveness on that debt within 3 years after the designation of such emergency meet this exception.

(d) In the case of an entity applicant, the entity must be:

(1) Controlled by farmers engaged primarily and directly in farming in the United States; and

(2) Authorized to operate the farm in the State in which the farm is located.

(e) The applicant and anyone who will sign the promissory note, may close an OL in no more than 7 calendar years, either as an individual or as a member of an entity, except as provided in paragraphs (e)(1) through (4) of this section. The years may be consecutive or nonconsecutive, and there is no limit on the number of OLs closed in a year. Microloans made to a beginning farmer or a veteran farmer are not counted toward this limitation. Youth loans are not counted toward this limitation. The following exceptions apply:

(1) This limitation does not apply if the applicant and anyone who will sign the promissory note is a beginning farmer.

(2) This limitation does not apply if the applicant's land is subject to the jurisdiction of an Indian tribe, the loan is secured by one or more security instruments subject to the jurisdiction of an Indian tribe, and commercial credit is generally not available to such farm operations.

(3) If the applicant, and anyone who will sign the promissory note, has closed direct OL loans in 4 or more previous calendar years as of April 4, 1996, the applicant is eligible to close OL loans in any 3 additional years after that date.

(4) On a case-by-case basis, may be granted a one-time waiver of OL term limits for a period of 2 years, not subject to administrative appeal, if the applicant:

(i) Has a financially viable operation;

(ii) And in the case of an entity, the members holding the majority interest, applied for commercial credit from at least two lenders and were unable to obtain a commercial loan, including an Agency-guaranteed loan; and

(iii) Has successfully completed, or will complete within one year, borrower training. Previous waivers to the borrower training requirements are not applicable under this paragraph.

■ 11. Add § 764.254(a)(4) to read as follows:

§ 764.254 Rates and terms.

(a) * * *

(4) The Agency's Direct ML OL interest rate on an ML to a beginning farmer or veteran farmer is available in each Agency office. ML borrowers in these groups have the option of choosing the ML OL interest rate or the Direct OL interest rate in effect at the time of approval, or if lower, the rate in effect at the time of closing.

* * * * *

§ 764.302 [Amended]

■ 12. In § 764.302, remove paragraph (d) and redesignate paragraphs (e) through (f) as paragraphs (d) through (e).

PART 765—DIRECT LOAN SERVICING—REGULAR

■ 13. The authority citation for part 765 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

Subpart F—Required Use and Operation of Agency Security

■ 14. Revise § 765.252(b)(1) to read as follows:

§ 765.252 Lease of security.

* * * * *

(b) * * *

(1) For FO loans made from December 23, 1985, to February 7, 2014, and loans other than FO loans secured by real estate and made from December 23, 1985, to November 1, 2013, the value of the mineral rights must have been included in the original appraisal in order for the Agency to obtain a security interest in any oil, gas, and other mineral associated with the real estate security.

* * * * *

Signed on December 16, 2014.

Val Dolcini,

Administrator, Farm Service Agency.

[FR Doc. 2014–30172 Filed 12–30–14; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

[Docket No. FAA–2014–1090; Special Conditions No. 29–037–SC]

Special Conditions: Airbus Helicopters Deutschland GmbH Model MBB–BK117D–2 Helicopters; Use of 30-Minute Power Rating

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Airbus Helicopters Deutschland GmbH Model MBB–BK117 D–2 helicopter. This model helicopter will have the novel or unusual design feature of a 30-minute power rating, generally intended to be used for hovering at increased power for search and rescue missions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Airbus Helicopters Deutschland GmbH Model MBB–BK117D–2 Helicopters on December 19, 2014.

We must receive your comments by March 2, 2015.

ADDRESSES: Send comments identified by docket number FAA–2014–1090 using any of the following methods:

- Federal eRegulations Portal: Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- Mail: Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- Hand Delivery of Courier: Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 8 a.m., and 5 p.m., Monday through Friday, except Federal holidays.
- Fax: Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://regulations.gov,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find

and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

Docket: You can read the background documents or comments received at *http://www.regulations.gov.* Follow the online instructions for accessing the docket or go to the Docket Operations in Room @12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Rao Edupuganti, Rotorcraft Standards Staff, ASW–111, Rotorcraft Directorate, Aircraft Certification Service, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–4389; email *rao.edupaganti@faa.gov.*

SUPPLEMENTARY INFORMATION:

Reason for No Prior Notice and Comment Before Adoption

The FAA has determined that notice and opportunity for public comment are impractical and contrary to the public interest because the issuance of a design approval would significantly delay delivery of the affected aircraft. Therefore, we find that good cause exists for making these special conditions effective upon issuance.

Comments Invited

While we did not precede this with a notice of proposed special conditions, we invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

Background and Discussion

On December 21, 2009, Airbus Helicopters Deutschland GmbH applied to amend Type Certificate No. H13EU to include the new Model MBB–BK117 D–2. The MBB–BK117 D–2, which is a derivative of the MBB–BK117 C–2 currently approved under Type Certificate No. H13EU, is a Transport Category, 14 CFR part 29, twin engine conventional helicopter designed for civil operations. It is certificated with Category A performance and for day and night operation under visual and instrument flight rules. It is powered by two Turbomeca Arriel 2E engines with dual channel Full Authority Digital Engine Control systems and has four main rotor blades and a maximum gross weight of 8,046 pounds. It has an integrated modular avionics suite with three 6x8 inch multi-function displays termed the Common Integrated Global Avionics for Light Helicopters.

Airbus Helicopters Deutschland GmbH proposes that the model MBB–BK117 D–2 use a novel and unusual design feature, which is a 30-minute power rating, identified in the Turbomeca Arriel 2E Engine Special Conditions No. 33–009–SC. 14 CFR 1.1 defines ''rated takeoff power'' as limited in use to no more than 5 minutes for takeoff operation. Thus, the use of takeoff power for 30 minutes will require special airworthiness standards, known as special conditions, to address the use of this 30-minute power rating and its effects on the rotorcraft. These special conditions will add requirements to the existing airworthiness standards in 14 CFR 29.1049 (Hover cooling test procedures), § 29.1305 (Powerplant instruments), and § 29.1521 (Powerplant limitations).

The following is a summary of the final special conditions:

In addition to the requirements of § 29.1049 (Hover cooling test procedures), the aircraft cooling effects due to use of the 30-minute power rating versus the Takeoff (5-minute) rating must be accounted for in the testing.

In addition to the requirements of § 29.1305, Powerplant Instruments, since this new 30-minute power rating has a 30-minute time limit associated with its use, the pilot must have the means to identify:

- When the rated engine power level is achieved,
- When the event begins, and
- When the time interval expires.

In addition to the requirements of § 29.1521, Powerplant Limitations, a new 30-minute rating must be limited to no more than 30 minutes per use. This new rating will allow use of power above maximum continuous power (MCP) for 30 minutes.

Furthermore, the Model MBB–BK117 D–2 rotorcraft flight manual must include limitations on use of the 30-minute power rating to state that continuous use above MCP up to takeoff power is limited to 30 minutes.

Type Certification Basis

Under 14 CFR 21.101, Airbus Helicopters Deutschland GmbH must show that the MBB–BK117 D–2 model helicopter meets the applicable provisions of the regulations incorporated by reference in Type Certificate No. H13EU or the applicable regulations in effect on the date of application for the change to the type certificate. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. H13EU are as follows:

1. 14 CFR 21.29 and 14 CFR 29 effective February 1, 1965 plus Amendments 29–1 through 29–40 for the new or changed parts with respect to the MBB–BK117 C–2 identified in the document ETYC 1183/09–MHa, supplemented with requirements from other amendments listed below.
2. 14 CFR 29 requirements with amendment through 29–51 for: 29.25, 29.59, 29.62, 29.67, 29.77, 29.81, 29.85, 29.143, 29.173, 29.175, 29.177, 29.351, 29.397, 29.562, 29.602, 29.865, 29.923, 29.1317, 29.1323, 29.1329, 29.1351, 29.1359, 29.1457, 29.1459, 29.1521, 29.1587, B29.5, B29.7
3. Equivalent Level Of Safety:
   (a) 14 CFR 29.807 (a)(4) Emergency exits
   (b) 14CFR 29.1305, 29.1351(b)(6), 29.1435(a)(3) Part Time Display of Vehicle Parameters
   (c) 14 CFR 29.1545(b)(4), 29.1549(b) Airspeed & Powerplant indication green marking
4. Environmental Standards:
   (a) 14 CFR 36 Appendix H at amendment 36–25
5. The main differences between the MBB–BK117 C–2 and the MBB–BK117 D–2 are as follows:
   (a) Installation of Turbomeca Arriel 2E engines with FADEC control
   (b) New tail section including composite structure and fanned tail rotor (FENESTRON) with composite blades
   (c) New cockpit indication system using integrated modular avionics.
   (d) Auto Flight System as a standard configuration of the MBB–BK117 D–2
   (e) Main gearbox modifications to support 30 minute run-dry capability
   (f) Maximum take-off weight increased to 3650 kg

In addition, if the regulations incorporated by reference do not provide adequate standards regarding

the change, the applicant must comply with certain regulations in effect on the date of application for the change. The FAA has determined that the Model MBB–BK117 D–2 must also comply with the noise certification requirements of 14 CFR part 36; and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

Regulatory Basis for Special Conditions

The Administrator has determined that the applicable airworthiness regulations (that is, 14 CFR part 29) do not contain adequate or appropriate safety standards for the MBB–BK117 D22 model helicopter because of a novel or unusual design feature. Therefore, special conditions are prescribed under the provisions of 14 CFR 21.16.

The FAA issues special conditions, as defined in § 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model.

Novel or Unusual Design Features

The MBB–BK117 D–2 model helicopter will incorporate the following novel or unusual design feature:

- A 30-minute power rating.

Applicability

These special conditions are applicable to the Airbus Helicopters Deutschland GmbH Model MBB–BK117 D2 helicopter. Should Airbus Helicopters Deutschland GmbH apply at a later date for an amendment to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on the Airbus Helicopters Deutschland GmbH Model MBB–BK117 D–2 helicopter. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 29

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Airbus Helicopters Deutschland GmbH Model MBB–BK117 D–2 helicopters. Unless stated otherwise, all requirements in §§ 29.1049, 29.1305 and 29.1521 remain unchanged.

Section 29.1049 Hover cooling test procedures. In addition to the requirements of this section, for rotorcraft with a 30-minute power rating, the hovering cooling provisions at the 30-minute power rating must be shown—

(a) At maximum weight or at the greatest weight at which the rotorcraft can hover (if less), at sea level, with the power required to hover but not more than the 30-minute power, in the ground effect in still air, until at least 5 minutes after the occurrence of the highest temperature recorded, or until the continuous time limit of the 30-minute power rating if the highest temperature recorded is not stabilized before.

(b) At maximum weight and at the altitude resulting in zero rate of climb for this configuration, until at least 5 minutes after the occurrence of the highest temperature recorded, or until the continuous time limit of the 30-minute power rating if the highest temperature recorded is not stabilized before.

Section 29.1305 Powerplant instruments, at Amendment 29–40. In addition to the requirements of this section, a means must be provided to indicate to the pilot when the engine is at the 30-minute power level, when the event begins, and when the time interval expires.

Section 29.1521 Powerplant limitations, at Amendment 29–41. In addition to the requirements of this section, use of the 30-minute power must be limited to no more than 30 minutes per use. The use of the 30-minute power must also be limited by:

(1) The maximum rotational speed, which may not be greater than—

(i) The maximum value determined by the rotor design; or

(ii) The maximum value demonstrated during the type tests;

(2) The maximum allowable turbine inlet or turbine outlet gas temperature (for turbine engines);

(3) The maximum allowable power or torque for each engine, considering the power input limitations of the transmission with all engines operating;

(4) The maximum allowable power or torque for each engine considering the power input limitations of the transmission with one engine inoperative;

(5) The time limit for the use of the power corresponding to the limitations established in paragraphs (1) through (4) above; and

(6) The maximum allowable engine and transmission oil temperatures, if the time limit established in paragraph (5) above exceeds 2 minutes.

Issued in Fort Worth, Texas, on December 19, 2014.

Lance T. Gant

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2014–30562 Filed 12–30–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9689]

RIN 1545–BL52

Guidance Regarding Dispositions of Tangible Depreciable Property; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations (TD 9689) that were published in the **Federal Register** on Monday, August 18, 2014 (79 FR 48661). The final regulations are regarding dispositions of property subject to depreciation under section 168 of the Internal Revenue Code.

DATES: This correction is effective on December 31, 2014 and applicable beginning August 18, 2014.

FOR FURTHER INFORMATION CONTACT: Kathleen Reed, at (202) 317–7005 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9689) that are the subject of this correction are under section 168 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9689) contain errors that may prove

to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

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

PART 1—INCOME TAXES

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

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

Section 1.168(i)–1 also issued under 26 U.S.C. 168(i)(4).

■ **Par. 2.** Section 1.168(i)–1 is amended as follows:

■ 1. Paragraph (c)(2)(ii)(D) is revised.
■ 2. The third sentences of paragraphs (e)(3)(ii)(B), *Example 2*. (ii) and (e)(3)(iii)(A) are revised.
■ 3. Paragraph (e)(3)(iii)(C)(*3*) is revised.
■ 4. The second sentence of paragraph (e)(3)(v)(B)(*1*) is revised.
■ 5. In paragraph (f)(3) remove the phrase ''Allowed Depreciation Deductions Allocated and Apportioned to a Separate Category Total/Allowed Depreciation Deductions and Apportioned to Foreign Source Income.'' and add in its place ''Allowed Depreciation Deductions Allocated and Apportioned to a Separate Category/ Total Allowed Depreciation Deductions and Apportioned to Foreign Source Income.''
■ 6. In the first line of paragraph (j)(3)(ii), remove the phrase ''allowed or''.
■ 7. Paragraph (m)(4) is revised.

The revisions read as follows:

§ 1.168(i)–1 General asset accounts.

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(D) Assets not eligible for any additional first year depreciation deduction, including assets for which the taxpayer elected not to deduct the additional first year depreciation, provided by, for example, section 168(k), section 168(l), section 168(m), section 168(n), section 1400L(b), or section 1400N(d), must be grouped into a separate general asset account;

* * * * *

(e) * * *

(3) * * *

(ii) * * *

(B) * * *

Example 2. * * *

(ii) * * * The gain of $232 is subject to section 1245 to the extent of the depreciation allowed or allowable for the account, plus the expensed cost for assets in the account, less the amounts previously recognized as ordinary income ($1,232 + $0 − $0 = $1,232). * * *

(iii) * * *

(A) * * * The adjusted depreciable basis of the asset at the time of the disposition, as determined under the applicable convention for the general asset account in which the asset was included, equals the unadjusted depreciable basis of the asset less the greater of the depreciation allowed or allowable for the asset. The allowable depreciation is computed by using the depreciation method, recovery period, and convention applicable to the general asset account in which the asset was included and by including the portion of the additional first year depreciation deduction claimed for the general asset account that is attributable to the asset disposed of. * * *

* * * * *

(C) * * *

(*3*) The depreciation reserve of the general asset account is reduced by the greater of the depreciation allowed or allowable for the asset as of the end of the taxable year immediately preceding the year of disposition. The allowable depreciation is computed by using the depreciation method, recovery period, and convention applicable to the general asset account in which the asset was included and by including the portion of the additional first year depreciation deduction claimed for the general asset account that is attributable to the asset disposed of; and

* * * * *

(v) * * *

(B) * * *

(*1*) The adjusted depreciable basis of the asset at the time of disposition equals the unadjusted depreciable basis of the asset less the greater of the depreciation allowed or allowable for the asset. The allowable depreciation is computed by using the depreciation method, recovery period, and convention applicable to the general asset account in which the asset was included and by including the portion of the additional first year depreciation deduction claimed for the general asset account that is attributable to the relinquished asset. * * * * *

(m) * * *

(4) *Optional application of TD 9564.* A taxpayer may choose to apply § 1.168(i)–1T as contained in 26 CFR part 1 edition revised as of April 1, 2014, to taxable years beginning on or after January 1, 2012. However, a taxpayer may not apply § 1.168(i)–1T as contained in 26 CFR part 1 edition revised as of April 1, 2014, to taxable years beginning on or after January 1, 2014.

* * * * *

■ **Par. 3.** Section 1.168(i)–7 is amended by revising paragraph (e)(4) to read as follows:

§ 1.168(i)–7 Accounting for MACRS property.

* * * * *

(e) * * *

(4) *Optional application of TD 9564.* A taxpayer may choose to apply § 1.168(i)–7T as contained in 26 CFR part 1 edition revised as of April 1, 2013, to taxable years beginning on or after January 1, 2012. However, a taxpayer may not apply § 1.168(i)–7T as contained in 26 CFR part 1 edition revised as of April 1, 2013, to taxable years beginning on or after January 1, 2014.

* * * * *

■ **Par. 4.** Section 1.168(i)–8 is amended as follows:

■ 1. Remove the phrase ''allowed or'' wherever it appears in paragraphs (f)(2)(ii), (f)(3)(ii), (h)(2)(iv), and (h)(3)(iv).
■ 2. Revise paragraphs (h)(2)(iii) and (h)(3)(iii).

The revisions read as follows:

§ 1.168(i)–8 Dispositions of MACRS property.

* * * * *

(h) * * *

(2) * * *

(iii) The depreciation reserve of the multiple asset account or pool must be reduced by the greater of the depreciation allowed or allowable for the asset disposed of as of the end of the taxable year immediately preceding the year of disposition. The allowable depreciation is computed by using the depreciation method, recovery period, and convention applicable to the multiple asset account or pool in which the asset disposed of was included and by including the additional first year depreciation deduction claimed for the asset disposed of; and

* * * * *

(3) * * *

(iii) The depreciation reserve of the asset must be reduced by the greater of the depreciation allowed or allowable for the disposed portion as of the end of the taxable year immediately preceding the year of disposition. The allowable depreciation is computed by using the depreciation method, recovery period, and convention applicable to the asset in which the disposed portion was included and by including the portion

of the additional first year depreciation deduction claimed for the asset that is attributable to the disposed portion; and

* * * * *

Martin V. Franks,

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

[FR Doc. 2014–30186 Filed 12–30–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD–2010–HA–0068]

RIN 0720–AB39

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Retired Reserve

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Final rule.

SUMMARY: TRICARE Retired Reserve (TRR) is a premium-based TRICARE health plan available for purchase worldwide by qualified members of the Retired Reserve and by qualified survivors of TRR members. This final rule responds to public comments received to an interim final rule that was published in the **Federal Register** on August 6, 2010 (75 FR 47452–47457). That rule established requirements and procedures to implement the TRR program in fulfillment of section 705 of the National Defense Authorization Act for Fiscal Year 2010 (NDAA–10) (Pub. L. 111–84). This final rule also revises requirements and procedures as indicated.

DATES: This rule is effective January 30, 2015.

FOR FURTHER INFORMATION CONTACT: Jody Donehoo, Defense Health Agency, TRICARE Health Plan, telephone (703) 681–0039. Questions regarding payment of specific claims under the TRICARE allowable charge method should be addressed to the appropriate TRICARE contractor.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

A. Overview

An interim final rule was published in the **Federal Register** on August 6, 2010 (75 FR 47452–47457), that established requirements and procedures to implement the TRICARE Retired Reserve program in fulfillment of section 705 of the National Defense Authorization Act for Fiscal Year 2010 (NDAA–10) (Pub. L. 111–84). Section 705 added new section 1076e to Title 10, United States Code. Section 1076e allows members of the Retired Reserve who are qualified for non-regular retirement, but are not yet 60 years of age, as well as certain survivors to qualify to purchase medical coverage equivalent to the TRICARE Standard (and Extra) benefit unless that member is either enrolled in, or eligible to enroll in, a health benefits plan under Chapter 89 of Title 5, United States Code.

B. Public Comments

The interim final rule was published in the **Federal Register** on August 6, 2010. We received 92 online comments. We thank those who provided comments. Specific matters raised by those who submitted comments are summarized below.

II. Provisions of the Rule Regarding the TRICARE Retired Reserve Program

A. Establishment of the TRICARE Retired Reserve Program (§ 199.25(a))

1. *Provisions of Interim Final Rule.* This paragraph describes the nature, purpose, statutory basis, scope, and major features of TRICARE Retired Reserve, a premium-based medical coverage program that was made available for purchase worldwide by certain members of the Retired Reserve, their family members and their surviving family members. TRICARE Retired Reserve is authorized by 10 U.S.C. 1076e.

The major features of the program include making coverage available for purchase by any Retired Reserve member who is qualified for non-regular retirement, but is not yet 60 years of age, unless that member is either enrolled in, or eligible to enroll in, a health benefit plan under Chapter 89 of Title 5, United States Code, as well as certain survivors of Retired Reserve members as specified below. The amount of the premium that qualified members and qualified survivors pay is prescribed by the Assistant Secretary of Defense for Health Affairs (ASD(HA)) and determined using an appropriate actuarial basis. There is one premium for member-only coverage and a second premium for member and family coverage. Additionally, TRICARE rules outlined in Part 199 of Title 32 of the CFR relating to the TRICARE Standard and Extra programs apply unless otherwise specified.

Under TRICARE Retired Reserve, qualified members (or their qualified survivors) may purchase either the member-only type of coverage or the member and family type of coverage by submitting a completed request in the appropriate format along with an initial payment of the applicable premium at the time of enrollment. When their coverage becomes effective, TRICARE Retired Reserve beneficiaries receive the TRICARE Standard (and Extra) benefit. TRICARE Retired Reserve features the deductible and cost sharing provisions of the TRICARE Standard (and Extra) plan for retired members and dependents of retired members. Both the member and the member's covered family members are provided access priority for care in military treatment facilities on the same basis as retired members and their family members who are not enrolled in TRICARE Prime.

2. *Analysis of Major Public Comments.* Three commenters suggested alternative plans to include a Preferred Provider Organization (PPO) with group discount until age 60; eligibility for Reserve Retirees to use the Department of Veterans Affairs health care benefits and services; and a tier system that would allow a member to reduce premiums by choosing higher deductibles. Another commenter suggested a tier system with higher deductibles or different options for cost shares and deductibles.

Three commenters requested the implementation/passing of the TRR benefit. One commenter inquired how TRR fits into ''Health Care Reform'' making health care affordable for every citizen.

Response. In regards to the comments suggesting alternative plans, we observed that the specific provisions of the law governing TRR does not allow implementation of alternative plans as suggested. In fulfillment of law, TRR is a premium-based TRICARE health plan that features the cost sharing, deductible, and catastrophic cap provisions of TRICARE Standard (and Extra) as they pertain to retirees and their family members.

TRICARE Extra is similar to a PPO. TRICARE Standard beneficiaries, including TRR members and their covered family members, are using TRICARE Extra when they receive care from a provider in the TRICARE Network. TRICARE Extra features cost shares that are five percent lower than TRICARE Standard cost shares. All Department of Veterans Affairs hospitals and clinics nationwide currently are in the TRICARE Network through active agreements with TRICARE contractors.

Multiple premium tiers with various levels of deductibles would not be allowed by the statutory provisions that require TRR to be offered under one

program with one monthly premium rate for individual coverage and one monthly premium rate for family coverage.

In regards to the comments requesting the implementation/passing of the TRR benefit, Section 705 of the NDAA for FY 2010 was enacted into law on October 28, 2009; it was implemented by interim final rule effective August 6, 2010; and TRR officially launched September 1, 2010 with health care coverage available beginning October 1, 2010.

In regards to the Affordable Care Act comment, the statutory provisions of that Act did not amend any of the statutes that govern the military health system. Nonetheless, we have projected for a small influx of qualified members of the Retired Reserve into TRR beginning in 2014 when the new mandates for individuals to have health insurance coverage go into effect under the Act.

It should be noted that legislative action subsequent to enactment of Affordable Care Act resulted in TRICARE establishing a program called TRICARE Young Adult. Similar to young adult coverage under the Affordable Care Act, TRICARE Young Adult offers full-cost, premium-based TRICARE coverage for purchase by qualified young adults who have a parent with TRICARE coverage. See the TRICARE Young Adult Interim Final Rule published in the **Federal Register** on April 27, 2011 (76 FR 23479–23485) for details.

3. *Provisions of the Final Rule.* We clarified that certain special programs established in 32 CFR part 199 are not available to members covered under TRICARE Retired Reserve (§ 199.25(a)(4)(i)(B)). We clarified that TRICARE Retired Reserve coverage features the deductible, cost sharing, and catastrophic cap provisions of the TRICARE Standard (and Extra) plan applicable to retired members and dependents of retired members (§ 199.25(a)(4)(iv)). We corrected the cross-reference to § 199.17(d)(1)(i)(E) of this part regarding access priority for care in military treatment facilities for the member and the member's covered family members (§ 199.25(a)(4)(iv)). Otherwise, the final rule is consistent with the interim final rule (75 FR 47452–47457, August 6, 2010).

B. Qualifications for TRICARE Retired Reserve Coverage (§ 199.25(b))

1. *Provisions of Interim Final Rule.* This paragraph defines the statutory conditions under which members of a Reserve Component may qualify to purchase TRICARE Retired Reserve coverage. The Reserve Components of the armed forces have the responsibility to determine and validate a member's qualifications to purchase TRICARE Retired Reserve coverage. The member's Service personnel office is responsible for keeping the Defense Enrollment Eligibility Reporting System (DEERS) current with eligibility data.

A member qualifies to purchase TRICARE Retired Reserve coverage if the member meets both of the following conditions:

(a) Is a member of the Retired Reserve of a Reserve component of the armed forces who is qualified for a non-regular retirement at age 60 under chapter 1223 of title 10, U.S.C., but is not age 60; and

(b) is not enrolled, or eligible to enroll, in a health benefits plan under chapter 89 of title 5, U.S.C.

If a qualified member of the Retired Reserve dies while in a period of TRICARE Retired Reserve coverage, the immediate family member(s) of such member shall remain qualified to continue existing or purchase new TRICARE Retired Reserve coverage until the date on which the deceased member of the Retired Reserve would have attained age 60 as long as they meet the definition of immediate family member specified below. This applies regardless of whether either member-only coverage or member and family coverage was in effect on the day of the TRICARE Retired Reserve member's death.

2. *Analysis of Major Public Comments.* No public comments were received relating to this section of the rule.

3. *Provisions of the Final Rule.* We clarified the exclusion involving the Federal Employee Health Benefits (FEHB) program. Section 199.25(b)(1)(ii) specifies that a member of the Retired Reserve qualifies to purchase TRICARE Retired Reserve coverage if the member is not enrolled in, or eligible to enroll in, a health benefits plan under chapter 89 of title 5, U.S.C. That statute has been implemented under part 890 of title 5, CFR as the ''Federal Employee Health Benefits'' program. For purposes of the FEHB program, the terms ''enrolled,'' ''enroll'' and ''enrollee'' are defined in section 890.101 of title 5, CFR. Otherwise, the final rule is consistent with the interim final rule.

C. TRICARE Retired Reserve Premiums (§ 199.25(c))

1. *Provisions of Interim Final Rule.* Members are charged premiums for coverage under TRICARE Retired Reserve that represent the full cost of providing the TRICARE Standard (and Extra) benefit under this program. The total annual premium amounts shall be determined by the ASD(HA) using an appropriate actuarial basis and are established and updated annually, on a calendar year basis, by the ASD(HA) for qualified members of the Retired Reserve for each of the two types of coverage, member-only coverage and member-and-family coverage. Premiums are to be paid monthly. The monthly rate for each month of a calendar year is one-twelfth of the annual rate for that calendar year.

A surviving family member of a Retired Reserve member who qualified for TRICARE Retired Reserve coverage as described herein will pay premium rates at the member-only rate if there is only one surviving family member to be covered by TRICARE Retired Reserve and at the member and family rate if there are two or more survivors to be covered.

The appropriate actuarial basis used for calculating premium rates shall be one that most closely approximates the actual cost of providing care to the same demographic population as those enrolled in TRICARE Retired Reserve as determined by the ASD(HA). TRICARE Retired Reserve premiums shall be based on the actual costs of providing benefits to TRICARE Retired Reserve members and their family members during the preceding years if the population of Retired Reserve members enrolled in TRICARE Retired Reserve is large enough during those preceding years to be considered actuarially appropriate. Until such time that actual costs from those preceding years become available, TRICARE Retired Reserve premiums shall be based on the actual costs during the preceding calendar years for providing benefits to the population of retired members and their family members in the same age categories as the Retired Reserve population in order to make the underlying group actuarially appropriate.

An adjustment may be applied to cover overhead costs for administration of the program by the government. Additionally, premium adjustments may be made to cover the prospective costs of any significant program changes or any actual experience in the costs of administering the TRICARE Retired Reserve program.

For the portion of calendar year 2010 during which the program is in effect, the monthly premium for member-only coverage will be $388.31/month (annual premium $4,659.72/year), and the monthly premium for member and family coverage will be $976.41/month (annual premium $11,716.92/year). The 2010 premiums are based on the actual costs during calendar years 2007 and 2008 for providing benefits to the

population of retired members and their family members in the same age categories as the Retired Reserve population in order to make the underlying group actuarially appropriate. The historical costs were trended forward to 2010 and a two-percent adjustment was applied to cover overhead costs for administration of the program by the government.

2. *Analysis of Major Public Comments.* Seventy-six of the commenters expressed that the premiums were too high. Six commenters requested that the TRR premium-rate calculations be investigated or reviewed. One commenter suggested a separate premium be established for member-plus-spouse-only. One commenter requested employers be allowed to pay members' monthly TRR premiums. One commenter suggested that TRR should not cost one third more than Continued Health Care Benefit Program. One commenter requested the Fiscal Year 2012 premium rates.

Response. We recognize that the premiums were much higher than many expected. In fulfillment of law, TRR premiums represent the full cost of delivering the benefit without the Department of Defense absorbing any of the cost. In other words, the Department cannot cover or share any of the cost of the premiums by law; TRR members pay full-cost premiums.

TRR premiums were determined on an appropriate actuarial basis using actual costs during preceding calendar years for providing benefits to the population of retired members and their family members in the same age categories as the Retired Reserve population in order to make the underlying group actuarially appropriate. In other words, the data-driven premiums were derived from highly relevant actual TRICARE cost data. This approach is very similar to the approach we used for TRICARE Reserve Select (TRS) in fulfillment of applicable law; however, premiums payable by members in TRS represent only twenty-eight percent of the actual cost of TRS coverage delivered in preceding years.

We endeavored to be very open and transparent with the detailed information that we provided in the preamble of the interim final rule about the establishment of TRR premiums. Nonetheless, we would be glad to participate in a Congressionally-directed request or a request under proper and applicable authority as appropriate to study the actuarial approach used to establish the TRR premium rates.

In regard to the comment about a separate premium for member plus spouse only, we were required by law to establish only two monthly premium rates: One rate for TRR member-only coverage and one rate for TRR member and family coverage.

In regard to the comment about allowing employers to pay members' monthly TRR premiums, law requires members to pay premiums for their purchased TRR coverage.

In regard to the comment comparing TRR premiums to premiums for the Continued Health Care Benefit Program, note that these are two separate and distinct programs under law and regulation with different requirements for premium establishment for each. A final rule was published September 16, 2011 (76 FR 57637–41) that describes the applicable requirements for establishing Continued Health Care Benefit Program premiums.

In regards to the question about the fiscal year 2012 premiums, the Assistant Secretary of Defense for Health Affairs established the calendar year 2012 premiums as required by regulation on August 24, 2011 and posted them as Health Affairs Policy 11–013 on the Health Affairs Web site, *www.health.mil.* For calendar year 2012, the TRR premium for member-only coverage was $419.72/month (annual premium $5,036.64/year), which represented a 2.9% increase over the 2011 rate. The 2012 premium for TRR member and family coverage was $1,024.43/month (annual premium $12,293.16/year), which represented a 0.4% increase over the 2011 rate. The 2012 premiums were based on the actual costs during calendar years 2009 and 2010 for providing benefits to the population of retired members and their family members in the same age categories as the Retired Reserve population in order to make the underlying group actuarially appropriate. The historical costs were trended forward to 2012 and a two percent adjustment was applied to cover overhead costs for administration of the program by the government.

The calendar year 2013 premiums were established and posted on the Health Affairs Web site, *www.health.mil,* on September 13, 2011 as Health Affairs Policy 12–008.

We also clarified that the Director, Healthcare Operations in the Defense Health Agency may establish procedures for administrative implementation related to premiums (§ 199.25(c)).

3. *Provisions of the Final Rule.* We made one minor administrative clarification that premiums are to be paid monthly, except as otherwise provided through administrative implementation, pursuant to procedures established by the Director, Healthcare Operations in the Defense Health Agency (§ 199.25(c)). We added a cross-reference to paragraph (d)(1) of this section where each of the two types of coverage, member-only coverage and member-and-family coverage are described (§ 199.25(c)(1)). Otherwise, the final rule is consistent with the interim final rule.

D. Procedures (§ 199.25(d))

1. *Provisions of Interim Final Rule.* The Director, TRICARE Management Activity (TMA), may establish procedures for the following:

—*Purchasing Coverage.* Procedures may be established for a qualified member, including surviving family members, to purchase one of two types of coverage: Member-only coverage or member-and-family coverage.

Immediate family members of the Retired Reserve member may be included in such family coverage. To purchase either type of TRICARE Retired Reserve coverage, Retired Reserve members or their survivors qualified as above must complete and submit a request in the appropriate format, along with an initial payment of the applicable premium required above.

—*Continuation Coverage.* Procedures may be established for a qualified member or qualified survivor to purchase TRICARE Retired Reserve coverage with an effective date immediately following the date of termination of coverage under another TRICARE program.

—*Qualifying Life Event.* Procedures may be established for a qualified member or qualified survivor to purchase TRICARE Retired Reserve coverage on the occasion of a qualifying life event that changes the immediate family composition (*e.g.,* birth, death, adoption, divorce, etc.). The effective date for TRICARE Retired Reserve coverage will coincide with the day of the qualifying life event. It is the responsibility of the member to provide personnel officials with the necessary evidence required to substantiate the change in immediate family composition. Personnel officials will update DEERS in the usual manner. Appropriate action will be taken upon receipt of the completed request in the appropriate format along with an initial payment of the applicable premium in accordance with established procedures.

—*Open Enrollment.* Procedures may be established for a qualified member or qualified survivor to purchase TRICARE Retired Reserve coverage at any time. The effective date of coverage will coincide with the first day of a month.

—*Survivor coverage under TRICARE Retired Reserve.* Procedures may be established for a surviving family member of a Retired Reserve member who qualified for TRICARE Retired Reserve coverage as described above to continue existing or to purchase new TRICARE Retired Reserve coverage. Procedures similar to those for qualifying life events may be established for a qualified surviving family member to purchase new or continuing coverage with an effective date coinciding with the day of the member's death. Procedures similar to those for open enrollment may be established for a qualified surviving family member to purchase new coverage at any time with an effective date coinciding with the first day of a month.

—*Changing type of coverage.* Procedures may be established for TRICARE Retired Reserve members or qualified survivors to request to change type of coverage during open enrollment or on the occasion of a qualifying life event that changes immediate family composition as described above by submitting a completed request in the appropriate format.

—*Termination.* Termination of coverage for the member will result in termination of coverage for the member's family members in TRICARE Retired Reserve, except for qualified survivors as described above.

—Coverage will terminate whenever a member (or qualified survivors) ceases to meet the qualifications for the program. For purposes of this section, the member no longer qualifies for TRICARE Retired Reserve when the member has been eligible for more than 60 days for coverage in a health benefits plan under Chapter 89 of Title 5, U.S.C. This affords the member sufficient time to make arrangements for health coverage and avoid any lapses in health coverage. Further, coverage shall terminate when the Retired Reserve member attains the age of 60 or, if survivor coverage is in effect, when the deceased Retired Reserve member would have attained the age of 60.

—Coverage may terminate for members who gain coverage under another TRICARE program.

—Failure to make a premium payment in a timely manner in accordance with established procedures will result in termination of coverage for the member and any covered family members and will result in denial of claims for services with a date of service after the effective date of termination.

—Procedures may be established for covered members and survivors to request termination of coverage at any time by submitting a completed request in the appropriate format.

—Members whose coverage under TRICARE Retired Reserve terminates upon their request or for failure to pay premiums will not be allowed to purchase coverage under TRICARE Retired Reserve to begin again for a period of one year following the effective date of termination.

—*Processing.* Upon receipt of a completed request in the appropriate format, the appropriate enrollment actions will be processed into DEERS in accordance with established procedures.

—*Periodic revision.* Periodically, certain features, rules or procedures of TRICARE Retired Reserve may be revised. If such revisions will have a significant effect on members' or survivors' costs or access to care, members or survivors may be given the opportunity to change their type of coverage or terminate coverage coincident with the revisions.

2. *Analysis of Major Public Comments.* No public comments were received relating to this section of the rule.

3. *Provisions of the Final Rule.* We clarified that the Director, Healthcare Operations in the Defense Health Agency may establish procedures for TRR (§ 199.25(d)). We added a cross-reference for immediate family members of the Retired Reserve member that may be included in such family coverage (§ 199.25(d)(1)).

We clarified the rule that procedures may be established for TRR coverage to be suspended for up to one year followed by final termination for members or qualified survivors if they fail to make premium payments in accordance with established procedures or otherwise if they request suspension/termination of coverage (§ 199.25(d)(3)). Suspension/termination of coverage for the TRR member/survivor will result in suspension/termination of coverage for the member's/survivor's family members in TRICARE Retired Reserve, except as described in § 199.25 (d)(1)(iv). Procedures may be established for the suspension to be lifted upon request before final termination is applied.

E. Preemption of State Laws (§ 199.25(e))

1. *Provisions of Interim Final Rule.* This paragraph explains that the preemptions of State and local laws established for the TRICARE program also apply to TRICARE Retired Reserve. Any State or local law or regulation pertaining to health insurance, prepaid health plans, or other health care delivery, administration, and financing methods is preempted and does not apply in connection with TRICARE Retired Reserve.

This includes State and local laws imposing premium taxes on health insurance carriers, underwriters or other plan managers, or similar taxes on such entities. Preemption does not apply to taxes, fees, or other payments on net income or profit realized by such entities in the conduct of business relating to DoD health services contracts, if those taxes, fees or other payments are applicable to a broad range of business activity. For the purposes of assessing the effect of Federal preemption of State and local taxes and fees in connection with DoD health services contracts, interpretations shall be consistent with those applicable to the Federal Employees Health Benefits Program under 5 U.S.C. 8909(f).

2. *Analysis of Major Public Comments.* No public comments were received relating to this section of the rule.

3. *Provisions of the Final Rule.* The final rule is consistent with the interim final rule.

F. Administration (§ 199.25(f))

1. *Provisions of Interim Final Rule.* This paragraph provides that the Director, TRICARE Management Activity, may establish other rules and procedures necessary for the effective administration of TRICARE Retired Reserve and may authorize exceptions to requirements of this section, if permitted by law, based on extraordinary circumstances.

2. *Analysis of Major Public Comments.* No public comments were received relating to this section of the rule.

3. *Provisions of the Final Rule.* We clarified this provision by removing the phrase, ''based on extraordinary circumstances'' and clarified that the Director, Healthcare Operations in the Defense Health Agency has authority to perform this activity.

G. Terminology (§ 199.25(g))

1. *Provisions of Interim Final Rule.* The following terms are applicable to the TRICARE Retired Reserve program.

—*Coverage.* This term means the medical benefits covered under the TRICARE Standard or Extra programs as further outlined in other sections of part 199 of Title 32 of the Code of Federal Regulations, whether delivered in military treatment facilities or purchased from civilian sources.

—*Immediate family member.* This term means spouse (except former spouse) as defined in § 199.3(b)(2)(i) of this part, or child as defined in § 199.3 (b)(2)(ii).

—*Qualified member.* This term means a member who has satisfied all the criteria that must be met before the member is authorized for TRR coverage.

—*Qualified survivor.* This term means an immediate family member who has satisfied all the criteria that must be met before the survivor is authorized for TRR coverage.

2. *Analysis of Major Public Comments.* One commenter wondered if the enrollment eligibility of divorced spouses that have been granted a portion of a reserve member's retirement benefits had been addressed.

Response. We mentioned that spouses of qualified Retired Reserve members (but not former spouses) are included in TRR member and family coverage. This can be found in this terminology section.

3. *Provisions of the Final Rule.* The final rule is consistent with the interim final rule.

III. Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review'' and Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

Executive Order 12866 requires that a comprehensive regulatory impact analysis be performed on any economically significant regulatory action, defined as one that would result in an annual effect of $100 million or more on the national economy or which would have other substantial impacts. The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This rule is not an economically significant regulatory action and will not have a significant impact on a substantial number of small entities for purposes of the RFA, thus this final rule is not subject to any of these requirements.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511)

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511).

Executive Order 13132, ''Federalism''

We have examined the impact(s) of the final rule under Executive Order 13132 and it does not have policies that have federalism implications that would have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, therefore, consultation with State and local officials is not required.

Sec. 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

This rule does not contain unfunded mandates. It does not contain a Federal mandate that may result in the expenditure by State, local and tribunal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, and Military personnel.

Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Amend § 199.25 to read as follows.
■ a. Revise paragraphs (a)(4)(i)(B) and (a)(4)(iv).
■ b. Revise paragraph (b)(1)(ii).
■ c. Revise paragraphs (c) introductory text and (c)(1)(i).
■ d. Revise paragraphs (d) introductory text, (d)(1) introductory text, (d)(3) introductory text, (d)(3)(iii), (d)(3)(iv). and (d)(3)(v).
■ e. Revise paragraph (f).

The revisions read as follows:

§ 199.25 TRICARE Retired Reserve.

(a) * * *

(4) * * *

(i) * * *

(B) Certain special programs established in 32 CFR part 199 are not available to members covered under TRICARE Retired Reserve. The Extended Health Care Option (ECHO) program (sec. 199.5) is not included. The Supplemental Health Care Program (sec. 199.16) is not included, except when a TRICARE Retired Reserve covered beneficiary is referred by a Military Treatment Facility (MTF) provider for incidental consults and the MTF provider maintains clinical control over the episode of care. The TRICARE Retiree Dental Program (sec. 199.13) is independent of this program and is otherwise available to all members who qualify for the TRICARE Retiree Dental Program whether or not they purchase TRICARE Retired Reserve coverage. The Continued Health Care Benefits Program (sec. 199.13) is also independent of this program and is otherwise available to all members who qualify for the Continued Health Care Benefits Program.

* * * * *

(iv) *Benefits.* When their coverage becomes effective, TRICARE Retired Reserve beneficiaries receive the TRICARE Standard (and Extra) benefit including access to military treatment facilities on a space available basis and pharmacies, as described in § 199.17 of this part. TRICARE Retired Reserve coverage features the deductible, cost sharing, and catastrophic cap provisions of the TRICARE Standard (and Extra) plan applicable to retired members and dependents of retired members. Both the member and the member's covered family members are provided access priority for care in military treatment facilities on the same basis as retired members and their dependents who are not enrolled in TRICARE Prime as described in § 199.17(d)(1)(i)(E).

(b) * * *

(1) * * *

(ii) Is not enrolled in, or eligible to enroll in, a health benefits plan under chapter 89 of title 5, U.S.C. That statute has been implemented under part 890 of title 5, CFR as the Federal Employee Health Benefits (FEHB) program. For purposes of the FEHB program, the terms ''enrolled,'' ''enroll'' and ''enrollee'' are defined in § 890.101 of title 5, CFR.

* * * * *

(c) *TRICARE Retired Reserve premiums.* Members are charged premiums for coverage under TRICARE Retired Reserve that represent the full cost of the program as determined by the Director, Defense Health Agency utilizing an appropriate actuarial basis for the provision of the benefits provided under the TRICARE Standard and Extra programs for the TRICARE Retired Reserve eligible beneficiary population. Premiums are to be paid

monthly, except as otherwise provided through administrative implementation, pursuant to procedures established by the Director, Healthcare Operations in the Defense Health Agency. The monthly rate for each month of a calendar year is one-twelfth of the annual rate for that calendar year.

(1) *Annual establishment of rates.*—(i) TRICARE Retired Reserve monthly premium rates shall be established and updated annually on a calendar year basis by the ASD(HA) for each of the two types of coverage, member-only coverage and member-and-family coverage as described in paragraph (d)(1) of this section.

* * * * *

(d) *Procedures.* The Director, Healthcare Operations in the Defense Health Agency, may establish procedures for the following.

(1) *Purchasing Coverage.* Procedures may be established for a qualified member to purchase one of two types of coverage: Member-only coverage or member and family coverage. Immediate family members of the Retired Reserve member as specified in paragraph (g)(2) of this section may be included in such family coverage. To purchase either type of TRICARE Retired Reserve coverage for effective dates of coverage described below, Retired Reserve members and survivors qualified under either paragraph (b)(1) or (b)(2) of this section must submit a request in the appropriate format, along with an initial payment of the applicable premium required by paragraph (c) of this section in accordance with established procedures.

* * * * *

(3) *Suspension and Termination.* Suspension/termination of coverage for the TRR member/survivor will result in suspension/termination of coverage for the member's/survivor's family members in TRICARE Retired Reserve, except as described in paragraph (d)(1)(iv) of this section. Procedures may be established for coverage to be suspended and/or terminated as follows.

* * * * *

(iii) Coverage may be suspended and finally terminated for members/survivors who fail to make premium payments in accordance with established procedures.

(iv) Coverage may be suspended and finally terminated for members/survivors upon request at any time by submitting a completed request in the appropriate format in accordance with established procedures.

(v) Under paragraph (d)(3)(iii) or (d)(3)(iv) of this section, TRICARE Retired Reserve coverage may first be suspended for a period of up to one year followed by final termination. Procedures may be established for the suspension to be lifted upon request before final termination is applied.

* * * * *

(f) *Administration.* The Director, Healthcare Operations in the Defense Health Agency may establish other rules and procedures for the effective administration of TRICARE Retired Reserve, and may authorize exceptions to requirements of this section, if permitted by law.

* * * * *

Dated: December 22, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–30282 Filed 12–30–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD–2013–HA–0164]

RIN 0720–AB61

TRICARE; Coverage of Care Related to Non-Covered Initial Surgery or Treatment

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule revises the limitations on certain TRICARE basic program benefits. More specifically, it allows coverage for otherwise covered services and supplies required in the treatment of complications (unfortunate sequelae), as well as medically necessary and appropriate follow-on care, resulting from a non-covered incident of treatment provided pursuant to a properly granted Supplemental Health Care Program waiver. This final rule amends two provisions of the TRICARE regulations which limits coverage for the treatment of complications resulting from a non-covered incident of treatment, and which expressly excludes from coverage in the Basic Program services and supplies related to a non-covered condition or treatment.

DATES: This final rule is effective January 30, 2015.

FOR FURTHER INFORMATION CONTACT: Thomas Doss (703) 681–7512.

SUPPLEMENTARY INFORMATION:

Executive Summary

A. Purpose of Regulatory Action

Need for the Regulatory Action

This final rule is necessary for consistency with existing regulatory provisions and to protect TRICARE beneficiaries from incurring unnecessary financial hardships arising from the current regulatory restrictions that prohibit TRICARE coverage of the treatment of complications resulting from certain non-covered medical procedures. On occasion, an authorized official of a uniformed service may request from the Director, Defense Health Agency (DHA) a waiver of TRICARE regulatory restrictions or limitations, when the waiver is necessary to assure adequate availability of health care services to the active duty member. In those cases when a waiver has been properly granted under § 199.16(f), this rule grants benefits coverage for otherwise covered services and supplies required for treating complications arising from the non-covered incident of treatment provided in the private sector pursuant to the waiver. Additionally, with respect to care that is related to a non-covered initial surgery or treatment, the final rule seeks to eliminate any confusion regarding what services and supplies will be covered by TRICARE and under what circumstances they will be covered.

Legal Authority for the Regulatory Action

This regulation is finalized under the authorities of 10 U.S.C. 1073, which authorizes the Secretary of Defense to administer the medical and dental benefits provided in 10 U.S.C. chapter 55. The Department is authorized to provide medically necessary and appropriate treatment for mental and physical illnesses, injuries and bodily malfunctions, including hospitalization, outpatient care, drugs, treatment of medical and surgical conditions and other types of health care outlined in 10 U.S.C. 1077(a). Although section 1077 defines benefits to be provided in the Military Treatment Facilities (MTFs), these benefits are incorporated by reference into the benefits provided in the civilian health care sector to active duty family members and retirees and their dependents through sections 1079 and 1086 respectively.

B. Summary of the Final Rule

The final rule amends the existing special benefit provision regarding complications (unfortunate sequelae) resulting from non-covered initial

surgery or treatment, to more clearly address what services and supplies will be covered by TRICARE and under what circumstances they will be covered. The provision itself is relabeled ''Care related to non-covered initial surgery or treatment'' to eliminate any confusion regarding what constitutes a complication or unfortunate sequelae and how broadly or narrowly the exclusion and exceptions to the exclusion should be applied. As amended, the regulatory section will specifically address coverage of otherwise covered medically necessary treatment, to include coverage of (i) treatment of complications that represent a separate medical condition; (ii) treatment of complications and necessary follow-on care resulting from a non-covered incident of treatment provided in an MTF; and (iii) treatment of complications and necessary follow-on care resulting from a non-covered incident of treatment provided pursuant to an approved Supplemental Health Care Program (SHCP) waiver. Additionally, the regulatory exclusion at § 199.4(g)(63) is amended to state clearly that all services and supplies related to a non-covered condition or treatment, including any necessary follow-on care and treatment of complications, are excluded from coverage except as provided in § 199.4(e)(9).

C. Costs and Benefits

This final rule is not anticipated to have an annual effect on the economy of $100 million or more, making it a non-economically significant rule under Executive Order 12866 and non-major rule under the Congressional Review Act. All services and supplies authorized under the TRICARE Basic Program must be determined to be medically necessary in the treatment of an illness, injury or bodily malfunction before the care can be cost shared by TRICARE. For this reason, DoD anticipates that TRICARE will incur only a marginal increase in cost associated with the inclusion of coverage for treatment of complications and necessary follow-on care for TRICARE beneficiaries who received previously authorized non-covered treatment pursuant to a SHCP waiver while on active duty.

I. Background

A. Statutory and Regulatory Background

Members of the uniformed services on active duty are entitled to medical and dental care pursuant to 10 U.S.C. 1074, including the provision of such care in private facilities. With respect to the purchase of private sector health care services for Active Duty Service Members (ADSMs) under the SHCP, § 199.16 implements the statutory provision at 10 U.S.C. 1074(c). Generally, the same rules that govern payment and administration of private sector health care claims under TRICARE apply to the SHCP and the care that members receive in private facilities is comparable to coverage for medical care under the TRICARE Prime program. Section 199.16(f) provides the Director of DHA discretionary authority to waive requirements of TRICARE regulations, including any restrictions or limitations under the TRICARE Basic Program benefits, except those specifically set forth in statute, based on ''a determination that such waiver is necessary to assure adequate availability of health care to Active Duty members.'' ADSMs have access to non-covered care including experimental or unproven medical care and treatments in the purchased care sector on a case-by-case basis using the SHCP waiver process. The Director, DHA, or designee specifically approves these case-by-case treatment decisions, resulting in a number of ADSMs receiving otherwise non-covered private sector care while serving.

If an ADSM is granted a waiver under the SHCP to receive an otherwise non-covered incident of treatment by a private sector provider, rather than in an MTF, and suffers complications from the care, SHCP funds can be used to cover necessary follow-on care and treatment of complications in the purchased care system as long as the member remains on active duty. Once the member retires, however, SHCP coverage no longer exists and TRICARE does not cover unfortunate sequelae of non-covered care provided in the purchased care sector, except in limited circumstances (*e.g.* later complications that represent a separate medical condition separate from the condition that the non-covered treatment or surgery was directed toward, and the treatment of the complication is not essentially similar to the covered procedures. This may include a systemic infection, cardiac arrest, or acute drug reaction). Additionally, once the service member has retired, existing regulations would not allow the continuation of any needed follow-on care such as rehabilitative care or drug therapy. When these beneficiaries require such treatment, they are responsible for the payment for this necessary treatment, which may result in significant financial hardship.

This rule resolves that unfortunate situation by allowing coverage of treatment for necessary follow-on care, including complications, resulting from non-covered treatment provided to beneficiaries pursuant to a SHCP waiver. The specific procedures for approval of this treatment will be addressed in the TRICARE Policy Manual to ensure that this information is current and easily accessible. TRICARE manuals may be accessed at *http://www.tricare.mil.*

B. Summary of the Proposed Rule

We proposed to amend the existing special benefit provision regarding complications (unfortunate sequelae) resulting from non-covered initial surgery, to more clearly address what services and supplies will be covered by TRICARE and under what circumstances they will be covered. We also proposed to re-label the regulatory provision to read: ''Care related to non-covered initial surgery or treatment'' to eliminate any confusion regarding what constitutes a complication or unfortunate sequelae and how broadly or narrowly the exclusion and exceptions to the exclusion would be applied. As amended, the regulatory section would specifically address coverage of otherwise covered medically necessary treatment, to include (i) coverage of complications that represent a separate medical condition; (ii) treatment of complications and necessary follow-on care resulting from a non-covered incident of treatment provided in an MTF; and (iii) treatment of complications and necessary follow-on care resulting from a non-covered incident of treatment provided pursuant to an approved SHCP waiver. Inclusion of the third prong would support the provision of care necessary to allow members to return to full duty and/or reach their maximum rehabilitative potential without requiring the member to bear the sole financial risk for unfortunate sequelae once they are no longer on active duty. This amendment would also provide consistent treatment of unfortunate sequelae and necessary follow-on care when an original episode of non-covered care is provided for a valid governmental purpose, whether to support Graduate Medical Education (GME) and maintain provider skill levels within an MTF or an ADSM's fitness for duty through authorization of the purchase of otherwise non-covered care via an SHCP waiver. Additionally, we proposed to amend the regulatory exclusion at § 199.4(g)(63) to clearly state that all services and supplies related to a non-covered condition or treatment, including any necessary follow-on care and treatment of complications, would be excluded from

coverage except as provided in § 199.4(e)(9).

C. Summary of the Final Rulemaking

Modifications to the TRICARE Basic Program Benefits

Under the TRICARE private sector health care program, certain conditions and treatments are excluded from coverage. For example, any drug, device, medical treatment, or procedure whose safety and efficacy has not been established by reliable evidence is considered unproven and excluded from coverage. This exclusion includes all services directly related to the unproven drug, device, medical treatment or procedure. Specifically, benefits for otherwise covered services and supplies that are required in the treatment of complications (unfortunate sequelae) resulting from a non-covered incident of treatment, are generally excluded from TRICARE coverage pursuant to § 199.4(e)(9), unless the complication represents a separate medical condition such as a systemic infection, cardiac arrest, and acute drug reaction. TRICARE also excludes any needed follow-on care resulting from a non-covered condition or initial surgery or treatment pursuant to § 199.4(g)(63).

There is currently one exception to this general exclusion, found at § 199.4(e)(9)(ii), which allows coverage of otherwise covered services and supplies required in the treatment of complications (unfortunate sequelae) resulting from a non-covered incident of treatment provided in a MTF, when the initial non-covered service has been authorized by the MTF Commander and the MTF is unable to provide the necessary treatment of the complications. This current exception recognizes that in order to support GME and maintain provider skill levels, MTF providers are required to perform medical procedures that may be excluded from coverage under the TRICARE private sector program. This coverage provision was viewed as necessary to protect TRICARE beneficiaries from incurring financial hardships in such cases.

Currently, Active Duty Service Members (ADSMs) may receive non-covered TRICARE private sector health care services under the SHCP if a waiver is submitted through the Service and approved by the Director, DHA, or designee, in accordance with § 199.6(f). While the Department wants to ensure that Service members have access to the latest, promising medical technologies and procedures, there must be assurance that the care is safe and effective, and that members are not subjected to undue risk, or rendered unfit for continued service, due to complications suffered because of unproven medical care. Consequently, requests for non-covered procedures and treatments, including unproven care, are carefully reviewed in conjunction with other available, proven treatments, if any exist, to determine whether approval of the requested care is necessary to assure the adequate availability of health care to the member. Currently, Service members are counseled that the treatment remains a non-covered TRICARE benefit, and that any follow-on care, including care for complications, will not be covered by TRICARE once the member separates or retires. Members are left to make a difficult choice between pursuing a SHCP waiver in an effort to remain fit for full duty while assuming the financial risk of any necessary follow-on care after discharge, or, electing not to receive the care and risk separation from the Service.

Like the existing exception at § 199.4(e)(9)(ii) for non-covered care provided in a MTF, this exception is narrowly tailored to serve a similar government interest; namely, protecting former active duty members who have received private sector care pursuant to a SHCP waiver in an effort to ensure their fitness for duty and continued service.

Additionally, some confusion has arisen regarding the terms ''complication'' and ''unfortunate sequelae'' as these terms are not currently defined in regulation. Questions have arisen with respect to whether necessary follow-on care resulting from a non-covered procedure or treatment in an MTF is covered in situations where the MTF is unable to provide the necessary treatment. The intent of the prior September 16, 2011, final rule, as well as this final rule, is to protect TRICARE beneficiaries from incurring financial hardships in limited circumstances, which serve valid governmental purposes. Absent an exception to the general exclusion from coverage, treatment of adverse outcomes, both expected and unexpected, as well as any necessary follow-on care that is a direct result of the initial non-covered treatment, are excluded and could result in less than optimal care (*e.g.,* not receiving necessary physical therapy following surgery) and/or a significant financial hardship for the beneficiary. The Agency did not intend to prevent coverage of necessary follow-on private sector care in situations where an MTF is unable to provide that care but the current regulatory language is subject to such a narrow interpretation absent additional clarification. This final rule permits coverage of necessary continued treatment, such as physical therapy following a non-covered surgical procedure in an MTF. It also covers medically necessary follow-on care, including, for example, anti-rejection medications for former members who have received face and hand transplants. This rule eliminates the need to try to determine whether the medically necessary and appropriate care the patient is seeking from the private sector is considered treatment of an expected complication, an unexpected complication or routine follow-on care, because it will be clearly covered.

II. Summary of and Responses to Public Comments

The proposed rule was published in the **Federal Register** (78 FR 62506) October 22, 2013, for a 60-day comment period. We received comments on the proposed rule from three commenters.

Comments: Two commenters expressed general support for TRICARE expressly covering otherwise medically necessary treatment resulting from a non-covered incident of treatment provided pursuant to an approved SHCP waiver. They supported the policy objective of reducing financial risk for unfortunate sequelae once service members are no longer on active duty. One commenter stated further that TRICARE should cover all of the medical procedures that beneficiaries need. The second commenter, in addition to expressing support for the proposed change, emphasized the need for a properly approved SHCP waiver.

Response: We appreciate the commenters' support of this regulatory proposal. We would note that the comment pertaining to coverage of all medical procedures that beneficiaries need exceeds the scope of this Final Rule. Moreover, current TRICARE regulations already address those circumstances under which TRICARE is statutorily authorized to provide coverage. We also point out that the Defense Health Agency issues waivers infrequently and with careful consideration to ensure that the member has access to medically necessary treatment. In these circumstances, SHCP waivers are only issued when necessary to ensure that health care services are adequately available to active duty service members.

Comment: One commenter observed that the Proposed Rule deleted the reference to ''transsexual surgery'' and ''repair of a prolapsed vagina in a biological male who had undergone

transsexual surgery'' in the regulation text for § 199.4(e)(9)(i). The commenter queried whether we were proposing a change in policy regarding transsexual procedures.

Response: The proposed deletions in the regulation text of the proposed rule were intended to be strictly stylistic and not intended to reflect any change in policy regarding transsexual procedures. TRICARE continues not to cover transsexual surgery and consequently would not cover complications similar to the initial episode of non-covered care, such as the repair of a prolapsed vagina in a biological male who had undergone transsexual surgery. The statutory prohibition at 10 U.S.C. 1079(a)(12) continue to apply. The one, very limited exception to this general exclusion is that TRICARE may cover surgery and related medically necessary services performed to correct sex gender confusion (that is, ambiguous genitalia) which has been documented to be present at birth.

In the proposed rule, we acknowledged that some confusion had arisen in the industry regarding the terms ''complication'' and ''unfortunate sequelae'' because the terms were not defined in regulation. While not defining the terms in the regulation text, we did further explain and clarify the intended scope of excluded treatment of complications and unfortunate sequelae resulting from non-covered initial surgery or treatment, to include expected and unexpected complications, as well as any necessary follow-on care that is a direct result of the initial non-covered treatment, absent an exception to the exclusion. We explained that in § 199.4(e)(9)(ii), for instance, the Agency did not intend to prevent coverage of necessary follow-on private sector care in situations where an MTF was unable to provide that care but the MTF Commander had authorized the initial noncovered service. To clarify the intended scope of the excluded treatment of complications or unfortunate sequelae, this rule adds ''including any necessary follow-on care or the treatment of complications'' in § 199.4(g)(63), and ''and any necessary follow-on care'' in § 199.4(e)(9)(ii).

Comment: We received one comment supporting our amendments to the regulations which clarify that the treatment of complications or unfortunate sequelae includes necessary follow-on care. The commenter felt that the Agency should withhold coverage of treatment for secondary complications when the initial procedure was purely elective and did not serve a legitimate national defense purpose. The commenter also recommended the adoption of a regulatory definition of ''complication,'' relying perhaps on a definition of the term used by private health insurers.

Response: We appreciate the commenter's support of our clarifying amendments to the two regulatory provisions. While we will take under advisement proposing a regulatory definition of ''complication'' in the future, at this time we believe that the amendments in this rule will be adequate to clarify our intended meaning of the term and allow us to retain the necessary flexibility when implementing these regulations. The Agency is also reluctant to classify levels of ''complications'' as primary or secondary, or consider the purpose for which non-covered treatment was provided. These proposals would add an unnecessary degree of complexity to this regulatory structure, or alternatively, would require the Agency to exceed the bounds of its statutory authority.

Comment: A commenter recommended that the Agency specifically exclude certain initial procedures from TRICARE coverage.

Response: This comment exceeds the scope of this final rule, and we will therefore not exclude from TRICARE coverage any initial procedures specified in the comment.

As a final matter, we are finalizing corrections in the regulatory text for § 199.4(e)(9)(ii) and (iii), including substituting references to the Director, DHA, in lieu of the Director, TMA, and the change from ''§ 199.6(f) of this chapter'' to ''§ 199.16(f)'' in § 199.4(e)(9)(iii). We are making the first non-substantive change for consistency with recent changes to the structure of the DoD. Section 731 of the National Defense Authorization Act for FY 2013 directed the Secretary of Defense to develop a plan carry out the reforms of the governance of the military health system, previously outlined in a March 2, 2012, Deputy Secretary of Defense memorandum. As described in a March 11, 2013, Deputy Secretary of Defense memorandum, the centerpiece of the governance reform was the establishment of a Defense Health Agency (DHA) which would, among other responsibilities, assume the designated functions of the TMA, which was being disestablished. Subsequently, the Department of Defense published Directive 5136.13 (published September 30, 2013), which provided that any reference in law, rule, regulation, or issuance to TMA will be deemed to be a reference to DHA, unless otherwise specified by the Secretary of Defense, and further, that the Director, DHA, will serve as the program manager for TRICARE health and medical resources, as directed by the ASD(HA) and within the established MHS governance process. The reference to Director, DHA, in these two regulatory sections will clarify the provisions and ensure consistency with the current meaning of the existing regulations. The second non-substantive change clarifies a cross reference to ''§ 199.16(f).'' The proposed rule inaccurately referred to ''§ 199.16(f) of this chapter.'' In our view, these textual corrections do not constitute a rulemaking that would be subject to the APA notice and comment or delayed effective date requirements.

Provisions of the Final Rule

Because all comments that were within the scope of this rulemaking supported the proposed regulation changes, we are finalizing the proposed rule, with the exception of the non-substantive text corrections discussed above. The final rule amends the existing special benefit provision regarding complications (unfortunate sequelae) resulting from non-covered initial surgery. It re-labels the regulatory provision to read: ''Care related to non-covered initial surgery or treatment.'' It amends § 199.4(e)(9) to provide coverage for otherwise covered services and supplies required in the treatment of complications resulting from a noncovered incident of treatment: (i) But only if the later complication represented a separate medical condition; or (ii) if the noncovered incident of treatment was provided in an MTF, had been authorized by the MTF Commander, and the MTF was unable to provide the necessary treatment of the complications; or (iii) if the noncovered incident of treatment was provided in the private sector pursuant to a properly granted waiver under § 199.16(f). This final rule also amends the regulatory exclusion at § 199.4(g)(63) to state that all services and supplies related to a non-covered condition or treatment, including any necessary follow-on care and treatment of complications, will be excluded from coverage except as provided in § 199.4(e)(9).

III. Regulatory Procedure

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

It has been determined that this final rule is not a significant regulatory action. This rule does not:

(1) Have an annual effect on the economy of $100 million or more or

adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribunal 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 these Executive Orders.

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been determined that this final rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been certified that this final rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. Set forth in the final rule are minor revisions to the existing regulation. The DoD does not anticipate a significant impact on the Program.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been determined that this final rule does not impose reporting or recordkeeping requirements under the Paperwork Act of 1995.

Executive Order 13132, Federalism

It has been determined that this final rule does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of Government.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, and Military personnel.

Accordingly, 32 CFR part 199 is amended to read as follows:

PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Section 199.4 is amended by revising paragraphs (e)(9) and (g)(63) to read as follows:

§ 199.4 Basic program benefits.

* * * * *

(e) * * *

(9) *Care related to non-covered initial surgery or treatment.* (i) Benefits are available for otherwise covered services and supplies required in the treatment of complications resulting from a non-covered incident of treatment (such as nonadjunctive dental care or cosmetic surgery) but only if the later complication represents a separate medical condition such as a systemic infection, cardiac arrest, and acute drug reaction. Benefits may not be extended for any later care or a procedure related to the complication that essentially is similar to the initial non-covered care. Examples of complications similar to the initial episode of care (and thus not covered) would be repair of facial scarring resulting from dermabrasion for acne.

(ii) Benefits are available for otherwise covered services and supplies required in the treatment of complications (unfortunate sequelae) and any necessary follow-on care resulting from a non-covered incident of treatment provided in an MTF, when the initial non-covered service has been authorized by the MTF Commander and the MTF is unable to provide the necessary treatment of the complications or required follow-on care, according to the guidelines adopted by the Director, DHA, or a designee.

(iii) Benefits are available for otherwise covered services and supplies required in the treatment of complications (unfortunate sequelae) and any necessary follow-on care resulting from a non-covered incident of treatment provided in the private sector pursuant to a properly granted waiver under § 199.16(f). The Director, DHA, or designee, shall issue guidelines for implementing this provision.

* * * * *

(g) * * *

(63) *Non-covered condition/ treatment, unauthorized provider.* All services and supplies (including inpatient institutional costs) related to a non-covered condition or treatment, including any necessary follow-on care or the treatment of complications, are excluded from coverage except as provided under paragraph (e)(9) of this section. In addition, all services and supplies provided by an unauthorized provider are excluded.

* * * * *

Dated: December 22, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–30307 Filed 12–30–14; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD–2013–HA–0053]

RIN 0720–AB59

TRICARE Program; Clarification of Benefit Coverage of Durable Equipment and Ordering or Prescribing Durable Equipment; Clarification of Benefit Coverage of Assistive Technology Devices Under the Extended Care Health Option Program

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule modifies the TRICARE regulation to add a definition of assistive technology (AT) devices for purposes of benefit coverage under the TRICARE Extended Care Health Option (ECHO) Program and to amend the definitions of durable equipment (DE) and durable medical equipment (DME) to better conform the language in the regulation to the statute. The final rule amends the language that specifically limits ordering or prescribing of DME to only a physician under the Basic Program, as this amendment will allow certain other TRICARE authorized individual professional providers, acting within the scope of their licensure, to order or prescribe DME. This final rule also incorporates a policy clarification relating to luxury, deluxe, or immaterial features of equipment or devices. That is, TRICARE cannot reimburse for the luxury, deluxe, or immaterial features of equipment or devices, but can reimburse for the base or basic equipment or device that meet the beneficiary's needs. Beneficiaries may choose to pay the provider for the luxury, deluxe, or immaterial features if they desire their equipment or device to have these ''extra features.''

DATES: This rule is effective January 30, 2015.

FOR FURTHER INFORMATION CONTACT: Gail L. Jones, (303) 676–3401.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Purpose of the Final Rule

1. Coverage for DE, DME and AT Devices.

The National Defense Authorization Act for Fiscal Year 2002 revised the coverage of DE under TRICARE. Those revisions resulted in final amendments to the TRICARE regulation regarding the TRICARE Basic Program, effective December 13, 2004, as published in the **Federal Register** on October 12, 2004 (69 FR 60547), and regarding the TRICARE Extended Health Care Option (ECHO) Program, effective September 20, 2004, as published in the **Federal Register** on August 20, 2004 (69 FR 51559). The original implementing regulations made a potentially confusing technical distinction between ''DE'' and ''DME''; that is, ''DE'' was defined as an item that did not qualify as ''DME'' that otherwise might be available under the TRICARE ECHO Program. This final rule provides clarification by correcting the definitions and adding a definition of AT devices, which conforms to existing policy covering devices not otherwise qualifying as DE.

2. Ordering and Prescribing DE and DME

The current regulation in § 199.4(d)(3)(ii)(A)(1) does not allow coverage of DME ordered by a TRICARE-authorized individual professional provider of care, with the exception of a doctor of medicine (MD) or a doctor of osteopathy (DO), even though it is permitted by his or her licensure. Paragraph (d)(3)(ii)(A)(1) specifically states, ''Subject to the exceptions in paragraph (d)(3)(ii)(C) of this same section, only DME which is ordered by a physician for the specific use of the beneficiary shall be covered.'' Paragraph (d)(1) also states that only a physician can order DME. This restriction causes two problems:

- Certain other TRICARE authorized individual professional providers such as doctors of podiatric medicine (DPMs), doctors of optometry (ODs), doctors of dental surgery (DDSs), doctors of dental medicine (DMDs), certified nurse midwives (CNMs), certified nurse practitioners (CNPs), including certified clinical nurse specialists (CCNSs), certified registered nurse anesthetists (CRNAs), and certified psychiatric nurse specialists (CPNSs) cannot prescribe DME, even when acting within the scope of their licensure.
- Beneficiaries cannot fill a prescription for DME prescribed by other non-physician professional providers, even when they act as a primary care provider, such as a CNP.

State governments generally regulate the licensure and practice of specific types of health care professionals, and DoD limits TRICARE benefit coverage to services and supplies furnished by otherwise authorized TRICARE individual professional providers performing within the scope of their state licenses or certifications. State scope of practice laws vary about the range of services and some include the authority to prescribe DME. DoD determines that it is unnecessarily restrictive to not cover DE (including DME) merely because it is ordered by an otherwise authorized non-physician allied health care professional and certain other authorized individual professional providers. Therefore, this final rule amends the regulation to allow TRICARE coverage of DE (except for cardiorespiratory monitor) when ordered by a physician, dentist, or any other TRICARE authorized non-physician allied health care professional. This includes CNMs, CNPs/CCNSs, CRNAs, CPNSs, and certified physician assistants (CPAs), and certain other TRICARE authorized individual professional providers, namely DPMs, ODs, DDSs, and DMDs, when acting within the scope of their state license or certificate.

Following further review of the applicable regulation, in proposing to expand the category of TRICARE authorized providers allowed to prescribe DE, the proposed amendment was not specific enough to include only physicians, dentists and other allied health care professionals consistent with the stated purpose of the proposed rule. Therefore, this final rule amends § 199.4(d)(3)(ii)(A)(1) to limit those individual professional providers allowed to order DE to those listed in § 199.6(c)(3)(i), (ii), or (iii).

In addition, DoD must clarify that when the proposed rule referred to clinical nurse specialists (CNSs) as being able to prescribe DE for TRICARE beneficiaries, the reference should have been to certified clinical nurse specialists (CCNSs) and only those CCNSs that are recognized by TRICARE either as CNPs, CPNSs, or CNMs. Further, the proposed rule did not mention certified physician assistants (CPAs) as allied health care professionals authorized to prescribe DE. The applicable regulation includes CPAs as TRICARE authorized allied health care professionals at § 199.6(c)(3)(iii)(H), and this final rule clarifies that CPAs are authorized to order DE for TRICARE beneficiaries. See the *Public Comments* section for additional information on both CCNSs and CPAs.

The legal authorities for this final rule are 10 U.S.C. 1073, 1077(a)(12), 1077(f)(1) and (2), 1077, 1079, and 1086 respectively. Authority for the ECHO Program: 10 U.S.C. 1079(d) through (f); authority for TRICARE benefit coverage: 10 U.S.C. 1079(a)(13), 1079(o), and 32 CFR part 199; authority regarding specific categories of TRICARE authorized individual professional providers: § 199.6(c)(1)(iii) and (2)(i); authority for other allied health professionals as TRICARE authorized providers: § 199.6(c)(3)(iii).

B. Summary of the Major Provisions of the Final Rule

In this final rule, the regulatory language more appropriately conforms to that of the statutory language, which identifies ''DME'' as a subset of ''DE'' for purposes of the TRICARE Basic Program. Therefore, the final rule amends the TRICARE regulation on DE and clarifies that the policies applicable to DME (*e.g.,* exclusion of luxury features and pricing methods) have been and are applicable to DE. DoD's interpretation of the statute and regulation has been, and continues to be, that all DE authorized under the TRICARE Basic Program must be determined to be medically necessary for the treatment of an illness, injury or bodily malfunction before the equipment can be cost shared by TRICARE. Consequently, this technical revision does not change current policies for coverage of DE.

This final rule clarifies that the TRICARE ECHO Program includes coverage of AT devices that do not otherwise qualify as DE, and adds a definition and specific criteria for coverage of AT devices for individuals qualified to receive benefits under the ECHO Program.

This final rule also provides further clarification that if a beneficiary wishes to obtain an item of DE that has deluxe, luxury, or immaterial features, the beneficiary shall be responsible for the difference between the price of the item and the TRICARE allowable cost for an otherwise authorized item of DE without such features.

Finally, the final rule emphasizes that certain other TRICARE authorized individual professional providers who are listed in the regulation as physicians, dentists or allied health care professionals, who are legally

authorized to practice by the state, and when they are practicing within the scope of the license permitted by the state licensing authorities, may prescribe or order DE under the TRICARE Program.

C. Summary of Costs and Benefits

This final rule is not anticipated to have an annual effect on the economy of $100 million or more, making it not economically significant and non-major under the Executive Order and the Congressional Review Act.

The technical revisions for coverage of DE do not change current policies. DoD's interpretation of the statute and regulation has been, and will continue to be, that all equipment authorized under the TRICARE Basic Program must be determined to be medically necessary in the treatment of an illness, injury or bodily malfunction before the equipment can be cost shared by TRICARE. The amendment to remove the restriction that limits ordering or prescribing of DME to only an MD or DO is not expected to increase the amount of DE and DME prescribed because other providers are currently writing prescriptions—it only changes who prescribes it. However, DoD anticipates that there may be a marginal increase in administrative cost to accommodate changes to definitions. More importantly, this change will have no impact on beneficiaries eligible for DE.

II. Discussion of Final Rule

A. Final Rule Authority

The legal authority for this final rule is 10 U.S.C. 1073, which authorizes the Secretary of Defense to administer the medical and dental benefits provided in 10 U.S.C. chapter 55. The DoD is also authorized to provide DE under 10 U.S.C. 1077(a)(12), which benefit is further defined in 10 U.S.C. 1077(f)(1) and (2). Although section 1077 defines benefits to be provided in the military treatment facilities (MTFs), these benefits are incorporated by reference for the benefits provided by healthcare providers in the private sector to active duty family members and retirees and their dependents through sections 1079 and 1086 respectively. DoD is further authorized to provide a program, generally referred to as ECHO, for dependents of active duty members, who have a qualifying condition under section 1079(d) through (f). The ECHO Program may include DE not otherwise available under the TRICARE Basic Program and AT devices to assist in the reduction of the disabling effects of a qualifying condition.

The DoD, in general, is only authorized to cover as TRICARE benefits, under section 1079(a)(13), section 1079(o), and 32 CFR part 199, any service or supply that is medically or psychologically necessary to prevent, diagnose or treat a mental or physical illness, injury, or bodily malfunction. Section 1079(a)(13) identifies specific categories of individual professional providers who may make the diagnosis and recommend the treatment. Section 199.6(c)(1)(iii) requires TRICARE-authorized individual professional providers to provide medical service and care within the scope of their licensure and training consistent with the state practice act, or within the scope of the test, which is the basis for an individual's certification by the state where the individual renders the service. Paragraph (2)(i) of this same section specifies that an individual must be currently licensed to render professional health care services in each state in which the individual renders services to TRICARE beneficiaries. Such license is required when a specific state provides, but does not require, license for a specific category of individual professional providers. Under § 199.6(c)(3)(iii) of this part, certain individual professional providers, other than physicians and dentists, are identified as allied health professionals and authorized as TRICARE providers of care for covered services or supplies otherwise authorized by the regulation.

Section 199.4(a)(1)(i) specifies the scope of benefits authorized for TRICARE beneficiaries, including requirements that the care be medically necessary in the diagnosis and treatment of illness or injury and that the care be provided by either authorized institutional providers or authorized individual professional providers or non-institutional providers. As defined in § 199.2(b), ''medically necessary'' incorporates the concept of ''appropriate medical care,'' which is further defined, in part, as requiring that a TRICARE authorized individual professional provider rendering medical care be qualified to perform such medical services, by reason of his or her training and education, and the provider is licensed, or certified by the state where the service is rendered or by an appropriate national organization, or otherwise meets TRICARE standards.

B. Provisions of the Final Rule

This final rule incorporates all the provisions set forth in the proposed rule, except that this final rule further amends § 199.4.(d)(3)(ii)(A)(1) to clarify that those individual professional providers allowed to order DE are limited to physicians, dentists and allied health care professionals listed in § 199.6(c)((3)(i), (ii), or (iii). In addition, based on public comments received, and after further review of the applicable regulation, DoD clarifies that certified clinical nurse specialists (CCNSs) [when recognized by TRICARE as a CNP, CNM, or CPNS] and certified physician assistants (CPAs) are TRICARE authorized allied health care professionals who may order or prescribe DE under TRICARE when acting within the scope of their license or certification. See the *Public Comments* section for additional information.

The provisions, which amend 32 CFR part 199, are specified as follows:

§ 199.2 (Definitions)

- ''*Duplicate Equipment*.'' AT devices are subject to the definition of duplicate equipment.
- ''*Durable Equipment (DE).*'' To clarify that DE may be a covered benefit under the TRICARE Basic Program, consistent with 10 U.S.C. 1079(a)(5) and 10 U.S.C. 1077(a)(12) and (f), DoD is revising the definition of DE as ''(1) a medically necessary item, which can withstand repeated use; (2) is primarily and customarily used to serve a medical purpose; and, (3) is generally not useful to an individual in the absence of an illness or injury.'' It includes DME, wheelchairs, iron lungs, and hospital beds.
- ''*Durable Medical Equipment (DME).*'' Consistent with 10 U.S.C. 1079(a)(5) and 10 U.S.C. 1077(a)(12) and (f), DoD is revising the definition of DME as ''DE, which is medically appropriate to (1) improve, restore, or maintain the function of a malformed, diseased, or injured body part, or can otherwise minimize or prevent the deterioration of the beneficiary's function or condition; or, (2) maximize the beneficiary's function consistent with the beneficiary's physiological or medical needs.''
- ''*Assistive Technology (AT) Devices*.'' AT devices do not treat an underlying injury, illness or disease, or their symptoms. However, to clarify that the TRICARE ECHO Program includes coverage of AT devices, which do not otherwise qualify as DE, DoD is adding a definition of AT devices as ''equipment that generally helps overcome or remove a disability and is used to increase, maintain, or improve the functional capabilities of an individual. AT devices may include non-medical devices but do not include any structural alterations (*e.g.,* wheelchair ramps or alterations to street curbs) or service animals (*e.g.,* Seeing

Eye dogs, hearing/handicapped assistance animals, etc.). AT devices are authorized only under coverage criteria to assist in the reduction of the disabling effects of a qualifying condition for individuals eligible to receive benefits under the ECHO program as provided in § 199.5.''

§ 199.4 (Basic Program Benefits)

DoD clarifies the following for purposes of benefit coverage of DE under the TRICARE Basic Program:

- DE is an authorized benefit when medically necessary for the treatment of a covered illness or injury.
- Authorized DE is a benefit when ordered by certain authorized individual professional providers listed in § 199.6(c)(3)(i), (ii), or (iii) of this part for the specific use of the beneficiary and the equipment provides the medically appropriate level of performance and quality for the beneficiary's condition.
- Unless otherwise excluded under the regulation, items authorized coverage as DE include (1) DME (including a cardiorespiratory monitor under certain conditions), (2) wheelchairs when medically appropriate to provide basic mobility, (3) iron lungs, and (4) hospital beds. An electric wheelchair or a TRICARE-approved alternative to an electric wheelchair may be used in lieu of a manual wheelchair when it is medically indicated and appropriate for the individual patient.
- An item that provides a medically appropriate level of performance or quality for the beneficiary's condition does not include luxury, deluxe, or immaterial items. Only the base or basic model of equipment shall be covered, unless any customization of the equipment owned by the beneficiary, or an accessory or item of supply for any DE is essential for (1) achieving therapeutic benefit for the beneficiary; (2) making the equipment serviceable; or (3) otherwise assuring the proper functioning of the equipment. If a beneficiary wishes to obtain an item of DE that has deluxe, luxury, or immaterial features, the beneficiary shall be responsible for the difference between the price of the item and the TRICARE allowable cost for an otherwise authorized item of DE without such features.
- DE, which otherwise qualifies as a benefit, is excluded from coverage if (1) the beneficiary is a patient in a type of facility that ordinarily provides the same type of DE item to its patients at no additional charge in the usual course of providing its services; or (2) DE is available to the beneficiary from a Uniformed Services Medical Treatment Facility.
- DE may be provided on a rental or purchase basis and coverage will be based on the price most advantageous to the government under established procedures.
- Repairs of DE damaged while using the equipment in a manner inconsistent with its common use, and replacement of lost or stolen DE are excluded from Basic Program benefits.
- Repairs of deluxe, luxury or immaterial features of DE are excluded from Basic Program benefits.

§ 199.5 (TRICARE Extended Care Health Option (ECHO))

DoD clarifies the following for purposes of benefit coverage of DE and AT devices under the ECHO Program:

- An AT device is authorized under certain coverage criteria when necessary to assist in the reduction of the disabling effects of a qualifying condition of the ECHO eligible beneficiary. For beneficiaries eligible for an individual education plan (IEP), AT devices that are recommended as part of the IEP may be covered.
- For those beneficiaries who cease to meet the eligibility requirements for an IEP, AT devices under TRICARE ECHO Program must:

—Be preauthorized;
—Be prescribed by a TRICARE authorized provider;
—Assist in the reduction of the disabling effects of the qualifying ECHO condition; and
—Be an item or educational learning device normally included in an IEP.

Further, the item must not be otherwise covered as a prosthetic, augmentative communication device, or a benefit under the TRICARE Basic Program. The implementing instructions for this provision will be outlined in the TRICARE Policy Manual. As with all aspects of this proposed rule, DoD invites the public's comments on our approach regarding AT devices for those beneficiaries who cease to be eligible for an IEP.

- Repairs of DE or AT devices damaged while using the equipment in a manner inconsistent with its common use, and replacement of lost or stolen DE or AT devices are excluded from ECHO coverage.
- Repairs of deluxe, luxury or immaterial features of DE or AT devices are excluded from ECHO coverage.
- Wheelchairs may exceed the basic mobility limitation when needed to mitigate the effects of the ECHO qualifying condition of the beneficiary.
- DE may be provided on a rental or purchase basis and coverage will be based on the price most advantageous to the government under the same procedures established for pricing DE under the TRICARE Basic Program.

III. Public Comments

On August 8, 2013 (78 FR 48367–48373), the Office of the Secretary of Defense published a proposed rule and provided the public an opportunity to comment on implementing changes to the coverage of DE, ordering or prescribing DE and benefit coverage of AT devices under the ECHO Program. The comment period closed October 7, 2013.

As a result of publication of the proposed rule, DoD received 57 comments. All of the commenters supported the policies we proposed, although there were concerns about physician assistants, nurse practitioners, and clinical nurse specialists not being included on the list of providers authorized to prescribe or order DE under the TRICARE Program. We appreciate all expressions of support and approval for the proposed guidelines.

Response Regarding Physician Assistants

Generally, the Program policy has been to recognize those authorized individual professional providers identified in 10 U.S.C. 1079(a)(13) when acting within the scope of their licenses and to allow direct reimbursement for authorized services they provide. However, § 199.14(j)(ix) allows an otherwise authorized physician to bill for the services of an authorized ''certified'' physician assistant (CPA) under § 199.6(c)(3)(iii)(H), provided the CPA is acting within the scope of his or her license and is supervised by an employing physician. Therefore, the final rule will allow CPAs to prescribe or order DE under the supervision of the employing authorized physician who must bill under his or her National Provider Identifier (NPI) for services that a CPA furnishes incident to his or her professional services.

Response Regarding Nurse Practitioners

Nurse practitioners (NPs), by TRICARE law and regulation, are only recognized as individual professional providers when they qualify as ''certified'' nurse practitioners (CNPs). For that reason, DoD will authorize only CNPs to prescribe or order DE when acting within the scope of their state license or certificate.

Response Regarding Clinical Nurse Specialists

''Certified'' clinical nurse specialists (CCNSs) are recognized as advanced practice nurses. They meet the same state requirements and coursework as any other advanced practice nurse (such as a CPN) whose practice similarly extends into the medical field, or for that matter, into any other medical professional area, and may use advanced practice nurse practitioner (APNP) or advanced practice nurse (APN) title when practicing within a CCNS's scope of practice. Therefore, CCNSs when recognized by TRICARE under one of the existing categories of authorized allied health care professionals as found in § 199.6(c)(3)(iii) are authorized to prescribe DE when acting within the scope of their state license or certificate.

In this final rule, DoD considered all comments received during the comment period and responses to those comments are included in the above section of this final rule.

IV. Regulatory Procedure

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

It has been determined that this final rule is not a significant regulatory action. This rule does not:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribunal 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 these Executive Orders.

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been determined that this final rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been certified that this final rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. Set forth in the final rule are minor revisions to the existing regulation. The DoD does not anticipate a significant impact on the Program.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been determined that this final rule does not impose reporting or recordkeeping requirements under the Paperwork Act of 1995.

Executive Order 13132, Federalism

It has been determined that this final rule does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of Government.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, and Military personnel.

Accordingly, 32 CFR part 199 is amended to read as follows:

PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Section 199.2, paragraph (b) is amended by adding the definition of ''Assistive technology devices'' in alphabetical order and revising the definitions of ''Duplicate equipment,'' ''Durable equipment,'' and ''Durable medical equipment'' to read as follows:

§ 199.2 Definitions.

* * * * *

(b) * * *

Assistive technology devices. Equipment that generally does not treat an underlying injury, illness, disease or their symptoms. Assistive technology devices are authorized only under the Extended Care Health Option (ECHO). Assistive technology devices help an ECHO beneficiary overcome or remove a disability and are used to increase, maintain, or improve the functional capabilities of an individual. Assistive technology devices may include non-medical devices but do not include any structural alterations (*e.g.,* permanent structure of wheelchair ramps or alterations to street curbs) service animals (*e.g.,* Seeing Eye dogs, hearing/handicapped assistance animals, etc.) or specialized equipment and devices whose primary purpose is to enable the individual to engage in sports or recreational events. Assistive technology devices are authorized only under coverage criteria determined by the Director, TRICARE Management Activity to assist in the reduction of the disabling effects of a qualifying condition for individuals eligible to receive benefits under the ECHO program, as provided in § 199.5.

* * * * *

Duplicate equipment. An item of durable equipment, durable medical equipment, or assistive technology items, as defined in this section that serves the same purpose that is served by an item of durable equipment, durable medical equipment, or assistive technology item previously cost-shared by TRICARE. For example, various models of stationary oxygen concentrators with no essential functional differences are considered duplicate equipment, whereas stationary and portable oxygen concentrators are not considered duplicates of each other because the latter is intended to provide the user with mobility not afforded by the former. Also, a manual wheelchair and electric wheelchair, both of which otherwise meet the definition of durable equipment or durable medical equipment, would not be considered duplicates of each other if each is found to provide an appropriate level of mobility. For the purpose of this Part, durable equipment, durable medical equipment, or assistive technology items that are essential in providing a fail-safe in-home life support system or that replace in-like-kind an item of equipment that is not serviceable due to normal wear, accidental damage, a change in the beneficiary's condition, or has been declared adulterated by the U.S. FDA, or is being or has been recalled by the manufacturer is not considered duplicate equipment.

Durable equipment. Equipment that—

(1) Is a medically necessary item, which can withstand repeated use;

(2) Is primarily and customarily used to serve a medical purpose; and

(3) Is generally not useful to an individual in the absence of an illness or injury. It includes durable medical equipment as defined in § 199.2, wheelchairs, iron lungs, and hospital

beds. It does not include equipment (including wheelchairs) used or designed primarily for use in sports or recreational activities.

Durable medical equipment. Durable equipment that is medically appropriate to—

(1) Improve, restore, or maintain the function of a malformed, diseased, or injured body part or can otherwise minimize or prevent the deterioration of the beneficiary's function or condition; or

(2) Maximize the beneficiary's function consistent with the beneficiary's physiological or medical needs.

* * * * *

■ 3. Section 199.4 is amended by revising paragraphs (a)(1)(i), (d)(1), (d)(3)(ii), and (g)(43) to read as follows:

§ 199.4 Basic program benefits.

(a) * * *

(1)(i) *Scope of benefits.* Subject to all applicable definitions, conditions, limitations, or exclusions specified in this part, the CHAMPUS Basic Program will cost share medically necessary services and supplies required in the diagnosis and treatment of illness or injury, including maternity care and well-baby care. Benefits include specified medical services and supplies provided to eligible beneficiaries from authorized civilian sources such as hospitals, other authorized institutional providers, physicians, other authorized individual professional providers, and professional ambulance services, prescription drugs, authorized medical supplies, and rental or purchase of durable equipment.

* * * * *

(d) *Other benefits*—(1) General. Benefits may be extended for the allowable charge of those other covered services and supplies described in paragraph (d) of this section, which are provided in accordance with good medical practice and established standards of quality by those other authorized providers described in § 199.6. Such benefits are subject to all applicable definitions, conditions, limitations, or exclusions as otherwise may be set forth in this or other chapters of this Regulation. To be considered for benefits under paragraph (d) of this section, the described services or supplies must be prescribed and ordered by a physician. Other authorized individual professional providers acting within their scope of licensure may also prescribe and order these services and supplies unless otherwise specified in paragraph (d) of this section.

* * * * *

(3) * * *

(ii) *Durable equipment*—(A) Scope of benefit. (*1*) Durable equipment, which is for the specific use of the beneficiary and is ordered by an authorized individual professional provider listed in § 199.6(c)(3)(i), (ii) or (iii), acting within his or her scope of licensure shall be covered if the durable equipment meets the definition in § 199.2 and—

(*i*) Provides the medically appropriate level of performance and quality for the medical condition present and

(*ii*) Is not otherwise excluded by this part.

(*2*) Items that may be provided to a beneficiary as durable equipment include:

(*i*) Durable medical equipment as defined in § 199.2;

(*ii*) Wheelchairs. A wheelchair, which is medically appropriate to provide basic mobility, including reasonable additional costs for medically appropriate modifications to accommodate a particular physiological or medical need, may be covered as durable equipment. An electric wheelchair, or TRICARE approved alternative to an electric wheelchair (*e.g.,* scooter) may be provided in lieu of a manual wheelchair when it is medically indicated and appropriate to provide basic mobility. Luxury or deluxe wheelchairs, as described in paragraph (d)(3)(ii)(A)(*3*) of this section, include features beyond those required for basic mobility of a particular beneficiary are not authorized.

(*iii*) Iron lungs.

(*iv*) Hospital beds.

(*v*) Cardiorespiratory monitors under conditions specified in paragraph (d)(3)(ii)(B) of this section.

(*3*) Whether a prescribed item of durable equipment provides the medically appropriate level of performance and quality for the beneficiary's condition must be supported by adequate documentation. Luxury, deluxe, immaterial, or non-essential features, which increase the cost of the item relative to a similar item without those features, based on industry standards for a particular item at the time the equipment is prescribed or replaced for a beneficiary, are not authorized. Only the ''base'' or ''basic'' model of equipment (or more cost-effective alternative equipment) shall be covered, unless customization of the equipment, or any accessory or item of supply for any durable equipment, is essential, as determined by the Director (or designee), for—

(*i*) Achieving therapeutic benefit for the patient;

(*ii*) Making the equipment serviceable; or

(*iii*) Otherwise assuring the proper functioning of the equipment.

* * * * *

(B) * * *

(C) *Exclusions.* Durable equipment, which is otherwise qualified as a benefit is excluded from coverage under the following circumstances:

(*1*) Durable equipment for a beneficiary who is a patient in a type of facility that ordinarily provides the same type of durable equipment item to its patients at no additional charge in the usual course of providing its services.

(*2*) Durable equipment, which is available to the beneficiary from a Uniformed Services Medical Treatment Facility.

(D) *Basis for reimbursement.* (*1*) Durable equipment may be provided on a rental or purchase basis. Coverage of durable equipment will be based on the price most advantageous to the government taking into consideration the anticipated duration of the medically necessary need for the equipment and current price information for the type of item. The cost analysis must include a comparison of the total price of the item as a monthly rental charge, a lease-purchase price, and a lump-sum purchase price and a provision for the time value of money at the rate determined by the U.S. Department of Treasury. If a beneficiary wishes to obtain an item of durable equipment with deluxe, luxury, immaterial or non-essential features, the beneficiary may agree to accept TRICARE coverage limited to the allowable amount that would have otherwise been authorized for a similar item without those features. In that case, the TRICARE coverage is based upon the allowable amount for the kind of durable equipment normally used to meet the intended purpose (*i.e.,* the standard item least costly). The provider shall not hold the beneficiary liable for deluxe, luxury, immaterial, or non-essential features that cannot be considered in determining the TRICARE allowable costs. However, the beneficiary shall be held liable if the provider has a specific agreement in writing from the beneficiary (or his or her representative) accepting liability for the itemized difference in costs of the durable equipment with deluxe, luxury, or immaterial features and the TRICARE allowable costs for an otherwise authorized item without such features.

(*2*) In general, repairs of beneficiary owned durable equipment are covered when necessary to make the equipment serviceable and replacement of durable equipment is allowed when the durable equipment is not serviceable because of normal wear, accidental damage or when necessitated by a change in the beneficiary's condition. However, repairs of durable equipment damaged while using the equipment in a manner inconsistent with its common use, and replacement of lost or stolen durable equipment are excluded from coverage. In addition, repairs of deluxe, luxury, or immaterial features of durable equipment are excluded from coverage.

* * * * *

(g) * * *

(43) Exercise/relaxation/comfort/sporting items or sporting devices. Exercise equipment, to include items primarily and customarily designed for use in sports or recreational activities, spas, whirlpools, hot tubs, swimming pools health club memberships or other such charges or items.

* * * * *

■ 4. Section 199.5 is amended by revising paragraphs (c)(2), (c)(8)(ii), and (c)(8)(iii), (d)(3), (d)(7) introductory text, (d)(7)(i), (d)(7)(iv), and (d)(8), (g)(2), and (h)(4), and adding new paragraph (d)(7)(v) to read as follows:

§ 199.5 TRICARE extended care health option (ECHO).

* * * * *

(c) * * *

(2) Medical, habilitative, rehabilitative services and supplies, durable equipment and assistive technology (AT) devices that assist in the reduction of the disabling effects of a qualifying condition. Benefits shall be provided in the beneficiary's home or another environment, as appropriate. An AT device may be covered only if it is recommended in a beneficiary's Individual Educational Program (IEP) or, if the beneficiary is not eligible for an IEP, the AT device is an item or educational learning device normally included in an IEP and is preauthorized under ECHO as an integral component of the beneficiary's individual comprehensive health care services plan (including rehabilitation) as prescribed by a TRICARE authorized provider.

(i) An AT device may be covered under ECHO only if it is not otherwise covered by TRICARE as durable equipment, a prosthetic, augmentation communication device, or other benefits under § 199.4.

(ii) An AT device may include an educational learning device directly related to the beneficiary's qualifying condition when recommended by an IEP and not otherwise provided by State or local government programs. If an individual is not eligible for an IEP, an educational learning device normally included in the IEP may be authorized as if directly related to the beneficiary's qualifying condition and prescribed by a TRICARE authorized provider as part of the beneficiary's individual comprehensive health care services plan.

(iii) Electronic learning devices may include the hardware and software as appropriate. The Director, DHA, shall determine the types and (or) platforms of electronic devices and the replacement lifecycle of the hardware and its supporting software. All upgrades or replacements shall require a recommendation from the individual's IEP or the individual's comprehensive health care services plan.

(iv) Duplicative or redundant hardware platforms are not authorized.

Note to paragraph (c)(2)(iv): When one or more electronic platforms such as a desktop computer, laptop, notebook or tablet can perform the same functions in relation to the teaching or educational objective directly related to the qualifying condition, it is the intent of this provision to allow only one electronic platform that may be chosen by the beneficiary. Duplicative or redundant platforms are not allowed; however, a second platform may be obtained, if the individual's IEP recommends one platform such as a computer for the majority of the learning objectives, but there exists another objective, which cannot be performed on that platform. In these limited circumstances, the beneficiary may submit a request with the above justification to the Director, TMA, who may authorize a second device.

(v) AT devices damaged through improper use of the device as well as lost or stolen devices may not be replaced until the device would next be eligible for a lifecycle replacement.

(vi) AT devices do not include equipment or devices whose primary purpose is to assist the individual to engage in sports or recreational activities.

* * * * *

(8) * * *

(ii) *Equipment adaptation.* The allowable equipment and an AT device purchase shall include such services and modifications to the equipment as necessary to make the equipment usable for a particular ECHO beneficiary.

(iii) *Equipment maintenance.* Reasonable repairs and maintenance of the beneficiary owned or rented DE or AT devices provided by this section shall be allowed while a beneficiary is registered in the ECHO Program. Repairs of DE and/or AT devices damaged while using the item in a manner inconsistent with its common use, and replacement of lost or stolen DE and/or AT devices are not authorized coverage as an ECHO benefit. In addition, repairs and maintenance of deluxe, luxury, or immaterial features of DE or AT devices are not authorized coverage as an ECHO benefit.

(d) * * *

(3) *Structural alterations.* Alterations to living space and permanent fixtures attached thereto, including alterations necessary to accommodate installation of equipment or AT devices to facilitate entrance or exit, are excluded.

* * * * *

(7) *Equipment.* Purchase or rental of DE and AT devices otherwise allowed by this section is excluded when:

(i) The beneficiary is a patient in an institution or facility that ordinarily provides the same type of equipment or AT devices to its patients at no additional charge in the usual course of providing services; or

* * * * *

(iv) The item is a duplicate DE or an AT device, as defined in § 199.2.

(v) The item (or charge for access to such items through health club membership or other activities) is exercise equipment including an item primarily and customarily designed for use in sports or recreational activities, spa, whirlpool, hot tub, swimming pool, an electronic device used to locate or monitor the location of the beneficiary, or other similar items or charges.

(8) *Maintenance agreements.* Maintenance agreements for beneficiary owned or rented equipment or AT device are excluded.

* * * * *

(g) * * *

(2) *Equipment.* (i) The TRICARE allowable amount for DE or AT devices shall be calculated in the same manner as DME allowable through section 199.4 of this title, and accrues to the fiscal year benefit limit specified in paragraph (f)(3) of this section.

(ii) Cost-share. A cost-share, as provided by paragraph (f)(2) of this section, is required for each month in which equipment or an AT device is purchased under this section. However, in no month shall a sponsor be required to pay more than one cost-share regardless of the number of benefits the sponsor's dependents received under this section.

* * * * *

(h) * * *

(4) Repair or maintenance of DE owned by the beneficiary or an AT device is exempt from the public facility-use certification requirements.

* * * * *

Dated: December 22, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–30337 Filed 12–30–14; 8:45 am]

BILLING CODE 5001–06–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3020

[Docket Nos. MC2010–21 and CP2010–36]

Update to Product Lists

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is updating the product lists. This action reflects a publication policy adopted by Commission order. The referenced policy assumes periodic updates. The updates are identified in the body of this document. The product lists, which is re-published in its entirety, includes these updates.

DATES: *Effective Date:* December 31, 2014.

Applicability Dates: See the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6800.

SUPPLEMENTARY INFORMATION: This document identifies updates to the product lists, which appear as Appendix A to Subpart A of 39 CFR part 3020—Mail Classification Schedule. Publication of the updated product lists in the **Federal Register** is addressed in the Postal Accountability and Enhancement Act (PAEA) of 2006.

Applicability Dates: August 29, 2014, Priority Mail Contract 89 (MC2014–39 and CP2014–72); September 10, 2014, Priority Mail Express Contract 19 (MC2014–41 and CP2014–74); September 10, 2014, First-Class Package Service Contract 37 (MC2014–42 and CP2014–75); September 15, 2014, Priority Mail Express, Priority Mail & First-Class Package Service Contract 4 (MC2014–43 and CP2014–76); October 1, 2014, Priority Mail Contract 92 (MC2014–46 and CP2014–82); October 1, 2014, Priority Mail Contract 93 (MC2014–47 and CP2014–83); October 3, 2014, Priority Mail Contract 91 (MC2014–45 and CP2014–81); October 8, 2014, Priority Mail Contract 94 (MC2014–48 and CP2014–84); October 8, 2014, Priority Mail Contract 95 (MC2014–49 and CP2014–85); October 23, 2014, Market Test Customized Delivery (MT2014–1); October 24, 2014, Outbound Competitive International Merchandise Return Service Agreement with Royal Mail Group, Ltd. (CP2015–1); October 30, 2014, Priority Mail Express & Priority Mail Contract 16 (MC2015–2 and CP2015–4); November 5, 2014, Priority Mail Contract 97 (MC2015–5 and CP2015–6); November 5, 2014, Priority Mail Contract 98 (MC2015–6 and CP2015–7); November 5, 2014, Parcel Select Contract 8 (MC2015–1 and CP2015–3); November 10, 2014, Priority Mail Contract 96 (MC2015–4 and CP2015–5); December 5, 2014, Priority Mail Contract 101 (MC2015–11 and CP2015–14); December 5, 2014, Priority Mail Express Contract 20 (MC2015–12 and CP2015–15); December 5, 2014, Priority Mail Contract 100 (MC2015–10 and CP2015–13); December 5, 2014, Priority Mail Contract 99 (MC2015–9 and CP2015–2); December 11, 2014, Priority Mail Express Contract 21 (MC2015–14 and CP2015–17); December 12, 2014, Priority Mail Contract 102 (MC2015–13 and CP2015–16); December 19, 2014, Priority Mail Express Contract 23 (MC2015–16 and CP2015–20).

Authorization. The Commission process for periodic publication of updates was established in Docket Nos. MC2010–21 and CP2010–36, Order No. 445, April 22, 2010, at 8.

Changes. The product lists are being updated by publishing a replacement in its entirety of Appendix A to Subpart A of 39 CFR part 3020—Mail Classification Schedule. The following products are being added, removed, or moved within the product lists:

1. Priority Mail Contract 89 (MC2014–39 and CP2014–72) (Order No. 2175), added August 29, 2014.

2. Priority Mail Express Contact 19 (MC2014–41 and CP2014–74) (Order No. 2178), added September 10, 2014.

3. First-Class Package Service Contract 37 (MC2014–42 and CP2014–75) (Order No. 2179), added September 10, 2014.

4. Priority Mail Express, Priority Mail & First-Class Package Service Contract 4 (MC2014–43 and CP2014–76), added September 15, 2014.

5. Priority Mail Contract 92 (MC2014–46 and CP2014–82), added October 1, 2014.

6. Priority Mail Contract 93 (MC2014–47 and CP2014–83), added October 1, 2014.

7. Priority Mail Contract 91 (MC2014–45 and CP2014–81), added October 3, 2014.

8. Priority Mail Contract 94 (MC2014–48 and CP2014–84), added October 8, 2014.

9. Priority Mail Contact 95 (MC2014–49 and CP2014–85), added October 8, 2014.

10. Market Test Customized Delivery (MT2014–1), authorizing test October 23, 2014.

11. Outbound Competitive International Merchandise Return Service Agreement with Royal Mail Group, Ltd. (CP2015–1), added October 24, 2014.

12. Priority Mail Express & Priority Mail Contract 16 (MC2015–2 and CP2015–4), added October 30, 2014.

13. Priority Mail Contract 97 (MC2015–5 and CP2015–6), added November 5, 2014.

14. Priority Mail Contract 98 (MC2015–6 and CP2015–7), added November 5, 2014.

15. Parcel Select Contract 8 (MC2015–1 and CP2015–3), added November 5, 2014.

16. Priority Mail Contract 96 (MC2015–4 and CP2015–5), added November 10, 2014.

17. Priority Mail Contract 101 (MC2015–11 and CP2015–14), added December 5, 2014.

18. Priority Mail Express Contract 20 (MC2015–12 and CP2015–15), added December 5, 2014.

19. Priority Mail Contract 100 (MC2015–10 and CP2015–13), added December 5, 2014.

20. Priority Mail Contract 99 (MC2015–9 and CP2015–12), added December 5, 2014.

21. Priority Mail Express Contract 21 (MC2015–14 and CP2015–17), added December 11, 2014.

22. Priority Mail Contract 102 (MC2015–13 and CP2015–16), added December 12, 2014.

23. Priority Mail Express Contract 23 (MC2015–16 and CP2015–20), added December 19, 2014.

Updated product lists. The referenced changes to the product lists are incorporated into Appendix A to Subpart A of 39 CFR part 3020—Mail Classification Schedule.

List of Subjects in 39 CFR Part 3020

Administrative practice and procedure, Postal Service.

For the reasons discussed in the preamble, the Postal Regulatory Commission amends chapter III of title 39 of the Code of Federal Regulations as follows:

PART 3020—PRODUCT LISTS

■ 1. The authority citation for part 3020 continues to read as follows:

Authority: 39 U.S.C. 503; 3622; 3631; 3642; 3682.

■ 2. Revise Appendix A to Subpart A of Part 3020—Mail Classification Schedule to read as follows:

Appendix A to Subpart A of Part 3020—Mail Classification Schedule

(An asterisk (*) indicates an organizational group, not a Postal Service product.)

Part A—Market Dominant Products

1000 Market Dominant Product List

First-Class Mail*
- Single-Piece Letters/Postcards
- Presorted Letters/Postcards
- Flats
- Parcels
- Outbound Single-Piece First-Class Mail International
- Inbound Letter Post

Standard Mail (Commercial and Nonprofit)*
- High Density and Saturation Letters
- High Density and Saturation Flats/Parcels
- Carrier Route
- Letters
- Flats
- Parcels
- Every Door Direct Mail—Retail

Periodicals*
- In-County Periodicals
- Outside County Periodicals

Package Services*
- Alaska Bypass Service
- Bound Printed Matter Flats
- Bound Printed Matter Parcels
- Media Mail/Library Mail

Special Services*
- Ancillary Services
- International Ancillary Services
- Address Management Services
- Caller Service
- Credit Card Authentication
- International Reply Coupon Service
- International Business Reply Mail Service
- Money Orders
- Post Office Box Service
- Customized Postage
- Stamp Fulfillment Services

Negotiated Service Agreements*
- Domestic*
- Discover Financial Services 1
- Valassis Direct Mail, Inc. Negotiated Service Agreement
- PHI Acquisitions, Inc. Negotiated Service Agreement
- International*
- Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators
- Inbound Market Dominant Exprés Service Agreement 1

Nonpostal Services*
- Alliances with the Private Sector to Defray Cost of Key Postal Functions
- Philatelic Sales

Market Tests*

Part B—Competitive Products

2000 Competitive Product List

Domestic Products*
- Priority Mail Express
- Priority Mail
- Parcel Select
- Parcel Return Service
- First-Class Package Service
- Standard Post

International Products*
- Outbound International Expedited Services
- Inbound Parcel Post (at UPU rates)
- Outbound Priority Mail International
- International Priority Airmail (IPA)
- International Surface Air List (ISAL)
- International Direct Sacks—M-Bags
- Outbound Single-Piece First-Class Package International Service

Negotiated Service Agreements*
- Domestic*
- Priority Mail Express Contract 8
- Priority Mail Express Contract 10
- Priority Mail Express Contract 11
- Priority Mail Express Contract 12
- Priority Mail Express Contract 13
- Priority Mail Express Contract 14
- Priority Mail Express Contract 15
- Priority Mail Express Contract 16
- Priority Mail Express Contract 17
- Priority Mail Express Contract 18
- Priority Mail Express Contract 19
- Priority Mail Express Contract 20
- Priority Mail Express Contract 21
- Priority Mail Express Contract 23
- Parcel Return Service Contract 3
- Parcel Return Service Contract 4
- Parcel Return Service Contract 5
- Priority Mail Contract 24
- Priority Mail Contract 29
- Priority Mail Contract 31
- Priority Mail Contract 32
- Priority Mail Contract 33
- Priority Mail Contract 34
- Priority Mail Contract 35
- Priority Mail Contract 36
- Priority Mail Contract 38
- Priority Mail Contract 39
- Priority Mail Contract 40
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- Priority Mail Contract 94
- Priority Mail Contract 95
- Priority Mail Contract 96
- Priority Mail Contract 97
- Priority Mail Contract 98
- Priority Mail Contract 99
- Priority Mail Contract 100
- Priority Mail Contract 101
- Priority Mail Contract 102
- Priority Mail Express & Priority Mail Contract 9
- Priority Mail Express & Priority Mail Contract 10
- Priority Mail Express & Priority Mail Contract 11
- Priority Mail Express & Priority Mail Contract 12
- Priority Mail Express & Priority Mail Contract 13
- Priority Mail Express & Priority Mail Contract 14
- Priority Mail Express & Priority Mail Contract 15
- Priority Mail Express & Priority Mail Contract 16
- Parcel Select & Parcel Return Service Contract 3
- Parcel Select & Parcel Return Service Contract 5
- Parcel Select Contract 1
- Parcel Select Contract 2
- Parcel Select Contract 3
- Parcel Select Contract 4
- Parcel Select Contract 5
- Parcel Select Contract 6
- Parcel Select Contract 7
- Parcel Select Contract 8
- Priority Mail—Non-Published Rates
- Priority Mail—Non-Published Rates 1
- First-Class Package Service Contract 1
- First-Class Package Service Contract 3
- First-Class Package Service Contract 4
- First-Class Package Service Contract 5
- First-Class Package Service Contract 6
- First-Class Package Service Contract 7
- First-Class Package Service Contract 8
- First-Class Package Service Contract 9
- First-Class Package Service Contract 10
- First-Class Package Service Contract 11
- First-Class Package Service Contract 12
- First-Class Package Service Contract 13
- First-Class Package Service Contract 14
- First-Class Package Service Contract 15
- First-Class Package Service Contract 16
- First-Class Package Service Contract 17
- First-Class Package Service Contract 18
- First-Class Package Service Contract 19
- First-Class Package Service Contract 20

First-Class Package Service Contract 21
First-Class Package Service Contract 22
First-Class Package Service Contract 23
First-Class Package Service Contract 24
First-Class Package Service Contract 25
First-Class Package Service Contract 26
First-Class Package Service Contract 27
First-Class Package Service Contract 28
First-Class Package Service Contract 29
First-Class Package Service Contract 30
First-Class Package Service Contract 31
First-Class Package Service Contract 32
First-Class Package Service Contract 33
First-Class Package Service Contract 34
First-Class Package Service Contract 35
First-Class Package Service Contract 36
First-Class Package Service Contract 37
Priority Mail Express, Priority Mail & First-Class Package Service Contract 1
Priority Mail Express, Priority Mail & First-Class Package Service Contract 2
Priority Mail Express, Priority Mail & First-Class Package Service Contract 3
Priority Mail Express, Priority Mail & First-Class Package Service Contract 4
Priority Mail & First-Class Package Service Contract 1
Outbound International*
Global Expedited Package Services (GEPS) Contracts GEPS 3
Global Direct Contracts
Global Direct Contracts 1
Global Bulk Economy (GBE) Contracts
Global Plus Contracts
Global Plus 1C
Global Plus 2C
Global Reseller Expedited Package Contracts
Global Reseller Expedited Package Services 1
Global Reseller Expedited Package Services 2
Global Reseller Expedited Package Services 3
Global Reseller Expedited Package Services 4
Global Expedited Package Services (GEPS)—Non-Published Rates
Global Expedited Package Services (GEPS)—Non-Published Rates 2
Global Expedited Package Services (GEPS)—Non-Published Rates 3
Global Expedited Package Services (GEPS)—Non-Published Rates 4
Priority Mail International Regional Rate Boxes—Non-Published Rates
Outbound Competitive International Merchandise Return Service Agreement with Royal Mail Group, Ltd.
Inbound International*
International Business Reply Service (IBRS) Competitive Contracts
International Business Reply Service Competitive Contract 1
International Business Reply Service Competitive Contract 3
Inbound Direct Entry Contracts with Customers
Inbound Direct Entry Contracts with Foreign Postal Administrations
Inbound Direct Entry Contracts with Foreign Postal Administrations
Inbound Direct Entry Contracts with Foreign Postal Administrations 1
Inbound EMS
Inbound EMS 2
Inbound Air Parcel Post (at non-UPU rates)
Royal Mail Group Inbound Air Parcel Post Agreement
Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1
Special Services*
Address Enhancement Services
Greeting Cards, Gift Cards, and Stationery
International Ancillary Services
International Money Transfer Service—Outbound
International Money Transfer Service—Inbound
Premium Forwarding Service
Shipping and Mailing Supplies
Post Office Box Service
Competitive Ancillary Services
Nonpostal Services*
Advertising
Licensing of Intellectual Property other than Officially Licensed Retail Products (OLRP)
Mail Service Promotion
Officially Licensed Retail Products (OLRP)
Passport Photo Service
Photocopying Service
Rental, Leasing, Licensing or other Non-Sale Disposition of Tangible Property
Training Facilities and Related Services
USPS Electronic Postmark (EPM) Program
Market Tests*
Metro Post
International Merchandise Return Service (IMRS)—Non-Published Rates
Customized Delivery

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–30565 Filed 12–30–14; 8:45 am]

BILLING CODE 7710–FW–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 403, 405, 410, 411, 412, 413, 414, 425, 489, 495, and 498

[CMS–1612–CN]

RIN 0938–AS12

Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule, Clinical Laboratory Fee Schedule, Access to Identifiable Data for the Center for Medicare and Medicaid Innovation Models & Other Revisions to Part B for CY 2015; Corrections

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correction of final rule with comment period.

SUMMARY: This document corrects technical errors that appeared in the final rule with comment period published in the **Federal Register** on November 13, 2014, entitled ''Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule, Clinical Laboratory Fee Schedule, Access to Identifiable Data for the Center for Medicare and Medicaid Innovation Models & Other Revisions to Part B for CY 2015.''

DATES: The correcting document is effective January 1, 2015.

FOR FURTHER INFORMATION CONTACT: Melissa Heesters (410) 786–0618, for issues related to reports of payments or other transfers of value to covered recipients.

Amy Gruber (410) 786–1542, for issues related to changes in geographic area designations for ambulance payment.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2014–26183 of November 13, 2014 (79 FR 67547 through 68092), there were a number of technical errors that are identified and corrected in the Correction of Errors section below. These corrections are effective January 1, 2015. We note that the ambulance fee schedule ZIP code files for the CY 2015 Physician Fee Schedule (PFS) final rule with comment period as corrected in this correction notice are available on the CMS Web site at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AmbulanceFeeSchedule/index.html.*

II. Summary of Errors

A. Summary of Errors in the Preamble

On page 67548, we inadvertently only listed § 403.904(c)(8) with a compliance date of January 1, 2016 for new data collection requirements. However, all of the changes in § 403.904 are effective January 1, 2016.

On pages 67747, 67749, 67750 and 67993 in our discussion of the updated Zip code analysis based on OMB's revised delineations and updated Rural-Urban Commuting Area (RUCA) codes, the percentages and totals of the ZIP codes changing from urban to rural and from rural to urban, the percentages and totals of the ZIP codes not changed, and the referenced state impacts are incorrect due to a technical error in the application of the updated RUCA codes. In addition, the total number of ZIP codes is incorrect.

On pages 67748 through 67749, in Table 47: Updated ZIP Codes Analysis Based on OMB's Revised Delineations and Updated RUCA Codes, the totals and percentages of the ZIP codes changing from urban to rural and from rural to urban, and the totals and percentages of the ZIP codes not

changed are incorrect in certain rows of the table due to a technical error in the application of the updated RUCA codes. In addition, the total number of ZIP codes in East Missouri and the total number of ZIP codes in the country are incorrect.

B. Summary and Correction of Errors on the CMS Web Site

As discussed in section II.A. of this correcting document, as a result of a technical error in the application of the updated RUCA codes, certain ZIP code data in Table 47 of the CY 2015 PFS final rule with comment period and the updated analysis of this data in that final rule with comment period were incorrect. For the same reason, there were errors in the ambulance fee schedule ZIP code files that were made available on the CMS Web site. These errors are corrected in the revised ZIP code files available on the CMS Web site at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AmbulanceFeeSchedule/index.html.*

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in the effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

This document merely corrects typographical and technical errors in the preamble of the CY 2015 PFS final rule with comment period. The provisions of that final rule with comment period have been subjected to notice and comment procedures. The corrections contained in this document are consistent with, and do not make substantive changes to, the policies and payment methodologies that were adopted in the CY 2015 PFS final rule with comment period. As a result, the corrections made through this correcting document are intended to ensure that the CY 2015 PFS final rule with comment period accurately reflects the policies adopted in that rule. Therefore, we find for good cause that it is unnecessary and would be contrary to the public interest to undertake further notice and comment procedures to incorporate the corrections in this document into the CY 2015 PFS final rule with comment period. For the same reasons, we find that there is good cause to waive the 30-day delay in the effective date for these corrections.

Further, we believe that it is in the public interest to ensure that the CY 2015 PFS final rule with comment period accurately reflects our policies as of the date they take effect. Therefore, we find that delaying the effective date of these corrections beyond the effective date of the final rule with comment period would be contrary to the public interest. In so doing, we find good cause to waive the 30-day delay in effective date.

IV. Correction of Errors

In FR Doc. 2014–26183 of November 13, 2014 (79 FR 67547), make the following corrections:

A. Correction of Errors in the Preamble

1. On page 67548, first column, fourth full paragraph, line 3, remove ''(c)(8)''.

2. On page 67747, second column, first full paragraph,

a. Line 6, the phrase ''42,918 ZIP codes'' is corrected to read ''42,919 ZIP codes''.

b. Line 9, the phrase ''approximately 92.02'' is corrected to read ''approximately 95.22''.

c. Line 14, the phrase ''from rural to urban (3,038'' is corrected to read ''from rural to urban (1,600''.

d. Line 15, the phrase ''or 7.08 percent)'' is corrected to read ''or 3.73 percent)''.

e. Line 16, the phrase ''(387 or 0.90 percent)'' is corrected to read ''(451 or 1.05 percent).''.

f. Line 21, the phrase ''providers and suppliers in 387 ZIP'' is corrected to read ''providers and suppliers in 451 ZIP''.

3. On page 67747, third column,

a. Line 1, the phrase ''codes within 41 states'' is corrected to read ''codes within 42 states''.

b. Line 6, the phrase ''state of California'' is corrected to read ''state of Ohio''.

c. Line 8, the phrase ''a total of 43, or 1.58 percent'' is corrected to read ''a total of 54, or 3.63 percent.''.

d. Line 9, the phrase ''providers and suppliers in 3, 038 ZIP'' is corrected to read ''providers and suppliers in 1,600 ZIP''.

e. Line 10, the phrase ''within 46 states'' is corrected to read ''within 44 states''.

f. Line 15, the phrase ''The state of Pennsylvania has'' is corrected to read ''The state of West Virginia has''.

g. Line 17, the phrase ''urban (293, or 13.06 percent)'' is corrected to read ''urban (149, or 15.92 percent).''.

h. Lines 17 through 21, the phrase '', while West Virginia has the greatest percentage of ZIP codes changing from rural to urban (269 Zip codes, or 28.74 percent)'' is removed.

4. On pages 67748 through 67749, Table 47: Updated ZIP Codes Analysis Based on OMB's Revised Delineations and Updated RUCA Codes, the table is corrected to read as follows:

State/ Territory *	Total ZIP codes	Total ZIP codes changed rural to urban	Percentage of total ZIP codes	Total ZIP codes changed urban to rural	Percentage of total ZIP codes	Total ZIP codes not changed	Percentage of total ZIP codes not changed
AK	276	0	0.00	0	0.00	276	100.00
AL	854	43	5.04	8	0.94	803	94.03
AR	725	19	2.62	9	1.24	697	96.14
AS	1	0	0.00	0	0.00	1	100.00
AZ	569	21	3.69	7	1.23	541	95.08
CA	2723	85	3.12	43	1.58	2595	95.30
CO	677	4	0.59	9	1.33	664	98.08
CT	445	37	8.31	0	0.00	408	91.69
DC	303	0	0.00	0	0.00	303	100.00
DE	99	6	6.06	0	0.00	93	93.94
EK	63	0	0.00	0	0.00	63	100.00

State/ Territory *	Total ZIP codes	Total ZIP codes changed rural to urban	Percentage of total ZIP codes	Total ZIP codes changed urban to rural	Percentage of total ZIP codes	Total ZIP codes not changed	Percentage of total ZIP codes not changed
EM	857	35	4.08	4	0.47	818	95.45
FL	1513	69	4.56	9	0.59	1435	94.84
FM	4	0	0.00	0	0.00	4	100.00
GA	1032	47	4.55	4	0.39	981	95.06
GU	21	0	0.00	0	0.00	21	100.00
HI	143	9	6.29	3	2.10	131	91.61
IA	1080	20	1.85	3	0.28	1057	97.87
ID	335	0	0.00	0	0.00	335	100.00
IL	1628	68	4.18	7	0.43	1553	95.39
IN	1000	33	3.30	20	2.00	947	94.70
KY	1030	30	2.91	5	0.49	995	96.60
LA	739	69	9.34	1	0.14	669	90.53
MA	751	8	1.07	9	1.20	734	97.74
MD	630	69	10.95	0	0.00	561	89.05
ME	505	5	0.99	12	2.38	488	96.63
MH	2	0	0.00	0	0.00	2	100.00
MI	1185	22	1.86	21	1.77	1142	96.37
MN	1043	31	2.97	7	0.67	1005	96.36
MP	3	0	0.00	0	0.00	3	100.00
MS	541	14	2.59	1	0.18	526	97.23
MT	411	0	0.00	3	0.73	408	99.27
NC	1101	87	7.90	10	0.91	1004	91.19
ND	419	2	0.48	0	0.00	417	99.52
NE	632	7	1.11	6	0.95	619	97.94
NH	292	0	0.00	2	0.68	290	99.32
NJ	747	1	0.13	2	0.27	744	99.60
NM	438	4	0.91	2	0.46	432	98.63
NV	257	1	0.39	2	0.78	254	98.83
NY	2246	84	3.74	42	1.87	2120	94.39
OH	1487	23	1.55	54	3.63	1410	94.82
OK	791	5	0.63	7	0.88	779	98.48
OR	495	26	5.25	9	1.82	460	92.93
PA	2244	129	5.75	38	1.69	2077	92.56
PR	177	21	11.86	0	0.00	156	88.14
PW	2	0	0.00	0	0.00	2	100.00
RI	91	2	2.20	1	1.10	88	96.70
SC	543	47	8.66	2	0.37	494	90.98
SD	418	0	0.00	1	0.24	417	99.76
TN	814	52	6.39	12	1.47	750	92.14
TX	2726	64	2.35	32	1.17	2630	96.48
UT	359	2	0.56	0	0.00	357	99.44
VA	1277	98	7.67	19	1.49	1160	90.84
VI	16	0	0.00	0	0.00	16	100.00
VT	309	3	0.97	0	0.00	306	99.03
WA	744	17	2.28	6	0.81	721	96.91
WI	919	19	2.07	5	0.54	895	97.39
WK	711	11	1.55	7	0.98	693	97.47
WM	342	2	0.58	3	0.88	337	98.54
WV	936	149	15.92	3	0.32	784	83.76
WY	198	0	0.00	1	0.51	197	99.49
TOTALS	42919	1600	3.73	451	1.05	40868	95.22

* ZIP code analysis includes U.S. States and Territories (FM—Federated States of Micronesia, GU—Guam, MH—Marshall Islands, MP—Northern Mariana Islands, PW—Palau, AS—American Samoa; VI—Virgin Islands; PR—Puerto Rico). Missouri is divided into east and west regions due to work distribution of the Medicare Administrative Contractors (MACs): EM—East Missouri, WM—West Missouri. Johnson and Wyandotte counties in Kansas were changed as of January 2010 to East Kansas (EK) and the rest of the state is West Kansas (WK).

5. On page 67749, third column, first partial paragraph,

a. Line 4, the phrase ''indicates that 3,038 ZIP codes'' is corrected to read ''indicates that 1,600 ZIP codes''.

b. Line 9, the phrase ''analysis indicates 387 ZIP codes'' is corrected to read ''analysis indicates 451 ZIP codes''.

6. On page 67750, second column, second full paragraph,

a. Line 4, the phrase ''(a total of 3,425 ZIP codes'' is corrected to read ''(a total of 2,051 ZIP codes''.

b. Line 6, the phrase ''42,918 ZIP codes, or 7.98 percent)'' is corrected to read ''42,919 ZIP codes, or 4.78 percent)''.

7. On page 67993, first column, third full paragraph,

a. Line 2, the phrase ''approximately 92.02'' is corrected to read ''approximately 95.22''.

b. Line 7, the phrase ''from rural to urban (3,038'' is corrected to read ''from rural to urban (1,600''.

c. Line 8, the phrase ''or 7.08 percent)'' is corrected to read ''or 3.73 percent)''.

d. Line 9, the phrase ''(387 or 0.90 percent)'' is corrected to read ''(451 or 1.05 percent).''.

e. Line 14, the phrase ''providers and suppliers in 387 ZIP'' is corrected to read ''providers and suppliers in 451 ZIP''.

f. Line 15, the phrase ''codes within 41 states'' is corrected to read ''codes within 42 states''.

g. Line 21, the phrase ''3,038 ZIP codes within 46 states'' is corrected to read ''1,600 ZIP codes within 44 states''.

Dated: December 23, 2014.

C'Reda Weeden,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2014–30663 Filed 12–30–14; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–8363]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

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

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

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

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

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

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

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

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

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

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

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

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

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

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

§ 64.6 [Amended]

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

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Maryland:				
Caroline County, Unincorporated Areas ...	240130	June 18, 1974, Emerg; October 15, 1980, Reg; January 16, 2015, Susp.	January 16, 2015.	January 16, 2015.
Denton, Town of, Caroline County	240104	September 24, 1974, Emerg; December 18, 1979, Reg; January 16, 2015, Susp.	*.....do	Do.
Federalsburg, Town of, Caroline and Dorchester Counties.	240013	November 5, 1971, Emerg; March 15, 1977, Reg; January 16, 2015, Susp.	.....do	Do.
Greensboro, Town of, Caroline County	240014	December 27, 1974, Emerg; November 1, 1979, Reg; January 16, 2015, Susp.	.....do	Do.
Hillsboro, Town of, Caroline County	240111	February 27, 1975, Emerg; February 12, 1982, Reg; January 16, 2015, Susp.	.....do	Do.
Pennsylvania:				
Bellefonte, Borough of, Centre County	420257	March 30, 1973, Emerg; February 2, 1977, Reg; January 16, 2015, Susp.	.....do	Do.
Benner, Township of, Centre County	421460	April 7, 1975, Emerg; June 5, 1989, Reg; January 16, 2015, Susp.	.....do	Do.
Howard, Borough of, Centre County	420263	May 13, 1975, Emerg; August 3, 1989, Reg; January 16, 2015, Susp.	.....do	Do.
Howard, Township of, Centre County	421464	February 9, 1976, Emerg; August 3, 1989, Reg; January 16, 2015, Susp.	.....do	Do.
Liberty, Township of, Centre County	421196	April 13, 1976, Emerg; June 5, 1989, Reg; January 16, 2015, Susp.	.....do	Do.
Marion, Township of, Centre County	421465	July 29, 1975, Emerg; November 2, 1984, Reg; January 16, 2015, Susp.	.....do	Do.
Spring, Township of, Centre County	420269	October 13, 1972, Emerg; April 15, 1977, Reg; January 16, 2015, Susp.	.....do	Do.
Virginia:				
Virginia Beach, City of, Independent City	515531	September 11, 1970, Emerg; April 23, 1971, Reg; January 16, 2015, Susp.	.....do	Do.
York County, Unincorporated Areas	510182	October 5, 1973, Emerg; December 16, 1988, Reg; January 16, 2015, Susp.	.....do	Do.
Region V				
Indiana:				
Burlington, Town of, Carroll County	180318	March 21, 1977, Emerg; June 8, 1984, Reg; January 16, 2015, Susp.	.....do	Do.
Carroll County, Unincorporated Areas	180019	October 28, 1975, Emerg; November 15, 1989, Reg; January 16, 2015, Susp.	.....do	Do.
Delphi, City of, Carroll County	180020	July 25, 1975, Emerg; August 1, 1995, Reg; January 16, 2015, Susp.	.....do	Do.
Flora, Town of, Carroll County	180021	April 9, 1975, Emerg; November 1, 1995, Reg; January 16, 2015, Susp.	.....do	Do.
Michigan:				
Belding, City of, Ionia County	260096	February 10, 1976, Emerg; June 17, 1986, Reg; January 16, 2015, Susp.	.....do	Do.
Danby, Township of, Ionia County	261438	November 22, 2013, Emerg; N/A, Reg; January 16, 2015, Susp.	.....do	Do.
Easton, Township of, Ionia County	260727	June 28, 1982, Emerg; May 25, 1984, Reg; January 16, 2015, Susp.	.....do	Do.
Ionia, City of, Ionia County	260097	April 28, 1975, Emerg; November 2, 1983, Reg; January 16, 2015, Susp.	.....do	Do.
Ionia, Township of, Ionia County	260832	January 22, 1991, Emerg; May 2, 1999, Reg; January 16, 2015, Susp.	.....do	Do.
Lake Odessa, Village of, Ionia County	260419	October 22, 1975, Emerg; September 29, 1986, Reg; January 16, 2015, Susp.	.....do	Do.
Lyons, Village of, Ionia County	261440	October 22, 2013, Emerg; N/A, Reg; January 16, 2015, Susp.	.....do	Do.
Muir, Village of, Ionia County	260916	June 20, 1994, Emerg; November 6, 1996, Reg; January 16, 2015, Susp.	.....do	Do.
Portland, City of, Ionia County	260574	September 5, 1975, Emerg; May 1, 1984, Reg; January 16, 2015, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Portland, Township of, Ionia County	260831	January 22, 1991, Emerg; June 16, 1992, Reg; January 16, 2015, Susp.	.....do	Do.
Saranac, Village of, Ionia County	260421	September 3, 1976, Emerg; June 17, 1986, Reg; January 16, 2015, Susp.	.....do	Do.
Region VII				
Missouri:				
Canton, City of, Lewis County	290204	March 25, 1974, Emerg; February 1, 1977, Reg; January 16, 2015, Susp.	.....do	Do.
Lewis County, Unincorporated Areas	290844	June 18, 1982, Emerg; September 1, 1989, Reg; January 16, 2015, Susp.	.....do	Do.
Region VIII				
Montana:				
Darby, Town of, Ravalli County	300062	N/A, Emerg; November 2, 1998, Reg; January 16, 2015, Susp.	.....do	Do.
Hamilton, City of, Ravalli County	300186	N/A, Emerg; November 10, 1989, Reg; January 16, 2015, Susp.	.....do	Do.
Ravalli County, Unincorporated Areas	300061	April 11, 1978, Emerg; July 19, 1982, Reg; January 16, 2015, Susp.	.....do	Do.
Stevensville, City of, Ravalli County	300181	N/A, Emerg; November 16, 2012, Reg; January 16, 2015, Susp.	.....do	Do.
North Dakota:				
Argusville, City of, Cass County	380639	April 25, 1980, Emerg; February 19, 1986, Reg; January 16, 2015, Susp.	.....do	Do.
Barnes, Township of, Cass County	380256	December 27, 1976, Emerg; September 27, 1985, Reg; January 16, 2015, Susp.	.....do	Do.
Briarwood, City of, Cass County	380651	April 2, 1982, Emerg; September 27, 1985, Reg; January 16, 2015, Susp.	.....do	Do.
Fargo, City of, Cass County	385364	April 10, 1970, Emerg; April 30, 1971, Reg; January 16, 2015, Susp.	.....do	Do.
Frontier, City of, Cass County	380347	February 14, 2012, Emerg; N/A, Reg; January 16, 2015, Susp.	.....do	Do.
Harwood, City of, Cass County	380338	April 11, 1978, Emerg; September 30, 1980, Reg; January 16, 2015, Susp.	.....do	Do.
Harwood, Township of, Cass County	380259	March 23, 1978, Emerg; October 15, 1980, Reg; January 16, 2015, Susp.	.....do	Do.
Horace, City of, Cass County	380022	November 28, 1975, Emerg; July 2, 1981, Reg; January 16, 2015, Susp.	.....do	Do.
Mapleton, Township of, Cass County	380262	March 8, 1978, Emerg; October 1, 1986, Reg; January 16, 2015, Susp.	.....do	Do.
North River, City of, Cass County	380623	March 29, 1979, Emerg; September 27, 1985, Reg; January 16, 2015, Susp.	.....do	Do.
Oxbow, City of, Cass County	380681	N/A, Emerg; November 10, 1989, Reg; January 16, 2015, Susp.	.....do	Do.
Pleasant, Township of, Cass County	380263	March 21, 1978, Emerg; February 3, 1982, Reg; January 16, 2015, Susp.	.....do	Do.
Prairie Rose, City of, Cass County	380655	July 12, 1982, Emerg; June 29, 1985, Reg; January 16, 2015, Susp.	.....do	Do.
Raymond, Township of, Cass County	380261	March 24, 1978, Emerg; October 1, 1986, Reg; January 16, 2015, Susp.	.....do	Do.
Reed, Township of, Cass County	380257	December 27, 1977, Emerg; October 15, 1980, Reg; January 16, 2015, Susp.	.....do	Do.
Reiles Acres, City of, Cass County	380324	March 22, 1978, Emerg; September 30, 1987, Reg; January 16, 2015, Susp.	.....do	Do.
Stanley, Township of, Cass County	380258	May 7, 1976, Emerg; July 5, 1982, Reg; January 16, 2015, Susp.	.....do	Do.
Warren, Township of, Cass County	380265	February 20, 1978, Emerg; May 1, 1986, Reg; January 16, 2015, Susp.	.....do	Do.
West Fargo, City of, Cass County	380024	December 6, 1973, Emerg; April 17, 1978, Reg; January 16, 2015, Susp.	.....do	Do.

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

Dated: December 4, 2014.

David L. Miller,

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

[FR Doc. 2014–30545 Filed 12–30–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2014–0002]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

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

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

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

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

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

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

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

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

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

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

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

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

List of Subjects in 44 CFR Part 67

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

Dated: December 11, 2014.

Roy E. Wright,

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

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

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

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

§ 67.11 [Amended]

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

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Ottawa County, Ohio, and Incorporated Areas Docket Nos.: FEMA–B–1178			
Ayers Creek (backwater effects from Crane Creek).	Approximately 0.5 mile downstream of Billman Road	+597	Unincorporated Areas of Ottawa County.
	Approximately 530 feet downstream of Private Drive	+597	
Crane Creek Tributary (backwater effects from Crane Creek).	Approximately 0.4 mile downstream of Billman Road	+598	Unincorporated Areas of Ottawa County.
	Approximately 570 feet downstream of Billman Road	+598	
Indian Creek (backwater effects from Little Portage River).	Approximately 0.4 mile downstream of Portage River Road.	+591	Unincorporated Areas of Ottawa County.
	Approximately 0.6 mile downstream of Harris Salem Road	+591	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Lake Erie	At the east side of Poplar Street	+577	City of Port Clinton, Unincorporated Areas of Ottawa County, Village of Put-In-Bay.
	At the Lucas County boundary	+578	
Little Portage River (backwater effects from Lake Erie).	Approximately 62 feet downstream of Muddy Creek Road	+577	Unincorporated Areas of Ottawa County.
	Approximately 1.1 miles upstream of Muddy Creek Road	+577	
Portage River	Approximately 1.3 miles downstream of Locust Street	+578	Village of Oak Harbor.
	Approximately 1.2 miles downstream of Locust Street	+578	
South Branch Turtle Creek Tributary (backwater effects from South Branch Turtle Creek).	Approximately 0.8 mile downstream of Private Drive	+597	Unincorporated Areas of Ottawa County.
	Approximately 0.6 mile downstream of Private Drive	+597	

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

ADDRESSES:

City of Port Clinton
Maps are available for inspection at 1868 East Perry Street, Port Clinton, OH 43452.

Unincorporated Areas of Ottawa County
Maps are available for inspection at 315 Madison Street, Port Clinton, OH 43452.

Village of Oak Harbor
Maps are available for inspection at 146 Church Street, Oak Harbor, OH 43449.

Village of Put-In-Bay
Maps are available for inspection at 157 Concord Avenue, Put-In-Bay, OH 43456.

[FR Doc. 2014–30537 Filed 12–30–14; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 130501429–4999–03]

RIN 0648–XC659

Endangered and Threatened Wildlife and Plants; Final Rule To Revise the Code of Federal Regulations for Species Under the Jurisdiction of the National Marine Fisheries Service; Correction

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

ACTION: Final rule; correcting amendments.

SUMMARY: This document contains technical corrections for errors in a rule related to Endangered Species Act (ESA) protections for distinct population segments (DPSs) of the loggerhead sea turtle (*Caretta caretta*). The ''Final Rule to Revise the Code of Federal Regulations (CFR) for Species Under the Jurisdiction of the National Marine Fisheries Service'' revised the CFR tables that list threatened and endangered species under the ESA. During that process, we incorrectly revised the descriptions of listed entities for the DPSs of the loggerhead sea turtle in a manner that differs from the original listing descriptions. In this document, we correct the descriptions of the DPSs in the CFR tables. We also add cross-references to recently designated critical habitat of the Northwest Atlantic Ocean DPS of the loggerhead sea turtle.

DATES: Effective on December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Jennifer Schultz at (301) 427–8443, or Angela Somma at (301) 427–8474.

SUPPLEMENTARY INFORMATION:

Background

On April 14, 2014, we, NMFS, issued the ''Final Rule to Revise the Code of Federal Regulations for Species Under the Jurisdiction of the National Marine Fisheries Service'' (79 FR 20802) to clarify and update the descriptions and associated protections for species that are listed as threatened or endangered under the ESA. These revisions changed the format and content of the tables, which list and describe threatened and endangered species under NMFS' jurisdiction at 50 CFR 223.102(e) and 50 CFR 224.101(h), respectively. For example, the table columns previously labeled, ''where listed'' are now labeled ''description of listed entity,'' and the columns labeled, ''critical habitat'' now cite the specific section in 50 CFR part 226, where the critical habitat description is found.

During this process, we incorrectly revised the descriptions of the listed entities for the DPSs of the loggerhead sea turtle. For example, we changed the description of listed entity from ''Northwest Atlantic Ocean north of the equator, south of 60° N. Lat., and west of 40° W. Long.,'' to ''loggerhead sea turtles originating from the Northwest Atlantic Ocean west of 40° W. Long.'' Therefore, this document amends the tables by correcting the descriptions of listed entities for the DPSs of the loggerhead sea turtle to reflect the original listing description published in the CFR. There was one mistake in the original listing (76 FR 58868, September 22, 2011). The Southwest Indian Ocean

DPS includes loggerhead sea turtles originating from the Southwest Indian Ocean north of the equator, south of 30° N. Lat., east of 20° E. Long., and west of 80° E. Long; the original listing incorrectly indicated, ''west of 20° E. Long., and east of 80° E. Long.''

On July 10, 2014, NMFS and USFWS issued separate final rules to designate critical habitat for marine and terrestrial habitat, respectively, for the Northwest Atlantic Ocean DPS of the loggerhead sea turtle (79 FR 39855 and 79 FR 39755, respectively). At that time, we did not update the column labeled ''critical habitat,'' in the table in 50 CFR 223.102(e) to cross reference these new rules. Therefore, this document also corrects the table by citing the critical habitat designations in 50 CFR 226.223 and 50 CFR 17.95(c) in the column of the table in 50 CFR 223.102(e).

Classification

This correction does not alter or revise in any way the threatened or endangered species statuses or critical habitat designations for the DPSs of the loggerhead sea turtle. Therefore, the Assistant Administrator for Fisheries, NOAA, finds good cause to waive requirement to provide prior public notice and comment.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and need to be clarified.

List of Subjects

50 CFR Part 223

Threatened marine and anadromous species.

50 CFR Part 224

Endangered marine and anadromous species.

Dated: December 22, 2014.

Samuel D. Rauch III,

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

Accordingly, 50 CFR parts 223 and 224 are corrected by making the following correcting amendments:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 2. In § 223.102(e), revise the table entries for ''Sea turtle, loggerhead (Northwest Atlantic Ocean DPS)'', ''Sea turtle, loggerhead (South Atlantic Ocean DPS)'', ''Sea turtle, loggerhead (Southeast Indo-Pacific Ocean DPS)'', and ''Sea turtle, loggerhead (Southwest Indian Ocean DPS)'' to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(e) * * *

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
*	*	* * *	*	*	*
Sea Turtles [2]					
Sea turtle, loggerhead (Northwest Atlantic Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the Northwest Atlantic Ocean north of the equator, south of 60° N. Lat., and west of 40° W. Long.	76 FR 58868, Sep 22, 2011.	17.95(c), 226.223	223.205, 223.206, 223.207.
Sea turtle, loggerhead (South Atlantic Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the South Atlantic Ocean south of the equator, north of 60° S. Lat., west of 20° E. Long., and east of 67° W. Long.	76 FR 58868, Sep 22, 2011.	NA	223.205, 223.206, 223.207.
Sea turtle, loggerhead (Southeast Indo-Pacific Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the Southeast Indian Ocean south of the equator, north of 60° S. Lat., and east of 80° E. Long.; South Pacific Ocean south of the equator, north of 60° S. Lat., and west of 141° E. Long.	76 FR 58868, Sep 22, 2011.	NA	223.205, 223.206, 223.207
Sea turtle, loggerhead (Southwest Indian Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the Southwest Indian Ocean north of the equator, south of 30° N. Lat., east of 20° E. Long., and west of 80° E. Long.	76 FR 58868, Sep 22, 2011.	NA	223.205, 223.206, 223.207
*	*	* * *	*	*	*

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

[2] Jurisdiction for sea turtles by the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, is limited to turtles while in the water.

* * * * *

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

■ 3. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

■ 4. In § 224.101(h), revise the table entries for ''Sea turtle, loggerhead (Mediterranean Sea DPS)'', ''Sea turtle, loggerhead (North Indian Ocean DPS)'', ''Sea turtle, loggerhead (North Pacific Ocean DPS)'', ''Sea turtle, loggerhead (Northeast Atlantic Ocean DPS)'', and ''Sea turtle, loggerhead (South Pacific Ocean DPS)'' to read as follows:

§ 224.101 Enumeration of endangered marine and anadromous species.

* * * * *

(h) * * *

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
*	*	*	*	*	*
Sea Turtles [2]					
Sea turtle, loggerhead (Mediterranean Sea DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the Mediterranean Sea east of 5°36′ W. Long.	76 FR 58868, Sep 22, 2011	NA	224.104
Sea turtle, loggerhead (North Indian Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the North Indian Ocean north of the equator and south of 30° N. Lat.	76 FR 58868, Sep 22, 2011	NA	224.104
Sea turtle, loggerhead (North Pacific Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the North Pacific north of the equator and south of 60° N. Lat.	76 FR 58868, Sep 22, 2011	NA	224.104
Sea turtle, loggerhead (Northeast Atlantic Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the Northeast Atlantic Ocean north of the equator, south of 60° N. Lat., and east of 40° W. Long., except in the vicinity of the Strait of Gibraltar where the eastern boundary is 5°36′ W. Long.	76 FR 58868, Sep 22, 2011	NA	224.104
Sea turtle, loggerhead (South Pacific Ocean DPS).	*Caretta caretta*	Loggerhead sea turtles originating from the South Pacific south of the equator, north of 60° S. Lat., west of 67° W. Long., and east of 141° E. Long.	76 FR 58868, Sep 22, 2011	NA	224.104
*	*	*	*	*	*

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

[2] Jurisdiction for sea turtles by the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, is limited to turtles while in the water.

* * * * *

[FR Doc. 2014–30677 Filed 12–30–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 224

RIN 0648–XZ50

Endangered and Threatened Wildlife and Plants; Final Endangered Listing of Five Species of Sawfish Under the Endangered Species Act

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

ACTION: Final rule; correction.

SUMMARY: This action corrects the amendatory instruction to a final rule published on December 12, 2014, which incorrectly instructed deletion of the U.S. Distinct Population Segment of smalltooth sawfish (*Pristis pectinata*) from the list of endangered species under the Endangered Species Act. This correction removes the incorrect language from the instruction.

DATES: This final rule correction is effective January 12, 2015.

ADDRESSES: Information regarding this final rule may be obtained by contacting NMFS, Endangered Species Division, 1315 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Dr. Dwayne Meadows, NMFS, Office of Protected Resources (301) 427–8403.

SUPPLEMENTARY INFORMATION:

Need for Correction

In a final rule NMFS published on December 12, 2014 (79 FR 73977) to list 5 species of sawfishes as endangered, we incorrectly included an instruction in the regulatory text section to delete the entry for a prior listing for a different sawfish (the U.S. Distinct Population Segment of smalltooth sawfish (*Pristis pectinata*)) from the list of endangered species under the Endangered Species Act in 50 CFR 224.101(h). On page 74005, in column 3, amendatory instruction 2.A. is corrected to reads as follows:

''2. In § 224.101, paragraph (h), amend the table by:

A. Removing the ''Sawfish, largetooth'' entry.''

Dated: December 19, 2014.

Samuel D. Rauch, III,

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

[FR Doc. 2014–30596 Filed 12–30–14; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 79, No. 250
Wednesday, December 31, 2014

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–1093; Directorate Identifier 2014–CE–035–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Regional Aircraft Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for British Aerospace Regional Aircraft Model Jetstream Series 3101 and Jetstream Model 3201 airplanes that would supersede AD 2014–06–03. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as stress corrosion cracking of the main landing gear spigot housing. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by February 17, 2015.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact BAE Systems (Operations) Ltd, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; phone: +44 1292 675207, fax: +44 1292 675704; email: *RApublications@baesystems.com;* Internet: *http://www.jetstreamcentral.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1093; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–1093; Directorate Identifier 2014–CE–035–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On March 14, 2014, we issued AD 2014–06–03, Amendment 39–17807 (79 FR 17395; March 28, 2014) (''AD 2014–06–03''). That AD required actions intended to address an unsafe condition on British Aerospace Regional Aircraft Model Jetstream Series 3101 and Jetstream Model 3201 airplanes and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country.

Since we issued AD 2014–06–03, corrosion was found on an airplane at the top outer edge of the forward spigot housing and extended along the top of the spigot housing. BAE Systems (Operations) Limited issued new service information to ensure the spigot cap is positioned correctly and to include inspection instructions for movement of the special washer and instructions for addressing any corrosion that may be found.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No. 2014–0239, dated November 3, 2014 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Several cases of stress corrosion cracking of DTD 5094 standard Main Landing Gear (MLG) cylinders have been reported on Jetstream Series 3200 and 3100 aeroplanes. Prompted by these findings, The United Kingdom (UK) Civil Aviation Authority (CAA) issued AD 003–01–86 to require visual and non-destructive testing (NDT) inspections of the MLG assembly cylinder attachment spigot housing in accordance with BAE Systems (Operations) Ltd SB 32–A–JA851226. In 2012 an additional occurrence of Jetstream 3100 MLG failure after landing was reported, the subsequent investigation revealed stress corrosion cracking of the yoke pintle housing as a root cause of the MLG failure. Consequently EASA issued EASA AD 2013–0208 to require inspection of the MLG in accordance with BAE Systems (Operations) Ltd SB 32–A–JA851226 Revision 5 or later approved revisions to detect any crack, however, SB 32–A–JA851226 did not apply to aeroplanes

equipped with MLG cylinders manufactured from L161 material, since that is not susceptible to stress corrosion, BAE Systems (Operations) Ltd issued SB 32–JM7862 to address degradation of the surface protection by placing a special washer over the forward face of the MLG spigot housing, which rotates with the spigot housing. EASA issued AD 2013–0206 to require modification of the left (LH) and right hand (RH) MLG in accordance with this SB.

In 2014 a further event was reported, where the LH MLG of a Jetstream 3100 aeroplane collapsed during landing, this resulted in the aeroplane departing from the runway. The accident is still under investigation by the UK Air Accident Investigation Branch. Preliminary results of the investigation determined that cracking, which caused the MLG collapse, was initiated from a corrosion pit at the top outer edge of the forward spigot housing and extended along the top of the spigot housing. The spigot housing material was DTD 5094. The affected LH MLG had been modified in accordance with BAE Systems (Operations) Ltd SB 32–JM7862 Revision 1. Further investigation discovered that the instructions provided in BAE Systems (Operations) Ltd SB 32–JM7862 Revision 1 did not effectively prevent stress corrosion cracking because, under certain circumstances, it allows the rotation of the special washer and consequent damage of the end face of the spigot housing.

This condition, if not corrected, could lead to structural failure of the MLG, possibly resulting in loss of control of the aeroplane during take-off or landing runs.

To address this potential unsafe condition, BAE Systems (Operations) Ltd issued SB 32–JM7862 Revision 2 to clarify the orientation of the spigot bearing cap, later revised to SB 32–JM7862 Revision 3 to ensure the spigot bearing cap is correctly positioned. Additionally, BAE Systems (Operations) Ltd issued SB 32–A–JA140940 to provide inspection instructions to detect migration of the special washer and any potential corrosion resulting from that unwanted migration for MLG installations modified earlier in accordance with BAE Systems (Operations) Ltd SB 32–JM7862 up to Revision 2.

For the reasons described above, this AD partially retains the requirements of EASA AD 2013–0206, which is superseded, and requires a one-time inspection of pre-SB 32–JM7862 Revision 3 MLG installations and, depending on findings, applicable corrective action(s).

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1093.

Relevant Service Information

British Aerospace Regional Aircraft has issued British Aerospace Jetstream Series 3100 and 3200 Service Bulletin No. 32–JM7862, Revision 3, dated October 3, 2014; and British Aerospace Jetstream Series 3100 and 3200 Service Bulletin No. 32–A–JA140940, Original Issue, dated October 3, 2014. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD will affect 44 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $170 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $14,960, or $340 per product.

We accept modification of the MLG, if done before the effective date of this proposed AD, using earlier versions of the service information. However, the earlier versions of the service information require additional inspections with possible corrective actions.

In addition, we estimate that any necessary follow-on actions that may be required if using an earlier version of the service information would take about 1 work-hour to inspect for special washer migration and corrosion damage and require parts costing $100 for replacement of the special washer and application of witness paint, if necessary, for a cost of $185 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–17806 (79 FR 17395; March 28, 2014), and adding the following new AD:

British Aerospace Regional Aircraft: Docket No. FAA–2014–1093; Directorate Identifier 2014–CE–035–AD.

(a) Comments Due Date

We must receive comments by February 17, 2015.

(b) Affected ADs

This AD supersedes AD 2014–06–03, Amendment 39–17806 (79 FR 17395; March 28, 2014).

(c) Applicability

This AD applies to British Aerospace Regional Aircraft Jetstream Series 3101 and Jetstream Model 3201 airplanes, all serial numbers, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as stress corrosion cracking of the main landing gear (MLG) spigot housing. We are issuing this AD to prevent corrosion cracking of the MLG spigot housing. This condition, if not corrected, could cause structural failure of the MLG resulting in loss of control of the airplane during take-off or landing.

(f) Actions and Compliance

Unless already done, do the following actions in paragraphs (f)(1) through (f)(11), including all subparagraphs, as applicable.

(1) At the next scheduled MLG removal, modify the installation of the left hand (LH) and right hand (RH) MLG at the forward spigot following British Aerospace Jetstream Series 3100 and 3200 Service Bulletin No. 32–JM7862, Revision 3, dated October 3, 2014.

Note to paragraph (f)(1) of this AD: The next scheduled MLG removal may be for non-destructive testing or overhaul, as applicable.

(2) If done before the effective date of this AD, we will accept modification of the LH or RG MLG following British Aerospace Jetstream Series 3100 & 3200 Service Bulletin SB 32–JM7862, Revision 2, dated June 13, 2014; or British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–JM7862, Revision 1, dated May 7, 2013, for compliance with paragraph (f)(1) of this AD.

(3) For airplanes that, before the effective date of this AD, have been modified following British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–JM7862, Revision 2, dated June 13, 2014, visually inspect the LH and RH MLG to detect migration of a special washer following the instructions in Part 1 of British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA140940, Original Issue, dated October 3, 2014, at the compliance time listed in paragraph (f)(3)(i) or (f)(3)(ii) of this AD, as applicable.

(i) For MLG configuration equipped with DTD5094 cylinder: Within the next 200 flight cycles after the effective date of this AD or within the next 2 months after the effective date of this AD, whichever occurs first.

(ii) For MLG configuration equipped with L161 cylinder: Within the next 600 flight cycles after the effective date of this AD or within the next 6 months after the effective date of this AD, whichever occurs first.

(4) If evidence of migration of the special washer was detected during the inspection required in paragraph (f)(3) of this AD, within the applicable compliance time specified in paragraph (f)(3)(i) or (f)(3)(ii) of this AD, do the corrective actions on the LH or RH MLG, as applicable, following Part 2 of British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA140940, Original Issue, dated October 3, 2014.

(5) If no evidence of migration of the special washer was detected during the inspection required in paragraph (f)(3) of this AD, before further flight, apply a witness paint over the special washer tab and onto the MLG spigot housing (LH and RH MLG) following Part 1 of British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA140940, Original Issue, dated October 3, 2014.

(6) For airplanes that, before the effective date of this AD, have been modified following British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–JM7862, Revision 1, dated May 7, 2013, do all of the actions on the MLG cylinder (LH and/or RH, as applicable) following the instructions in Part 2 of British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA140940, Original Issue, dated October 3, 2014, at the compliance time listed in paragraph (f)(6)(i) or (f)(6)(ii), as applicable.

(i) For MLG configuration equipped with DTD5094 cylinder: Within the next 200 flight cycles after the effective date of this AD or within the next 2 months after the effective date of this AD, whichever occurs first.

(ii) For MLG configuration equipped with L161 cylinder: Within the next 600 flight cycles after the effective date of this AD or within the next 6 months after the effective date of this AD, whichever occurs first.

(7) If any wear, corrosion, or damage is detected during the inspection required in either paragraph (f)(3) or (f)(6), as applicable, of this AD, before further flight, do all of the corrective actions (including application of the a witness paint) following the instructions in Part 2 of British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA140940, Original Issue, dated October 3, 2014.

(8) Between 30 and 45 days after doing the action required in either paragraph (f)(3) or (f)(6) of this AD or between the next 20 to 30 flight cycles after doing the action required in either paragraph (f)(3) or (f)(6) of this AD, whichever occurs first, inspect the witness paint applied as required in either paragraph (f)(5) or (f)(7) of this AD following the instructions in Part 3 of British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA140940, Original Issue, dated October 3, 2014.

(9) If any damaged paint is detected during the inspection required in paragraph (f)(8) of this AD, before further flight, contact British Aerospace Regional Aircraft to obtain FAA-approved repair instructions approved specifically for this AD and incorporate those instructions. You may find the contact information for British Aerospace Regional Aircraft in paragraph (h) of this AD.

(10) As of the effective date of this AD, do not install a LH or RH MLG on any of the applicable airplanes unless it has passed all of the inspections required by this AD.

(11) For all airplanes: The compliance times for paragraphs (f)(3)(i), (f)(3)(ii), (f)(6)(i), (f)(6)(ii), and (f)(8) of this AD are presented in flight cycles (landings). If the total flight cycles have not been kept, multiply the total number of airplane hours time-in-service (TIS) by 0.75 to calculate the cycles. You may use the following as an example for this AD:

(i) 200 hours TIS × .75 = 150 cycles; or

(ii) 600 hours TIS × .75 = 450 cycles.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, AD No. 2014–0239, dated November 3, 2014; and British Aerospace Jetstream Series 3100 & 3200 Service Bulletin SB 32–JA851226, Revision 5, dated April 30, 2013; British Aerospace Jetstream and British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–JM7862, Revision 1, dated May 7, 2013, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1093. For service information related to this AD, contact BAE Systems (Operations) Ltd, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; phone: +44 1292 675207, fax: +44 1292 675704; email: *RApublications@baesystems.com;* Internet: *http://www.jetstreamcentral.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on December 22, 2014.

Robert Busto,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–30631 Filed 12–30–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–1083; Directorate Identifier 2014–CE–036–AD]

RIN 2120–AA64

Airworthiness Directives; Various Aircraft Equipped With Wing Lift Struts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 99–01–05 R1, which applies to certain aircraft equipped with wing lift struts. AD 99–01–05 R1 currently requires repetitively inspecting the wing lift struts for corrosion; repetitively inspecting the wing lift strut forks for cracks; replacing any corroded wing lift strut; replacing any cracked wing lift strut fork; and repetitively replacing the wing lift strut forks at a specified time for certain airplanes. Since we issued AD 99–01–05 R1, we have determined that additional airplane models should be added to the Applicability section. This proposed AD would retain all requirements of the existing AD. We are proposing this AD to correct the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by February 17, 2015.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960; telephone: (772) 567–4361; Internet: *www.piper.com.* Copies of the instructions to the F. Atlee Dodge supplemental type certificate (STC) and information about the Jensen Aircraft STCs may be obtained from F. Atlee Dodge, Aircraft Services, LLC., 6672 Wes Way, Anchorage, Alaska 99518–0409, Internet: *www.fadodge.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–1083; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

For Piper Aircraft, Inc. airplanes, contact: Gregory ''Keith'' Noles, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office (ACO), 1701 Columbia Avenue, College Park, Georgia 30337; phone: (404) 474–5551; fax: (404) 474–5606; email: *gregory.noles@faa.gov.*

For FS 2000 Corp, FS 2001 Corp, FS 2002 Corporation, and FS 2003 Corporation airplanes, contact: Jeff Morfitt, Aerospace Engineer, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, Washington 98057; phone: (425) 917–6405; fax: (245) 917–6590; email: *jeff.morfitt@faa.gov.*

For LAVIA ARGENTINA S.A. (LAVIASA) airplanes, contact: S.M. Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090; email: *sarjapur.nagarajan@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–1083; Directorate Identifier 2014–CE–036–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On November 22, 2013, we issued AD 99–01–05 R1, Amendment 39–17688 (78 FR 73997, December 10, 2013) and later issued on December 18, 2013 (78 FR 79599, December 31, 2013) as a correction, (''AD 99–01–05 R1''), for certain aircraft equipped with wing lift struts. AD 99–01–05 R1 resulted from the need to clarify the intent that if a sealed wing lift strut assembly is installed as a replacement part, the repetitive inspection requirement is terminated only if the seal is never improperly broken. If the seal is improperly broken, then that wing lift strut becomes subject to continued repetitive inspections. We did not intend to promote drilling holes into or otherwise unsealing a sealed strut.

We issued AD 99–01–05 R1 to detect and correct corrosion and cracking on the front and rear wing lift struts and forks, which could cause the wing lift strut to fail. This failure could result in the wing separating from the airplane.

Actions Since AD 99–01–05 R1 Was Issued

Since AD 99–01–05 R1 was issued, we have been informed that Piper Aircraft, Inc. (Piper) Models J–3, J3C–65 (Army L–4A), J3P, J4B, and J4F airplanes should be added to the Applicability section. We have also been informed that there is a serial number overlap between Piper Model PA–18s listed in AD 99–01–05 R1 and Piper Model PA–19 (Army L–18C). Certain serial numbers listed for Model PA–18s should also be listed under Model PA–19 (Army L–18C).

On December 22, 1998, we issued AD 99–01–05, Amendment 39–10972 (63 FR 72132, December 31, 1998), to supersede AD 93–10–06, Amendment 39–8586 (58 FR 29965, May 25, 1993), which previously included Piper Models J–3, J3P, J4B, and J4F airplanes in the Applicability section, in order to clarify certain requirements of AD 93–10–06, eliminate the lift strut fork

repetitive inspection requirement for the Piper PA–25 series airplanes, incorporate other airplane models omitted from the applicability, and require installing a placard on the lift strut.

Relevant Service Information

We reviewed Piper Aircraft Corporation Mandatory Service Bulletin No. 528D, dated October 19, 1990, and Piper Aircraft Corporation Mandatory Service Bulletin No. 910A, dated October 10, 1989. The service information describes procedures for wing lift strut assembly inspection and replacement.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would retain all requirements of AD 99–01–05 R1. This proposed AD would add airplanes to the Applicability section.

Costs of Compliance

We estimate that this AD affects 22,200 airplanes of U.S. registry.

We estimate the following costs to comply with this AD. However, the only difference in the costs presented below and the costs associated with AD 99–01–05 R1 is addition of 200 airplanes to the applicability:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection of the wing lift struts and wing lift strut forks.	8 work-hours × $85 per hour = $680 per inspection cycle.	Not applicable	$680 per inspection cycle	$15,096,000 per inspection cycle.
Installation placard	1 work-hour × $85 = $85	$30	$115	$2,553,000.

We estimate the following costs to do any necessary replacements that will be required based on the results of the inspection. We have no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost per wing lift strut	Parts cost per wing lift strut	Cost per product per wing lift strut
Replacement of the wing lift strut and/or wing lift strut forks.	4 work-hours × $85 per hour = $340	$440	$780

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 99–01–05 R1, Amendment 39–17688 (78 FR 79599, December 31, 2013), and adding the following new AD:

Various Aircraft: Docket No. FAA–2014–1083; Directorate Identifier 2014–CE–036–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by February 17, 2015.

(b) Affected ADs

This AD supersedes AD 99–01–05 R1, Amendment 39–17688 (78 FR 79599, December 31, 2013) ''AD 99–01–05 R1''. AD 99–26–19 R1, Amendment 39–17681 (78 FR 76040, December 16, 2013), also relates to the subject of this AD.

(c) Applicability

This AD applies to the following airplanes identified in Table 1 and Table 2 to paragraph (c) of this AD, that are equipped with wing lift struts, including airplanes commonly known as a ''Clipped Wing Cub,'' which modify the airplane primarily by removing approximately 40 inches of the inboard portion of each wing; and are certificated in any category.

(1) Based on optional engine installations some airplanes may have been re-identified or registered with another model that is not listed in the type certificate data sheet (TCDS). For instance, Piper Model J3C–65 airplanes are type certificated on Type Certificate Data Sheet (TCDS) A–691 but may also have been re-identified or registered as a Model J3C–115, J3F–50, J3C–75, J3C–75D, J3C–75S, J3L–75, J3C–85, J3C–85S, J3C–90, J3F–90, J3F–90S, J3C–100, or J3–L4J airplane.

(2) The airplane model number on the affected airplane or its registry may or may not contain the dash (–), *e.g.* J3 and J–3. This AD applies to both variations.

TABLE 1 TO PARAGRAPH (C) OF THIS AD—AIRPLANES PREVIOUSLY AFFECTED BY AD 99–01–05 R1

Type certificate holder	Aircraft model	Serial No.
FS 2000 Corp	L–14	All.
FS 2001 Corp	J5A (Army L–4F), J5A–80, J5B (Army L–4G), J5C, AE–1, and HE–1	All.
FS 2002 Corporation	PA–14	14–1 through 14–523.
FS 2003 Corporation	PA–12 and PA–12S	12–1 through 12–4036.
LAVIA ARGENTINA S.A. (LAVIASA).	PA–25, PA–25–235, and PA–25–260	25–1 through 25–8156024.
Piper Aircraft, Inc	TG–8 (Army TG–8, Navy XLNP–1)	All.
Piper Aircraft, Inc	E–2 and F–2	All.
Piper Aircraft, Inc	J3C–40, J3C–50, J3C–50S, J3C–65 (Army L–4, L–4B, L–4H, L–4J, Navy NE–1 and NE–2), J3C–65S, J3F–50, J3F–50S, J3F–60, J3F–60S, J3F–65 (Army L–4D), J3F–65S, J3L, J3L–S, J3L–65 (Army L–4C), and J3L–65S.	All.
Piper Aircraft, Inc.	J4, J4A, J4A–S, and J4E (Army L–4E)	4–401 through 4–1649.
Piper Aircraft, Inc	PA–11 and PA–11S	11–1 through 11–1678.
Piper Aircraft, Inc	PA–15	15–1 through 15–388.
Piper Aircraft, Inc	PA–16 and PA–16S	16–1 through 16–736.
Piper Aircraft, Inc	PA–17	17–1 through 17–215.
Piper Aircraft, Inc	PA–18, PA–18S, PA–18 ''105'' (Special), PA–18S ''105'' (Special), PA–18A, PA–18 ''125'' (Army L–21A), PA–18S ''125'', PA–18AS ''125'', PA–18 ''135'' (Army L–21B), PA–18A ''135'', PA–18S ''135'', PA–18AS ''135'', PA–18 ''150'', PA–18A ''150'', PA–18S ''150'', PA–18AS ''150'', PA–18A (Restricted), PA–18A ''135'' (Restricted), and PA–18A ''150'' (Restricted).	18–1 through 18–8309025, 18900 through 1809032, and 1809034 through 1809040.
Piper Aircraft, Inc	PA–19 (Army L–18C), and PA–19S	18–1 through 18–7632 and 19–1, 19–2, and 19–3.
Piper Aircraft, Inc	PA–20, PA–20S, PA–20 ''115'', PA–20S ''115'', PA–20 ''135'', and PA–20S ''135''	20–1 through 20–1121.
Piper Aircraft, Inc	PA–22, PA–22–108, PA–22–135, PA–22S–135, PA–22–150, PA–22S–150, PA–22–160, and PA–22S–160.	22–1 through 22–9848.

Note 1 to paragraph (c) of this AD: There is a serial number overlap between the Piper PA–18 series airplanes and the Piper Model PA–19 (Army L–18C) airplanes listed in AD 99–01–05 R1 . Serial numbers 18–1 through 18–7632 listed for the PA–18 series airplanes are also now listed under Model PA–19 (Army L–18C) and Model PA–19S.

TABLE 2 TO PARAGRAPH (C) OF THIS AD—AIRPLANES NEW TO THIS AD

Type certificate holder	Aircraft model	Serial No.
Piper Aircraft, Inc.	J–3	1100 through 1200 and 1999 and up that were manufactured before October 15, 1939.
Piper Aircraft, Inc.	J3C–65 (Army L–4A)	All.
Piper Aircraft, Inc.	J3P	2325, 2327, 2339, 2340, 2342, 2344, 2345, 2347, 2349, 2351, 2355 and up that were manufactured before January 10, 1942.
Piper Aircraft, Inc.	J4B	4–400 and up that were manufactured before December 11, 1942.
Piper Aircraft, Inc.	J4F	4–828 and up.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

(1) The subject of this AD was originally prompted by reports of corrosion damage found on the wing lift struts. AD 99–01–05 R1 is being superseded to include certain Piper Aircraft, Inc. Models J–3, J3C–65 (Army L4A), J3P, J4B, and J4F airplanes that were inadvertently omitted from the applicability, paragraph (c), of AD 99–01–05 and subsequently AD 99–01–05 R1. Also, there is a serial number overlap between Piper Model PA–18s listed in AD 99–01–05 R1 and Piper Model PA–19 (Army L–18C). Certain serial numbers listed for Model PA–18s are also listed under Model PA–19 (Army L–18C).

(2) AD 99–01–05 R1 was issued to clarify the FAA's intention that if a sealed wing lift strut assembly is installed as a replacement part, the repetitive inspection requirement is terminated only if the seal is never improperly broken. If the seal is improperly broken, then that wing lift strut becomes subject to continued repetitive inspections. We did not intend to promote drilling holes into or otherwise unsealing a sealed strut. This AD retains all the actions currently required in AD 99–01–05 R1. There are no new requirements in this AD except for the addition of certain model airplanes to the Applicability section of this AD.

(3) We are issuing this AD to detect and correct corrosion and cracking on the front and rear wing lift struts and forks, which could cause the wing lift strut to fail. This failure could result in the wing separating from the airplane.

(f) Compliance

Unless already done (compliance with AD 99–01–05 R1 and AD 93–10–06, Amendment 39–8586 (58 FR 29965, May 25, 1993) ''AD 93–010–06''), do the following actions within

the compliance times specified in paragraphs (g) through (m) of this AD, including all subparagraphs. Properly unsealing and resealing a sealed wing lift strut is still considered a terminating action for the repetitive inspection requirements of this AD as long as all appropriate regulations and issues are considered, such as static strength, fatigue, material effects, immediate and long-term (internal and external) corrosion protection, resealing methods, etc. Current FAA regulations in 14 CFR 43.13(b) specify that maintenance performed will result in the part's condition to be at least equal to its original or properly altered condition. Any maintenance actions that unseal a sealed wing lift strut should be coordinated with the Atlanta Aircraft Certification Office (ACO) through the local airworthiness authority (*e.g.,* Flight Standards District Office). There are provisions in paragraph (o) of this AD for approving such actions as an alternative method of compliance (AMOC).

(g) Remove Wing Lift Struts

(1) *For all airplanes previously affected by AD 99–01–05 R1:* Within 1 calendar month after February 8, 1999 (the effective date retained from AD 99–01–05, Amendment 39–10972 (63 FR 72132, December 31, 1998) ''AD 99–01–05''), or within 24 calendar months after the last inspection done in accordance with AD 93–10–06 (which was superseded by AD 99–01–05), whichever occurs later, remove the wing lift struts following Piper Aircraft Corporation Mandatory Service Bulletin (Piper MSB) No. 528D, dated October 19, 1990, or Piper MSB No. 910A, dated October 10, 1989, as applicable. Before further flight after the removal, do the actions in one of the following paragraphs (h)(1), (h)(2), (i)(1), (i)(2), or (i)(3) of this AD, including all subparagraphs.

(2) *For all airplanes new to this AD (not previously affected by AD 99–01–05 R1):* Within 1 calendar month after the effective date of this AD or within 24 calendar months after the last inspection done in accordance with AD 93–10–06 (which was superseded by AD 99–01–05), whichever occurs later, remove the wing lift struts following Piper Aircraft Corporation Mandatory Service Bulletin (Piper MSB) No. 528D, dated October 19, 1990, or Piper MSB No. 910A, dated October 10, 1989, as applicable. Before further flight after the removal, do the actions in one of the following paragraphs (h)(1), (h)(2), (i)(1), (i)(2), or (i)(3) of this AD, including all subparagraphs.

(h) Inspect Wing Lift Struts

For all airplanes listed in this AD: Before further flight after the removal required in paragraph (g) of this AD, inspect each wing lift strut following paragraph (h)(1) or (h)(2) of this AD, including all subparagraphs, or do the wing lift strut replacement following one of the options in paragraph (i)(1), (i)(2), or (i)(3) of this AD.

(1) Inspect each wing lift strut for corrosion and perceptible dents following Piper MSB No. 528D, dated October 19, 1990, or Piper MSB No. 910A, dated October 10, 1989, as applicable.

(i) *If no corrosion is visible and no perceptible dents are found on any wing lift strut during the inspection required in paragraph (h)(1) of this AD,* before further flight, apply corrosion inhibitor to each wing lift strut following Piper MSB No. 528D, dated October 19, 1990, or Piper MSB No. 910A, dated October 10, 1989, as applicable.

Repetitively thereafter inspect each wing lift strut at intervals not to exceed 24 calendar months following the procedures in paragraph (h)(1) or (h)(2) of this AD, including all subparagraphs.

(ii) *If corrosion or perceptible dents are found on any wing lift strut during the inspection required in paragraph (h)(1) of this AD or during any repetitive inspection required in paragraph (h)(1)(i) of this AD,* before further flight, replace the affected wing lift strut with one of the replacement options specified in paragraph (i)(1), (i)(2), or (i)(3) of this AD. Do the replacement following the procedures specified in those paragraphs, as applicable.

(2) Inspect each wing lift strut for corrosion following the procedures in the Appendix to this AD. This inspection must be done by a Level 2 or Level 3 inspector certified using the guidelines established by the American Society for Non-destructive Testing or the ''Military Standard for Nondestructive Testing Personnel Qualification and Certification'' (MIL–STD–410E), which can be found on the Internet at *http://aerospacedefense.thomasnet.com/Asset/MIL-STD-410.pdf.*

(i) *If no corrosion is found on any wing lift strut during the inspection required in paragraph (h)(2) of this AD and all requirements in the Appendix to this AD are met,* before further flight, apply corrosion inhibitor to each wing lift strut following Piper MSB No. 528D, dated October 19, 1990, or Piper MSB No. 910A, dated October 10, 1989, as applicable. Repetitively thereafter inspect each wing lift strut at intervals not to exceed 24 calendar months following the procedures in paragraph (h)(1) or (h)(2) of this AD, including all subparagraphs.

(ii) *If corrosion is found on any wing lift strut during the inspection required in paragraph (h)(2) of this AD or during any repetitive inspection required in paragraph (h)(2)(i) of this AD, or if any requirement in the Appendix of this AD is not met,* before further flight after any inspection in which corrosion is found or the Appendix requirements are not met, replace the affected wing lift strut with one of the replacement options specified in paragraph (i)(1), (i)(2), or (i)(3) of this AD. Do the replacement following the procedures specified in those paragraphs, as applicable.

(i) Wing Lift Strut Replacement Options

Before further flight after the removal required in paragraph (g) of this AD, replace the wing lift struts following one of the options in paragraph (i)(1), (i)(2), or (i)(3) of this AD, including all subparagraphs, or inspect each wing lift strut following paragraph (h)(1) or (h)(2) of this AD.

(1) Install original equipment manufacturer (OEM) part number wing lift struts (or FAA-approved equivalent part numbers) that have been inspected following the procedures in either paragraph (h)(1) or (h)(2) of this AD, including all subparagraphs, and are found to be airworthy. Do the installations following Piper MSB No. 528D, dated October 19, 1990, or Piper MSB No. 910A, dated October 10, 1989, as applicable. Repetitively thereafter inspect the newly installed wing lift struts at intervals not to exceed 24 calendar months following the procedures in either paragraph (h)(1) or (h)(2) of this AD, including all subparagraphs.

(2) Install new sealed wing lift strut assemblies (or FAA-approved equivalent part numbers) (these sealed wing lift strut assemblies also include the wing lift strut forks) following Piper MSB No. 528D, dated October 19, 1990, and Piper MSB No. 910A, dated October 10, 1989, as applicable. Installing one of these new sealed wing lift strut assemblies terminates the repetitive inspection requirements in paragraphs (h)(1) and (h)(2) of this AD, and the wing lift strut fork removal, inspection, and replacement requirement in paragraphs (j) and (k) of this AD, including all subparagraphs, for that wing lift strut assembly.

(3) Install F. Atlee Dodge wing lift strut assemblies following F. Atlee Dodge Aircraft Services, Inc. Installation Instructions No. 3233–I for Modified Piper Wing Lift Struts Supplemental Type Certificate (STC) SA4635NM, dated February 1, 1991, which can be found on the Internet at *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/E726AAA2831BD20085256CC2000E3DB7?OpenDocument&Highlight=sa4635nm.* Repetitively thereafter inspect the newly installed wing lift struts at intervals not to exceed 60 calendar months following the procedures in paragraph (h)(1) or (h)(2) of this AD, including all subparagraphs.

(j) Remove Wing Lift Strut Forks

(1) *For all airplanes previously affected by AD 99–01–05 R1, except for Model PA–25, PA–25–235, and PA–25–260 airplanes:* Within the next 100 hours time-in-service (TIS) after February 8, 1999 (the effective date retained from AD 99–01–05) or within 500 hours TIS after the last inspection done in accordance with AD 93–10–06 (which was superseded by AD 99–01–05), whichever occurs later, remove the wing lift strut forks (unless already replaced in accordance with paragraph (i)(2) of this AD). Do the removal following Piper MSB No. 528D, dated October 19, 1990, or Piper MSB No. 910A, dated October 10, 1989, as applicable. Before further flight after the removal, do the actions in one of the following paragraphs (k) or (l) of this AD, including all subparagraphs.

(2) *For all airplanes new to this AD (not previously affected by AD 99–01–05 R1):* Within the next 100 hours TIS after the effective date of this AD or within 500 hours TIS after the last inspection done in accordance with AD 93–10–06 (which was superseded by AD 99–01–05), whichever occurs later, remove the wing lift strut forks (unless already replaced in accordance with paragraph (i)(2) of this AD). Do the removal following Piper MSB No. 528D, dated October 19, 1990, or Piper MSB No. 910A, dated October 10, 1989, as applicable. Before further flight after the removal, do the actions in one of the following paragraphs (k) or (l) of this AD, including all subparagraphs.

(k) Inspect and Replace Wing Lift Strut Forks

For all airplanes affected by this AD: Before further flight after the removal required in paragraph (j) of this AD, inspect the wing lift strut forks following paragraph (k) of this AD, including all subparagraphs, or do the wing lift strut fork replacement following one of the options in paragraph (l)(1), (l)(2), (l)(3), or (l)(4) of this AD, including all subparagraphs. Inspect the wing lift strut forks for cracks using magnetic particle procedures, such as those contained in FAA Advisory Circular (AC) 43.13–1B, Chapter 5, which can be found on the Internet *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/99c827db9baac81b86256b4500596c4e/$FILE/Chapter%2005.pdf.* Repetitively thereafter inspect at intervals not to exceed 500 hours TIS until the replacement time requirement specified in paragraph (k)(2) or (k)(3) of this AD is reached provided no cracks are found.

(1) *If cracks are found during any inspection required in paragraph (k) of this AD or during any repetitive inspection required in paragraph (k)(2) or (k)(3) of this AD,* before further flight, replace the affected wing lift strut fork with one of the replacement options specified in paragraph (l)(1), (l)(2), (l)(3), or (l)(4) of this AD, including all subparagraphs. Do the replacement following the procedures specified in those paragraphs, as applicable.

(2) *If no cracks are found during the initial inspection required in paragraph (k) of this AD and the airplane is currently equipped with floats or has been equipped with floats at any time during the previous 2,000 hours TIS since the wing lift strut forks were installed,* at or before accumulating 1,000 hours TIS on the wing lift strut forks, replace the wing lift strut forks with one of the replacement options specified in paragraph (l)(1), (l)(2), (l)(3), or (l)(4) of this AD, including all subparagraphs. Do the replacement following the procedures specified in those paragraphs, as applicable. Repetitively thereafter inspect the newly installed wing lift strut forks at intervals not to exceed 500 hours TIS following the procedures specified in paragraph (k) of this AD, including all subparagraphs.

(3) *If no cracks are found during the initial inspection required in paragraph (k) of this AD and the airplane has never been equipped with floats during the previous 2,000 hours TIS since the wing lift strut forks were installed,* at or before accumulating 2,000 hours TIS on the wing lift strut forks, replace the wing lift strut forks with one of the replacement options specified in paragraph (l)(1), (l)(2), (l)(3), or (l)(4) of this AD, including all subparagraphs. Do the replacement following the procedures specified in those paragraphs, as applicable. Repetitively thereafter inspect the newly installed wing lift strut forks at intervals not to exceed 500 hours TIS following the procedures specified in paragraph (k) of this AD, including all subparagraphs.

(l) Wing Lift Strut Fork Replacement Options

Before further flight after the removal required in paragraph (j) of this AD, replace the wing lift strut forks following one of the options in paragraph (l)(1), (l)(2), (l)(3), or (l)(4) of this AD, including all subparagraphs, or inspect the wing lift strut forks following paragraph (k) of this AD, including all subparagraphs.

(1) Install new OEM part number wing lift strut forks of the same part numbers of the existing part (or FAA-approved equivalent part numbers) that were manufactured with rolled threads. Wing lift strut forks manufactured with machine (cut) threads are not to be used. Do the installations following Piper MSB No. 528D, dated October 19, 1990, or Piper MSB No. 910A, dated October 10, 1989, as applicable. Repetitively thereafter inspect and replace the newly installed wing lift strut forks at intervals not to exceed 500 hours TIS following the procedures specified in paragraph (k) of this AD, including all subparagraphs.

(2) Install new sealed wing lift strut assemblies (or FAA-approved equivalent part numbers) (these sealed wing lift strut assemblies also include the wing lift strut forks) following Piper MSB No. 528D, dated October 19, 1990, and Piper MSB No. 910A, dated October 10, 1989, as applicable. This installation may have already been done through the option specified in paragraph (i)(2) of this AD. Installing one of these new sealed wing lift strut assemblies terminates the repetitive inspection requirements in paragraphs (h)(1) and (h)(2) of this AD, and the wing lift strut fork removal, inspection, and replacement requirements in paragraphs (j) and (k) of this AD, including all subparagraphs, for that wing lift strut assembly.

(3) *For the airplanes specified below,* install Jensen Aircraft wing lift strut fork assemblies specified below in the applicable STC following Jensen Aircraft Installation Instructions for Modified Lift Strut Fitting. Installing one of these wing lift strut fork assemblies terminates the repetitive inspection requirement of this AD only for that wing lift strut fork. Repetitively inspect each wing lift strut as specified in paragraph (h)(1) or (h)(2) of this AD, including all subparagraphs.

(i) For Models PA–12 and PA–12S airplanes: STC SA1583NM, which can be found on the Internet at *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/2E708575849845B285256CC1008213CA?OpenDocument&Highlight=sa1583nm;*

(ii) For Model PA–14 airplanes: STC SA1584NM, which can be found on the Internet at *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/39872B814471737685256CC1008213D0?OpenDocument&Highlight=sa1584nm;*

(iii) For Models PA–16 and PA–16S airplanes: STC SA1590NM, which can be found on the Internet at *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/B28C4162E30D941F85256CC1008213F6?OpenDocument&Highlight=sa1590nm;*

(iv) For Models PA–18, PA–18S, PA–18 ''105'' (Special), PA–18S ''105'' (Special), PA–18A, PA–18 ''125'' (Army L–21A), PA–18S ''125'', PA–18AS ''125'', PA–18 ''135'' (Army L–21B), PA–18A ''135'', PA–18S ''135'', PA–18AS ''135'', PA–18 ''150'', PA–18A ''150'', PA–18S ''150'', PA–18AS ''150'', PA–18A (Restricted), PA–18A ''135'' (Restricted), and PA–18A ''150'' (Restricted) airplanes: STC SA1585NM, which can be found on the Internet at *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/A2BE010FB1CA61A285256CC1008213D6?OpenDocument&Highlight=sa1585nm;*

(v) For Models PA–20, PA–20S, PA–20 ''115'', PA–20S ''115'', PA–20 ''135'', and PA–20S ''135'' airplanes: STC SA1586NM, which can be found on the Internet at *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/873CC69D42C87CF585256CC1008213DC?OpenDocument&Highlight=sa1586nm;* and

(vi) For Model PA–22 airplanes: STC SA1587NM, which can be found on the Internet at *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/B051D04CCC0BED7E85256CC1008213E0?OpenDocument&Highlight=sa1587nm.*

(4) Install F. Atlee Dodge wing lift strut assemblies following F. Atlee Dodge Installation Instructions No. 3233–I for Modified Piper Wing Lift Struts (STC SA4635NM), dated February 1, 1991, which can be found on the Internet at *http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/E726AAA2831BD20085256CC2000E3DB7?OpenDocument&Highlight=sa4635nm.* This installation may have already been done in accordance paragraph (i)(3) of this AD. Installing these wing lift strut assemblies terminates the repetitive inspection requirements of this AD for the wing lift strut fork only. Repetitively inspect the wing lift struts as specified in paragraph (h)(1) or (h)(2) of this AD, including all subparagraphs.

(m) Install Placard

(1) *For all airplanes previously affected by AD 99–01–05 R1:* Within 1 calendar month after February 8, 1999 (the effective date retained from AD 99–01–05), or within 24 calendar months after the last inspection required by AD 93–10–06 (which was superseded by AD 99–01–05), whichever occurs later, and before further flight after any replacement of a wing lift strut assembly required by this AD, do one of the following actions in paragraph (m)(1)(i) or (m)(1)(ii) of this AD. The ''NO STEP'' markings required by paragraph (m)(1)(i) or (m)(1)(ii) of this AD must remain in place for the life of the airplane.

(i) Install ''NO STEP'' decal, Piper (P/N) 80944–02, on each wing lift strut approximately 6 inches from the bottom of the wing lift strut in a way that the letters can be read when entering and exiting the airplane; or

(ii) Paint the words ''NO STEP'' approximately 6 inches from the bottom of the wing lift strut in a way that the letters can be read when entering and exiting the airplane. Use a minimum of 1-inch letters using a color that contrasts with the color of the airplane.

(2) *For all airplanes new to this AD (not previously affected by AD 99–01–05 R1):* Within 1 calendar month after the effective date of this AD, or within 24 calendar

months after the last inspection required by AD 93–10–06 (which was superseded by AD 99–01–05), whichever occurs later, and before further flight after any replacement of a wing lift strut assembly required by this AD, do one of the following actions in paragraph (m)(2)(i) or (m)(2)(ii) of this AD. The ''NO STEP'' markings required by paragraph (m)(2)(i) or (m)(2)(ii) of this AD must remain in place for the life of the airplane.

(i) Install ''NO STEP'' decal, Piper (P/N) 80944–02, on each wing lift strut approximately 6 inches from the bottom of the wing lift strut in a way that the letters can be read when entering and exiting the airplane; or

(ii) Paint the words ''NO STEP'' approximately 6 inches from the bottom of the wing lift strut in a way that the letters can be read when entering and exiting the airplane. Use a minimum of 1-inch letters using a color that contrasts with the color of the airplane

(n) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Atlanta ACO, FAA, has the authority to approve AMOCs for this AD related to Piper Aircraft, Inc. airplanes; the Manager, Seattle ACO, FAA has the authority to approve AMOCs for this AD related to FS 2000 Corp, FS 2001 Corp, FS 2002 Corporation, and FS 2003 Corporation airplanes; and the Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD related to LAVIA ARGENTINA S.A. (LAVIASA) airplanes, 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 appropriate person identified in paragraph (o) of this AD.

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

(3) AMOCs approved for AD 93–10–06, Amendment 39–8586 (58 FR 29965, May 25, 1993), AD 99–01–05, Amendment 39–10972 (63 FR 72132, December 31, 1998), and AD 99–01–05 R1, Amendment 39–17688 (78 FR 79599, December 31, 2013) are approved as AMOCs for this AD.

(o) Related Information

(1) For more information about this AD related to Piper Aircraft, Inc. airplanes, contact: Gregory ''Keith'' Noles, Aerospace Engineer, FAA, Atlanta ACO, 1701 Columbia Avenue, College Park, Georgia 30337; phone: (404) 474–5551; fax: (404) 474–5606; email: *gregory.noles@faa.gov.*

(2) For more information about this AD related to FS 2000 Corp, FS 2001 Corp, FS 2002 Corporation, and FS 2003 Corporation airplanes, contact: Jeff Morfitt, Aerospace Engineer, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, Washington 98057; phone: (425) 917–6405; fax: (245) 917–6590; email: *jeff.morfitt@faa.gov.*

(3) For more information about this AD related to LAVIA ARGENTINA S.A. (LAVIASA) airplanes, contact: S.M. Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090; email: *sarjapur.nagarajan@faa.gov.*

(4) For service information identified in this AD, contact Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960; telephone: (772) 567–4361; Internet: *www.piper.com.* Copies of the instructions to the F. Atlee Dodge STC and information about the Jensen Aircraft STCs may be obtained from F. Atlee Dodge, Aircraft Services, LLC., 6672 Wes Way, Anchorage, Alaska 99518–0409, Internet: *www.fadodge.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Appendix to Docket No. FAA–2014–1083

Procedures and Requirements for Ultrasonic Inspection of Piper Wing Lift Struts

Equipment Requirements

1. A portable ultrasonic thickness gauge or flaw detector with echo-to-echo digital thickness readout capable of reading to 0.001-inch and an A-trace waveform display will be needed to do this inspection.

2. An ultrasonic probe with the following specifications will be needed to accomplish this inspection: 10 MHz (or higher), 0.283-inch (or smaller) diameter dual element or delay line transducer designed for thickness gauging. The transducer and ultrasonic system shall be capable of accurately measuring the thickness of AISI 4340 steel down to 0.020-inch. An accuracy of +/− 0.002-inch throughout a 0.020-inch to 0.050-inch thickness range while calibrating shall be the criteria for acceptance.

3. Either a precision machined step wedge made of 4340 steel (or similar steel with equivalent sound velocity) or at least three shim samples of same material will be needed to accomplish this inspection. One thickness of the step wedge or shim shall be less than or equal to 0.020-inch, one shall be greater than or equal to 0.050-inch, and at least one other step or shim shall be between these two values.

4. Glycerin, light oil, or similar non-water based ultrasonic couplants are recommended in the setup and inspection procedures. Water-based couplants, containing appropriate corrosion inhibitors, may be utilized, provided they are removed from both the reference standards and the test item after the inspection procedure is completed and adequate corrosion prevention steps are then taken to protect these items.

• NOTE: Couplant is defined as ''a substance used between the face of the transducer and test surface to improve transmission of ultrasonic energy across the transducer/strut interface.''

• NOTE: If surface roughness due to paint loss or corrosion is present, the surface should be sanded or polished smooth before testing to assure a consistent and smooth surface for making contact with the transducer. Care shall be taken to remove a minimal amount of structural material. Paint repairs may be necessary after the inspection to prevent further corrosion damage from occurring. Removal of surface irregularities will enhance the accuracy of the inspection technique.

Instrument Setup

1. Set up the ultrasonic equipment for thickness measurements as specified in the instrument's user's manual. Because of the variety of equipment available to perform ultrasonic thickness measurements, some modification to this general setup procedure may be necessary. However, the tolerance requirement of step 13 and the record keeping requirement of step 14, must be satisfied.

2. If battery power will be employed, check to see that the battery has been properly charged. The testing will take approximately two hours. Screen brightness and contrast should be set to match environmental conditions.

3. Verify that the instrument is set for the type of transducer being used, *i.e.* single or dual element, and that the frequency setting is compatible with the transducer.

4. If a removable delay line is used, remove it and place a drop of couplant between the transducer face and the delay line to assure good transmission of ultrasonic energy. Reassemble the delay line transducer and continue.

5. Program a velocity of 0.231-inch/microsecond into the ultrasonic unit unless an alternative instrument calibration procedure is used to set the sound velocity.

6. Obtain a step wedge or steel shims per item 3 of the Equipment Requirements. Place the probe on the thickest sample using couplant. Rotate the transducer slightly back and forth to ''ring'' the transducer to the sample. Adjust the delay and range settings to arrive at an A-trace signal display with the first backwall echo from the steel near the left side of the screen and the second backwall echo near the right of the screen. Note that when a single element transducer is used, the initial pulse and the delay line/steel interface will be off of the screen to the left. Adjust the gain to place the amplitude of the first backwall signal at approximately 80% screen height on the A-trace.

7. ''Ring'' the transducer on the thinnest step or shim using couplant. Select positive half-wave rectified, negative half-wave rectified, or filtered signal display to obtain the cleanest signal. Adjust the pulse voltage, pulse width, and damping to obtain the best signal resolution. These settings can vary from one transducer to another and are also user dependent.

8. Enable the thickness gate, and adjust the gate so that it starts at the first backwall echo and ends at the second backwall echo. (Measuring between the first and second backwall echoes will produce a measurement of the steel thickness that is not affected by the paint layer on the strut). If instability of the gate trigger occurs, adjust the gain, gate level, and/or damping to stabilize the thickness reading.

9. Check the digital display reading and if it does not agree with the known thickness

of the thinnest thickness, follow your instrument's calibration recommendations to produce the correct thickness reading. When a single element transducer is used this will usually involve adjusting the fine delay setting.

10. Place the transducer on the thickest step of shim using couplant. Adjust the thickness gate width so that the gate is triggered by the second backwall reflection of the thick section. If the digital display does not agree with the thickest thickness, follow your instrument's calibration recommendations to produce the correct thickness reading. A slight adjustment in the velocity may be necessary to get both the thinnest and the thickest reading correct. Document the changed velocity value.

11. Place couplant on an area of the lift strut which is thought to be free of corrosion and ''ring'' the transducer to surface. Minor adjustments to the signal and gate settings may be required to account for coupling improvements resulting from the paint layer. The thickness gate level should be set just high enough so as not to be triggered by irrelevant signal noise. An area on the upper surface of the lift strut above the inspection area would be a good location to complete this step and should produce a thickness reading between 0.034-inch and 0.041-inch.

12. Repeat steps 8, 9, 10, and 11 until both thick and thin shim measurements are within tolerance and the lift strut measurement is reasonable and steady.

13. Verify that the thickness value shown in the digital display is within +/- 0.002-inch of the correct value for each of the three or more steps of the setup wedge or shims. Make no further adjustments to the instrument settings.

14. Record the ultrasonic versus actual thickness of all wedge steps or steel shims available as a record of setup.

Inspection Procedure

1. Clean the lower 18 inches of the wing lift struts using a cleaner that will remove all dirt and grease. Dirt and grease will adversely affect the accuracy of the inspection technique. Light sanding or polishing may also be required to reduce surface roughness as noted in the Equipment Requirements section.

2. Using a flexible ruler, draw a ¼-inch grid on the surface of the first 11 inches from the lower end of the strut as shown in Piper MSB No. 528D, dated October 19, 1990, or Piper MSB No. 910A, dated October 10, 1989, as applicable. This can be done using a soft (#2) pencil and should be done on both faces of the strut. As an alternative to drawing a complete grid, make two rows of marks spaced every ¼-inch across the width of the strut. One row of marks should be about 11 inches from the lower end of the strut, and the second row should be several inches away where the strut starts to narrow. Lay the flexible ruler between respective tick marks of the two rows and use tape or a rubber band to keep the ruler in place. See Figure 1.

3. Apply a generous amount of couplant inside each of the square areas or along the edge of the ruler. Re-application of couplant may be necessary.

4. Place the transducer inside the first square area of the drawn grid or at the first ¼-inch mark on the ruler and ''ring'' the transducer to the strut. When using a dual element transducer, be very careful to record the thickness value with the axis of the transducer elements perpendicular to any curvature in the strut. If this is not done, loss of signal or inaccurate readings can result.

5. Take readings inside each square on the grid or at ¼-inch increments along the ruler and record the results. When taking a thickness reading, rotate the transducer slightly back and forth and experiment with the angle of contact to produce the lowest thickness reading possible. Pay close attention to the A-scan display to assure that the thickness gate is triggering off of maximized backwall echoes.

• NOTE: A reading shall not exceed .041 inch. If a reading exceeds .041-inch, repeat steps 13 and 14 of the Instrument Setup section before proceeding further.

6. If the A-trace is unsteady or the thickness reading is clearly wrong, adjust the signal gain and/or gate setting to obtain reasonable and steady readings. If any instrument setting is adjusted, repeat steps 13 and 14 of the Instrument Setup section before proceeding further.

7. In areas where obstructions are present, take a data point as close to the correct area as possible.

• NOTE: The strut wall contains a fabrication bead at approximately 40% of the strut chord. The bead may interfere with accurate measurements in that specific location.

8. A measurement of 0.024-inch or less shall require replacement of the strut prior to further flight.

9. If at any time during testing an area is encountered where a valid thickness measurement cannot be obtained due to a loss of signal strength or quality, the area shall be considered suspect. These areas may have a remaining wall thickness of less than 0.020-inch, which is below the range of this setup, or they may have small areas of localized corrosion or pitting present. The latter case will result in a reduction in signal strength due to the sound being scattered from the rough surface and may result in a signal that includes echoes from the pits as well as the backwall. The suspect area(s) shall be tested with a Maule ''Fabric Tester'' as specified in Piper MSB No. 528D, dated October 19, 1990, or Piper MSB No. 910A, dated October 10, 1989.

10. Record the lift strut inspection in the aircraft log book.

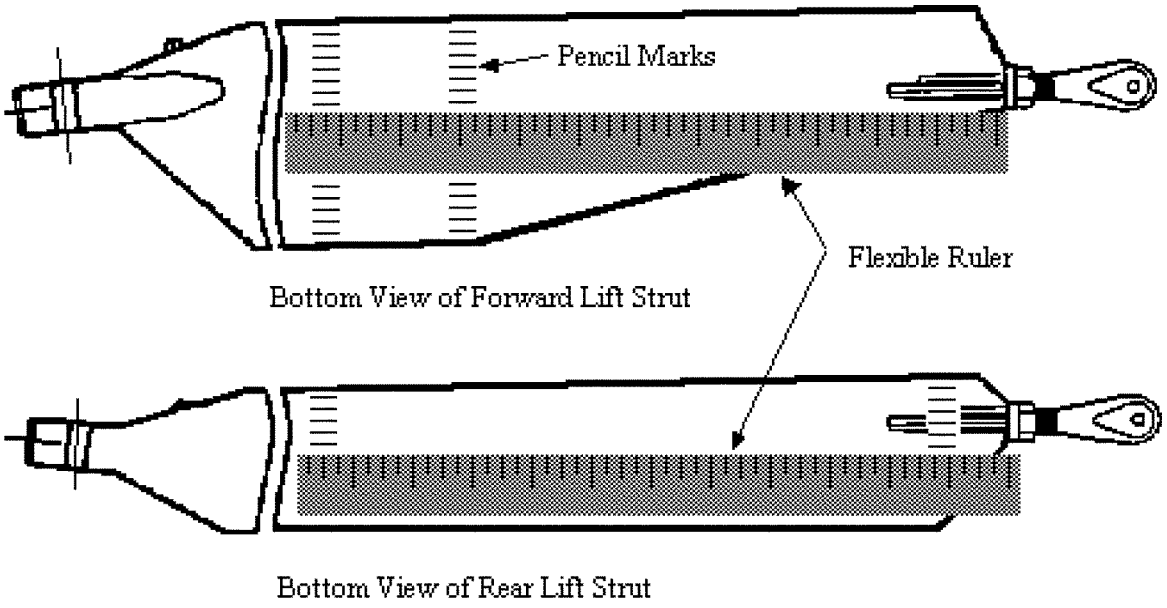

Figure 1

Issued in Kansas City, Missouri, on December 19, 2014.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–30722 Filed 12–30–14; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084–AB15

Energy and Water Use Labeling for Consumer Products Under the Energy Policy and Conservation Act (''Energy Labeling Rule'')

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commission seeks comments on labeling for several miscellaneous refrigeration products not covered by existing labeling requirements. The Commission seeks comments on whether labels for these products would assist consumers in their purchasing decisions. Preliminary DOE analysis suggests labeling would benefit consumers and be economically and technologically feasible.

DATES: Comments must be received by March 3, 2015.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/miscrefrigerator* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Miscellaneous Refrigeration Products, Matter No. R611004'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/miscrefrigerator* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''Miscellaneous Refrigeration Products, Matter No. R611004'' 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 N), 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 N), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, (202) 326–2889, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission's Energy Labeling Rule (Rule) (16 CFR part 305), issued pursuant to the Energy Policy and Conservation Act (EPCA) (42 U.S.C. 6291), requires energy labeling for major household appliances and other consumer products to help consumers compare competing models. The Commission implements its labeling program in conjunction with the Department of Energy's efficiency standards program for consumer products, which is also instituted pursuant to EPCA. When first published in 1979, the Rule applied to eight product categories: Refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, and furnaces. The Commission has since expanded the Rule's coverage to include central air conditioners, heat pumps, plumbing products, lighting products, ceiling fans, certain types of water heaters, and televisions.

The Rule requires manufacturers to attach yellow EnergyGuide labels on many of these products, and prohibits retailers from removing the labels or rendering them illegible. In addition, the Rule directs sellers, including retailers, to post label information on Web sites and in paper catalogs from which consumers can order products. EnergyGuide labels for covered products must contain three key disclosures: Estimated annual energy cost (for most products); a product's energy consumption or energy efficiency rating as determined based on Department of Energy (DOE) test procedures; and a comparability range displaying the highest and lowest energy costs or efficiency ratings for all similar models. The Rule requires manufacturers to use

national average costs for applicable energy sources (*e.g.,* electricity, natural gas, and oil) as calculated by DOE. The Rule sets a five-year schedule for updating comparability ranges and average unit energy cost information.[1] The Commission updates the range information based on manufacturer data submitted pursuant to the Rule's reporting requirements.

II. DOE Authority To Add New Covered Products

EPCA gives DOE authority to add product categories to its energy conservation program beyond those already listed under the statute.[2] DOE may classify additional consumer product types upon a determination that: (1) Product coverage is either necessary or appropriate to carry out EPCA's purposes; and (2) the average annual per-household energy use by products of such type is likely to exceed 100 kWh per year.[3]

III. DOE Proposed Coverage of Miscellaneous Refrigeration Products

Pursuant to this authority, DOE recently proposed to cover several types of refrigeration products excluded by existing DOE definitions, including cooled cabinets, non-compressor refrigerators, hybrid refrigerators, compact hybrid refrigerators, hybrid freezers, and residential ice makers.[4] In DOE's view, coverage of these products is both necessary and appropriate to carry out EPCA's goals for conserving energy supplies and improving consumer product energy efficiency.[5] DOE proposed to consolidate these various product groups into a single, new refrigeration product type distinct from the existing product type that includes refrigerators, refrigerator-freezers, and freezers.[6] DOE concluded that minimum efficiency standards for these products should lead to efficiency improvements. Table 1 contains detailed information from DOE about the products included in the new proposed refrigeration category.

TABLE 1—DOE ENERGY ESTIMATES FOR MISCELLANEOUS REFRIGERATION PRODUCTS[7]

	Estimated annual kWh	Estimated annual cost (12¢/kWh)	National stock estimate	Estimated lifetime in years	Annual sales in units	Range of energy use (per year)
Cooled Cabinets	336	$40	12,300,000	4.3	2,900,000	104 to 803 kWh.
Non-Compressor Refrigerators	669	80	4,900,000	4.3	1,100,000	451 to 832 kWh.
Hybrid Refrigerators	516	62	2,200,000	17	130,000	No estimate.
Compact Hybrid Refrigerators	429	51	1,400,000	5.6	250,000	365 to 445 kWh.
Hybrid Freezers	413	50	900,000	22	40,000	No estimate.
Residential Ice Makers	363	44	5,500,000	1.7	3,200,000	89 to 1075 kWh.

IV. FTC Proposed Labeling

In conjunction with DOE's proposal, the Commission seeks comments on proposed labeling requirements. Under EPCA, the Commission has discretion to require labeling for new covered products designated by DOE if it determines such labeling will likely assist consumers in making purchasing decisions and be economically and technologically feasible.[8] Although this labeling authority is discretionary, EPCA directs the Commission to publish a proposed rule 30 days after DOE issues a proposed test procedure.[9]

Thus, the Commission now seeks comments on whether labels for these products would assist consumers in their purchasing decisions. Preliminary DOE analysis suggests labeling would benefit consumers and be economically and technologically feasible. According to DOE, the various types of refrigerators under consideration are available to residential consumers in stores and online, and use a significant amount of energy. Moreover, DOE's estimates suggest that competing models for most of these product categories exhibit variable amounts of energy use.[10] In addition, because these products resemble refrigerators already covered by the Rule (16 CFR 305.11), labeling is likely to be economically or technologically feasible.

The Commission has not proposed specific rule amendments in this Notice. However, should the Commission determine labeling is appropriate, any final requirements will likely resemble those applicable to currently covered refrigeration products, including requirements relating to testing (section 305.5), EnergyGuide labeling (section 305.11), recordkeeping (section 305.21), reporting (section 305.8), and catalog/Web site disclosures (section 305.20). Accordingly, the Commission seeks comments on the application of these existing labeling requirements to the new refrigerator products. The Commission seeks comments on all aspects of this proposal. In particular, the Commission requests that commenters address the following questions:

a. *Benefits:* Should the Commission require labeling or other energy disclosures for the miscellaneous refrigeration products described in this notice? Would labeling or other energy disclosures assist consumers in making purchasing decisions? What benefits, if any, would labeling or other energy disclosures for the products in question provide for consumers and businesses (including small businesses)? Would labeling promote the introduction of more energy-efficient products? What are the potential energy savings for consumers?

b. *Costs:* Is there any evidence that labeling or other energy disclosures for these products would not assist

[1] 16 CFR 305.10.

[2] 42 U.S.C. 6292.

[3] 42 U.S.C. 6292(b)(1).

[4] DOE began this rulemaking proceeding in November 2011, when DOE proposed to add non-compression-equipped residential refrigerators to the list of products covered by its conservation programs. 76 FR 69147 (Nov. 8, 2011). On February 13, 2012, DOE published an additional notice discussing potential energy conservation standards and test procedures for other refrigeration products not currently covered by DOE requirements. 77 FR 7547 (Feb. 13, 2012). Late last year, DOE issued a formal proposal to cover the new types of refrigeration products (78 FR 65223, Oct. 31, 2013). On December 16, 2014 (79 FR 74894), DOE published proposed test procedures for these products. In that test procedure notice, DOE clarified the scope of the products to include those listed above.

[5] 78 FR 65223, 65224 (citing 42 U.S.C. 6201).

[6] *Id.*

[7] *See* 78 FR at 65224–65228, 79 FR 74894, and DOE's ''Preliminary Technical Support Document'' at *http://www.regulations.gov/#!documentDetail;D=EERE-2011-BT-STD-0043-0024.*

[8] 42 U.S.C. 6294(a)(3)&(b)(3).

[9] *See* 42 U.S.C. 6294(b)(1)(B) (labeling for new products DOE designates pursuant to 42 U.S.C. 6292(b)). EPCA also grants the Commission authority to require labeling or other disclosures for any consumer product not specified in the statute or designated by DOE if the Commission determines that ''labeling for the product is likely to assist consumers in making decisions.'' 42 U.S.C. 6294(a)(6).

[10] 78 FR at 65224–65228.

consumers in making purchasing decisions? Would labeling for these products be economically feasible? Would it be technologically feasible? What are the costs of testing these products? What costs would such labeling or other energy disclosures impose on consumers and businesses (including small businesses)?

c. *Energy Use Data:* Is there energy use data regarding these refrigeration products beyond the information already provided by DOE? If so, is there data that shows a significant difference in the energy use of competing models? If so, is there a significant difference in the energy use of such models? What are the annual energy costs of these products?

d. *Format, Content, and Placement:* If the Commission considers labeling or other energy disclosures for one or more of these products, what should the format, content, and placement be of such information? Should the labeling requirements for these products differ in any significant way from the EnergyGuide labels currently applicable to refrigerators, refrigerator-freezers, and freezers? How do consumers purchase these products (*e.g.,* in stores, online, or otherwise)? Are consumers likely to see the label for these products before purchase? Should disclosures appear on the products themselves, on packaging, in other point-of-purchase material, or through some other means?

e. *Internet and Catalog Disclosures:* Should internet and other catalog disclosures for these products be any different than those for other covered products, such as refrigerators already covered by the Rule?

f. *Content:* If labeling or other energy disclosures should be required, what types of information should such labels include? Should labeling provide the same information as the EnergyGuide label for other refrigerators (*i.e.,* yearly operating costs, energy use, and comparative information)? Should the label require something different or additional?

V. Request for Comments

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before March 3, 2015. Write ''Miscellaneous Refrigeration Products, Matter No. R611004'' 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, such as 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, such as 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 § 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/miscrefrigeration,* by following the instruction on the web-based form. If this Notice appears at *http://www.regulations.gov,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Miscellaneous Refrigeration Products, Matter No. R611004'' 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 N), 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 N), 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 NPRM 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 March 3, 2015. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

By direction of the Commission.

Janice Podoll Frankle,

Acting Secretary.

[FR Doc. 2014–30572 Filed 12–30–14; 8:45 am]

BILLING CODE 6750–01–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1422

[CPSC Docket No. CPSC–2009–0087]

Recreational Off-Highway Vehicles (ROVs); Notice of Opportunity for Oral Presentation of Comments; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of opportunity for oral presentation of comments; correction.

SUMMARY: The Consumer Product Safety Commission (CPSC, Commission) published a document in the **Federal Register** on December 3, 2014, announcing that on January 7, 2015, the Commission will provide an opportunity for interested persons to present oral comments on the notice of proposed rulemaking (NPR) the Commission issued, which proposes a standard to reduce the risk of injury associated with recreational off-highway vehicles (ROVs). The location for the meeting has changed.

DATES: Effective December 31, 2014.

ADDRESSES: The meeting will be held in the Hearing Room, 4th floor of Bethesda Towers Building, 4330 East West Highway, Bethesda, MD 20814. Requests to make oral presentations, and texts of oral presentations, should be captioned: ''ROVs NPR; Oral Presentation'' and submitted by email to *cpsc-os@cpsc.gov,* or mailed or delivered to the Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD

20814, not later than 5 p.m. EST on December 30, 2014.

FOR FURTHER INFORMATION CONTACT: For information about the purpose or subject matter of this meeting, contact Caroleene Paul, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone (301) 987–2225; *cpaul@cpsc.gov.* For information about the procedure to make an oral presentation, contact Rockelle Hammond, Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of December 3, 2014, in FR Doc. 2014–28381, on page 71712, in the first column, correct the **DATES** and **ADDRESSES** captions to read:

Dates: The meeting will begin at 10 a.m., on January 7, 2015, at the U.S. Consumer Product Safety Commission in the Hearing Room, 4th floor of Bethesda Towers Building, 4330 East West Highway, Bethesda, MD 20814. Requests to make oral presentations and the written text of any oral presentations must be received by the Office of the Secretary not later than 5 p.m. Eastern Standard Time (EST) on December 30, 2014.

Addresses: The meeting will be held in the Hearing Room, 4th floor of Bethesda Towers Building, 4330 East West Highway, Bethesda, MD 20814. Requests to make oral presentations, and texts of oral presentations, should be captioned: ''ROVs NPR; Oral Presentation'' and submitted by email to *cpsc-os@cpsc.gov,* or mailed or delivered to the Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, not later than 5 p.m. EST on December 30, 2014.

Alberta E. Mills,

Acting Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2014–30515 Filed 12–30–14; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 46

[Docket No. RM15–3–000]

Revisions to Public Utility Filing Requirements

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to revise its regulations to eliminate the requirement to submit FERC–566 (Annual Report of a Utility's 20 Largest Customers) for regional transmission organizations (RTOs), independent system operators (ISOs), and exempt wholesale generators (EWGs). The Commission is also proposing to revise its regulations to eliminate the requirement to submit FERC–566 for public utilities that have not made any reportable sales under FERC–566 in any of the three preceding years. The Commission further proposes to eliminate the requirement for public utilities submitting FERC–566 to identify individual residential customers by name and address.

DATES: Comments are due March 2, 2015.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures section of this document.

FOR FURTHER INFORMATION CONTACT:

Mary LaFave (Technical Information), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6060.

Lina Naik (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8882.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking

Table of Contents

1. Section 305(c) of the Federal Power Act (FPA) requires, among other things, that, on or before January 31 of each calendar year, each public utility shall publish a list, pursuant to rules prescribed by the Commission, of any company, firm, or organization that is one of the 20 purchasers of electric energy which purchased (for purposes other than resale) one of the 20 largest annual amounts of electric energy sold by such public utility (or by any public utility which is part of the same holding company system) during any one of the three calendar years immediately preceding the filing date.[1]

2. The Commission implemented Congress' mandate in part 46 of the Commission's regulations.[2] Section 46.3 of the regulations thus provides, in relevant part, that on or before January 31 of each year, each public utility shall compile a list of purchasers of electric energy (other than for resale), and shall identify each purchaser by name and principal business address, and shall

[1] 16 U.S.C. 825d(c) (2012).

[2] 18 CFR part 46 (2014).

submit the list to the Secretary and make the list publicly available. The list identifies each purchaser who, during any of the three preceding calendar years, purchased (for purposes other than resale) from a public utility one of the twenty largest amounts of electric energy by such public utility, and the public utility is required to notify each purchaser which has been identified on the list.[3]

3. On February 26, 2014, in compliance with the requirements of the Paperwork Reduction Act of 1995,[4] the Commission issued a request for comments on, among other things, the currently-approved information collection FERC–566 (Annual Report of a Utility's 20 Largest Customers). Specifically, the Commission sought comment on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.[5]

4. The Commission received four comments. With respect to the FERC–566, commenters recommended that the Commission eliminate the requirement to file FERC–566 for public utilities that do not make any reportable sales; that certain Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs) should be exempted from the requirement to submit FERC–566; and that the Commission should exempt exempt wholesale generators (EWGs) from the FERC–566 filing requirement.[6]

5. On July 1, 2014, the Commission issued a further notice addressing the comments. Specifically, the Commission stated that it shared commenters' interest in identifying and implementing burden reductions to the benefit of filers as well as the Commission, but that commenters' suggestions raised issues that required additional study. The Commission stated that should it determine after further study to pursue changes to these information collections, those changes would be more appropriately addressed in a forum and through a process that is better suited to full public identification of and deliberation on possible proposed changes. The Commission noted that any changes to the Commission's regulations would need to be made through the Commission's formal rulemaking process.[7]

6. In this Notice of Proposed Rulemaking (NOPR), the Commission proposes to revise its regulations to reduce the regulatory burden of compliance on public utilities, while meeting the statutory standards set forth in the FPA. Such modifications would enhance the quality, utility, and clarity of the information collected. Specifically, the Commission proposes to eliminate the requirement to submit FERC–566 for RTOs, ISOs, and EWGs. The Commission also proposes to eliminate the requirement to submit FERC–566 for public utilities that have not made any reportable sales in any of the three preceding years. The Commission further proposes to eliminate the requirements for public utilities submitting FERC–566 to identify individual residential customers by name and address.

I. Discussion

A. RTOs and ISOs

7. The Commission proposes to eliminate the requirement to submit FERC–566 for RTOs and ISOs. By their nature, RTOs and ISOs are focused primarily on sales of electric energy for resale. The statute expressly seeks to acquire information about purchasers of electric energy who purchased ''for purposes other than for resale.'' [8] Accordingly, the Commission proposes to revise the current regulation to eliminate the requirement to submit FERC–566 for RTOs and ISOs.

B. EWGs

8. Similarly, the Commission proposes to eliminate the requirement to submit FERC–566 for EWGs. The term exempt wholesale generator is defined as ''any person engaged directly, or indirectly through one or more affiliates . . . and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities *and selling electric energy at wholesale*.'' [9] Thus, by definition, EWGs do not have retail customers. As discussed above regarding RTOs and ISOs, the statute seeks to acquire information about purchasers of electric energy who purchased for purposes other than for resale. Because EWGs are defined as entities that only sell energy at wholesale, the Commission believes FERC–566 should not be required to be submitted by such entities.

C. Public Utilities That Have Not Made Sales

9. The Commission proposes to eliminate the requirement to submit FERC–566 for those public utilities that have not made any reportable sales in any of the three preceding years. Section 305(c) requires public utilities to publish a list of purchasers; it does not require a report of the absence of purchasers. Thus, the Commission proposes to eliminate the requirement to submit FERC–566 for those public utilities that have not made any reportable sales in any of the three preceding years.

D. Identification Requirement

10. The Commission proposes to eliminate the requirement for public utilities submitting FERC–566 to identify individual residential customers by name and address. Currently, section 46.3(d) requires that each public utility identify each purchaser on the list of the twenty largest purchasers by name and principal business address. However, it may not be necessary to have such detailed information about residential customers. Thus, the Commission proposes to allow public utilities to identify individual residential customers as ''Residential Customer,'' and provide only a zip code in lieu of an address.

II. Information Collection Statement

11. The collection of information addressed in this Notice of Proposed Rulemaking is subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995.[10] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[11] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to these collections of information unless the

[3] 18 CFR 46.3.

[4] 44 U.S.C. 3506(c)(2)(A).

[5] *See* Commission Information Collection Activities (FERC–520, FERC–561, FERC–566); Comment Request; Extension, Docket No. IC14–9–000 (Feb. 26, 2014).

[6] *See* Commission Information Collection Activities (FERC–520, FERC–561, FERC–566); Comment Request, Docket No. IC14–9–000, at 7–8 (July 1, 2014).

[7] *Id.* at 8.

[8] 16 U.S.C. 825(c)(2)(D).

[9] 18 CFR 336.1 (emphasis added).

[10] 44 U.S.C. 3507(d).

[11] 5 CFR 1320.11.

collections of information display a valid OMB control number.

12. We solicit comments on the need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. Specifically, the Commission asks that any revised burden or cost estimates submitted by commenters be supported by sufficient detail to understand how the estimates are generated.

13. *Public Reporting Burden:* The burden and cost estimates below are based on the estimated reduction in burden for certain entities that would no longer have to file the annual report of twenty largest purchasers. The Commission estimates the annual report to require (on average) six hours to prepare and to file. The Commission estimates that there are six RTOs/ISOs and an additional 880 filers that report no purchasers. The latter category includes EWGs. The following table illustrates the burden reductions to be applied to the information collection:

Respondent category	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Reduction in average burden hours & cost per response [12] (4)	Total reduction in annual burden hours & total annual cost [13] (3)*(4)=(5)
RTOs/ISOs	6	1	6	6 $423	36 $2,538
Filers with No Purchasers (including EWGs)	880	1	880	6 $423	5,280 $372,240
Total Reduction			886		5,316 $374,778

Title: Annual Report of Twenty Largest Purchasers (FERC–566).

Action: Revision to existing collection.

OMB Control No: 1902–0114.

Respondents: Business or other for profit, and not for profit institutions.

Frequency of Responses: Annually.

Necessity of the Information: The Commission is required by the Federal Power Act to collect information on public utilities' twenty largest retail purchasers. This information helps the Commission understand electric energy markets and transactions, in order to better safeguard public and private interests. Upon review, the Commission proposes that certain entities no longer need to make the annual filing.

Internal review: The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

14. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, Office of the Executive Director, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

15. Comments concerning the information collection proposed in this NOPR and the associated burden estimates, should be sent to the Commission in this docket and may also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at the following email address: *oira_submission@omb.eop.gov.* Please reference the docket numbers of this Notice of Proposed Rulemaking (Docket No. RM15–3–000) in your submission.

III. Environmental Analysis

16. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[14] This action has been categorically excluded under section 380.4(a)(2)(ii), addressing the collection of information.[15]

IV. Regulatory Flexibility Act

17. The Regulatory Flexibility Act of 1980 (RFA) [16] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. This NOPR proposes to revise the Commission's regulations to reduce reporting burdens. Specifically, the Commission proposes to eliminate the requirement to submit FERC–566 for RTOs and ISOs, EWGs, and those public utilities that did not make retail sales in the preceding three years. The Commission is also simplifying the requirements for existing filers, as they will no longer have to identify individual residential customers by name and address.

18. The Commission estimates that, on average, each of the entities that will no longer have to file the FERC–566 will experience a reduction in cost of $423 per year.

19. Accordingly, the Commission certifies that this NOPR, if adopted, will not have a significant economic impact on a substantial number of small entities.

V. Comment Procedures

20. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due March 2, 2015. Comments must refer to Docket No. RM15–3–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

21. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The

[12] The estimates for cost per response are derived using the following formula: Burden Hours per Response * $70.50/hour = Cost per Response. The $70.50/hour figure is based on the average salary plus benefits for a FERC employee. We assume that industry respondents earn at a similar rate.

[13] Total Annual Burden Hours * $70.50.

[14] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987).

[15] 18 CFR 380.4(a)(2)(ii).

[16] 5 U.S.C. 601–12.

Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

22. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

23. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VI. Document Availability

24. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington DC 20426.

25. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

26. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202)502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

List of Subjects in 18 CFR Part 46

Electric utilities; Reporting and recordkeeping requirements.

By direction of the Commission.

Dated: December 18, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission proposes to amend Part 46, Chapter I, Title 18, *Code of Federal Regulations,* as follows:

PART 46—PUBLIC UTILITY FILING REQUIREMENTS AND FILING REQUIREMENTS FOR PERSONS HOLDING INTERLOCKING POSITIONS

■ 1. The authority citation for Part 46 continues to read as follows:

Authority: 16 U.S.C. 792–828c; 16 U.S.C. 2601–2645; 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 142.

■ 2. Section 46.3 is amended by revising paragraph (a) to read as follows:

§ 46.3 Purchaser list.

(a)(1) *Compilation and filing list.* On or before January 31 of each year, except as provided below, each public utility shall compile a list of the purchasers described in paragraph (b) of this section and shall identify each purchaser by name and principal business address. The public utility must submit the list to the Secretary of the Commission in accordance with filing procedures posted on the Commission's Web site at *http://www.ferc.gov* and make the list publicly available through its principal business office.

(2) Notwithstanding paragraph (a)(1) of this section, public utilities that are defined as Regional Transmission Operators, as defined in § 35.34(b)(1) of this chapter, and public utilities that are defined as Independent System Operators, as defined in § 35.46(d) of this chapter, are exempt from the requirement to file.

(3) Notwithstanding paragraph (a)(1) of this section, public utilities that meet the criteria for exempt wholesale generators, as defined in § 366.1 of this chapter, and are certified as such pursuant to § 366.7 of this chapter, are exempt from the requirement to file.

(4) Notwithstanding paragraph (a)(1) of this section, public utilities that have no reportable sales as defined in section (b) in any of the three preceding years are exempt from the requirement to file.

(5) Notwithstanding paragraph (a)(1) of this section, individual residential customers on the list may be identified as ''Residential Customer,'' and with a zip code in lieu of an address.

* * * * *

[FR Doc. 2014–30366 Filed 12–30–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

[Docket No. 140929814–4814–01]

RIN 0625–AB02

Modification of Regulations Regarding Price Adjustments in Antidumping Duty Proceedings

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

ACTION: Proposed rule and request for comments.

SUMMARY: The Department of Commerce (''the Department'') proposes to modify two regulations pertaining to price adjustments in antidumping duty proceedings and is seeking comments from parties. These modifications, if adopted, are intended to clarify that the Department generally will not consider a price adjustment that reduces or eliminates a dumping margin unless the party claiming such price adjustment demonstrates, to the satisfaction of the Department, through documentation that the terms and conditions of the adjustment were established and known to the customer at the time of sale.

DATES: To be assured of consideration, written comments must be received no later than January 30, 2015.

ADDRESSES: All comments must be submitted through the Federal eRulemaking Portal at *http://www.regulations.gov*, Docket No. ITA–2014–0001, unless the commenter does not have access to the internet. Commenters that do not have access to the internet may submit the original and one electronic copy of each set of comments by mail or hand delivery/courier. All comments should be addressed to Paul Piquado, Assistant Secretary for Enforcement & Compliance, Room 1870, Department of Commerce, 14th Street and Constitution Ave. NW., Washington, DC 20230. Comments submitted to the Department will be uploaded to the eRulemaking Portal at www.Regulations.gov.

The Department will consider all comments received before the close of the comment period. All comments responding to this notice will be a matter of public record and will be available on the Federal eRulemaking Portal at www.Regulations.gov. The Department will not accept comments accompanied by a request that part or all of the material be treated confidentially because of its business

proprietary nature or for any other reason.

Any questions concerning file formatting, document conversion, access on the Internet, or other electronic filing issues should be addressed to Moustapha Sylla, Enforcement and Compliance Webmaster, at (202) 482–4685, email address: *webmaster-support@ita.doc.gov.*

FOR FURTHER INFORMATION CONTACT: Jessica Link at (202) 482–1411 or Melissa Skinner at (202) 482–0461.

SUPPLEMENTARY INFORMATION:

Background

In general terms, section 731 of the Tariff Act of 1930, as amended (the Act) provides that when a company is selling foreign merchandise into the United States at less than fair value, and material injury or threat of material injury is found by the International Trade Commission, the Department shall impose an antidumping duty. An antidumping duty analysis involves a comparison of the company's sales price in the United States (known as the export price or constructed export price) with the price or cost in the foreign market (known as the normal value). *See* 19 CFR 351.401(a); *see also* section 772 of the Act (defining export price and constructed export price); section 773 of the Act (defining normal value). The prices used to establish export price, constructed export price, and normal value involve certain adjustments. *See, e.g.,* 19 CFR 351.401(b). In its May 19, 1997 final rulemaking, the Department promulgated regulatory provisions governing the use of price adjustments in the calculation of export price, constructed export price, and normal value in antidumping duty proceedings. *Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296 (May 19, 1997) (''*Final Rule''*). In particular, the Department promulgated the current regulation at 19 CFR 351.102(b)(38), which provides a definition of ''price adjustment''. In providing this definition, the Department stated that ''{t}his term is intended to describe a category of changes to a price, such as discounts, rebates and post-sale price adjustments, that affect the net outlay of funds by the purchaser.'' *Id.,* 62 FR at 27300.

The Department also enacted 19 CFR 351.401(c), which explains how the Department will use a price net of price adjustments. In the *Final Rule,* the Department explained that 19 CFR 351.401(c) was intended to ''restate{} the Department's practice with respect to price adjustments, such as discounts and rebates.'' *Final Rule,* 62 FR at 27344.

The Department also addressed the following comment on the proposed rulemaking, regarding whether ''after the fact'' price adjustments, that were not contemplated at the time of sale, would be accepted under 19 CFR 351.401(c):

> One commenter suggested that, at least for purposes of normal value, the regulations should clarify that the only rebates Commerce will consider are ones that were contemplated at the time of sale. This commenter argued that foreign producers should not be allowed to eliminate dumping margins by providing ''rebates'' only after the existence of margins becomes apparent.
>
> The Department has not adopted this suggestion at this time. We do not disagree with the proposition that exporters or producers will not be allowed to eliminate dumping margins by providing price adjustments ''after the fact.'' However, as discussed above, the Department's treatment of price adjustments in general has been the subject of considerable confusion. In resolving this confusion, we intend to proceed cautiously and incrementally. The regulatory revisions contained in these final rules constitute a first step at clarifying our treatment of price adjustments. We will consider adding other regulatory refinements at a later date.

Since enacting these regulations, the Department has consistently applied its practice of not granting price adjustments where the terms and conditions were not established and known to the customer at the time of sale (sometimes referred to as determining the ''legitimacy'' of a price adjustment) because of the potential for manipulation of the dumping margin through so-called ''after-the-fact'' adjustments. *See, e.g., Certain Oil Country Tubular Goods From Taiwan: Final Determination of Sales at Less Than Fair Value,* 79 FR 41979 (July 18, 2014) and accompanying Issues and Decision Memorandum, Cmt. 3; *Lightweight Thermal Paper From Germany: Notice of Final Results of the First Antidumping Duty Administrative Review,* 76 FR 22078 (April 20, 2011) (*Lightweight Thermal Paper from Germany*) and accompanying Issues and Decision Memorandum, Cmt. 3; *Canned Pineapple Fruit from Thailand: Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 71 FR 70948 (Dec. 7, 2006) and accompanying Issues and Decision Memorandum, Cmt. 1; *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews,* 71 FR 40064 (July 14, 2006) and accompanying Issues and Decision Memorandum, Cmt. 19.

On March 25, 2014, the Court of International Trade issued *Papierfabrik August Koehler AG* v. *United States,* 971 F. Supp. 2d 1246 (Ct. Int'l Trade 2014) (*Koehler AG*), remanding the Department's decision in *Lightweight Thermal Paper from Germany,* noted above. The Court ordered the Department to reconsider Papierfabrik August Koehler AG's rebate program. The Court disagreed with the Department's determination that the regulations permitted it to disregard certain price adjustments, the terms and conditions of which were not established or known to the customer at the time of sale, stating that ''the regulations set forth a broad definition of price adjustment encompassing '*any* change in the price charged for . . . the foreign like product' that 'are reflected in the purchaser's net outlay.' '' 971 F. Supp. 2d at 1251–52 (quoting 19 CFR 351.102(b)(38)) (emphasis added by Court). In accordance with the Court's order, on remand, under protest, the Department granted an adjustment for the rebates at issue. *See* Final Results of Redetermination Pursuant to Court Remand, Lightweight Thermal Paper from Germany, *Papierfabrik August Koehler AG* v. *United States,* Court No. 11–00147, Slip Op. 14–31 (Ct. Int'l Trade March 25, 2014), dated June 20, 2014.

The Department continues to defend its regulatory interpretation of disallowing price adjustments the terms and conditions of which were not contemplated and known to the customer at the time of sale. However, the Department recognizes that the Court of International Trade in *Koehler AG* disagrees with its interpretation. Therefore, without prejudice to the United States Government's right to appeal *Koehler AG,* or to argue that the Department's current interpretation of its regulations is correct, the Department is issuing this proposed rule to modify the regulations at issue pursuant to Administrative Procedure Act (5 U.S.C. 553) notice and comment procedures; we invite comments from all interested parties.

Proposed Modification

The Department proposes to modify 19 CFR 351.102(b)(38) and 19 CFR 351.401(c) as indicated below. These modifications, if adopted, are intended to clarify that the Department generally will not consider a price adjustment that reduces or eliminates a dumping margin unless the party claiming such price adjustment demonstrates, to the satisfaction of the Department, through

documentation that the terms and conditions of the adjustment were established and known to the customer at the time of sale. This rulemaking would be effective for proceedings initiated on or after 30 days following the date of publication of the final rule.

The Department invites parties to comment on this proposed rule and the proposed effective date. Further, any party may submit comments expressing its disagreement with the Department's proposal and may propose an alternative approach.

Classifications

Executive Order 12866

It has been determined that this proposed rule is not significant for purposes of Executive Order 12866.

Paperwork Reduction Act

This proposed rule contains no new collection of information subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

Executive Order 13132

This proposed rule does not contain policies with federalism implications as that term is defined in section 1(a) of Executive Order 13132, dated August 4, 1999 (64 FR 43255 (August 10, 1999)).

Regulatory Flexibility Act

The Chief Counsel for Regulation has certified to the Chief Counsel for Advocacy of the Small Business Administration under the provisions of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that the proposed rule would not have a significant economic impact on a substantial number of small business entities. A summary of the need for, objectives of and legal basis for this rule is provided in the preamble, and is not repeated here.

The entities upon which this rulemaking could have an impact include foreign exporters and producers, some of whom are affiliated with U.S. companies, and U.S. importers. Enforcement & Compliance currently does not have information on the number of entities that would be considered small under the Small Business Administration's size standards for small businesses in the relevant industries. However, some of these entities may be considered small entities under the appropriate industry size standards. Although this proposed rule may indirectly impact small entities that are parties to individual antidumping duty proceedings, it will not have a significant economic impact on any entities.

The proposed action is merely a continuation of the Department's practice based on its interpretation of current Department regulations. If the proposed rule is implemented, no entities would be required to undertake additional compliance measures or expenditures. Rather, the regulations, both in their current form and in this proposed rulemaking, instruct the Department on what adjustments to make to export price or constructed export price and normal value under certain factual scenarios in the course of an antidumping duty proceeding. Because the proposed rule only impacts the way in which the Department makes certain calculations in antidumping duty proceedings, it does not directly impact any business entities. The proposed rule merely clarifies the regulations to better align with current Departmental practices. Therefore, the proposed rule would not have a significant economic impact on a substantial number of small business entities. For this reason, an Initial Regulatory Flexibility Analysis is not required and one has not been prepared.

List of Subjects in 19 CFR Part 351

Administrative practice and procedure, Antidumping, Business and industry, Cheese, Confidential business information, Countervailing duties, Freedom of information, Investigations, Reporting and recordkeeping requirements.

Dated: December 19, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

For the reasons stated, 19 CFR part 351 is proposed to be amended as follows:

PART 351—ANTIDUMPING AND COUNTERVAILING DUTIES

■ 1. The authority citation for 19 CFR part 351 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.;* and 19 U.S.C. 3538.

■ 2. In § 351.102, revise paragraph (b)(38) to read as follows:

§ 351.102 Definitions.

* * * * *

(b) * * *

(38) *Price adjustment.* ''Price adjustment'' means a change in the price charged for subject merchandise or the foreign like product, such as a discount or rebate, including, under certain circumstances, a change such as a discount or rebate that is made after the time of sale (*see* § 351.401(c)), that is reflected in the purchaser's net outlay.

* * * * *

■ 3. In § 351.401, revise paragraph (c) to read as follows:

§ 351.401 In general.

* * * * *

(c) *Use of price net of price adjustments.* In calculating export price, constructed export price, and normal value (where normal value is based on price), the Secretary normally will use a price that is net of price adjustments, as defined in § 351.102(b), that are reasonably attributable to the subject merchandise or the foreign like product (whichever is applicable). The Secretary generally will not consider a price adjustment that reduces or eliminates a dumping margin unless the party claiming such price adjustment demonstrates, to the satisfaction of the Secretary, through documentation that the terms and conditions of the adjustment were established and known to the customer at the time of sale.

* * * * *

[FR Doc. 2014–30664 Filed 12–30–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1271

[Docket No. FDA–2014–N–1484]

Revisions to Exceptions Applicable to Certain Human Cells, Tissues, and Cellular and Tissue-Based Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA or Agency) is issuing this proposed rule to amend certain regulations regarding donor eligibility, including the screening and testing of donors of particular human cells, tissues, and cellular and tissue-based products (HCT/Ps), and related labeling. FDA is proposing this action in response to our enhanced understanding in this area and in response to comments from stakeholders regarding the importance of embryos to individuals and couples seeking access to donated embryos.

DATES: Submit either electronic or written comments on the proposed rule by March 31, 2015.

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 Docket No. FDA–2014–N–1484 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 ''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: Melissa Segal, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of the Regulatory Action

FDA is issuing this proposed rule to amend certain regulations regarding donor eligibility, including the screening and testing of donors of particular HCT/Ps, and related labeling. We are proposing these changes in response to our enhanced understanding in this area and in response to comments from stakeholders regarding the importance of embryos to individuals and couples seeking access to donated embryos.

FDA is proposing this rulemaking under the authority of section 361 of the Public Health Service Act (PHS Act) (42 U.S.C. 264). Under section 361 of the PHS Act, FDA may issue and enforce regulations necessary to prevent the introduction, transmission, or spread of communicable disease between the States or from foreign countries into the States.

Summary of the Major Provisions of the Regulatory Action

FDA is proposing to amend existing regulations to provide additional flexibility to HCT/P establishments to make available for reproductive use embryos originally intended for reproductive use for a specific individual or couple when those embryos are subsequently intended for directed or anonymous donation. Specifically, this proposed rulemaking would redesignate the current Title 21 of the Code of Federal Regulations (CFR) 1271.90(b) (§ 1271.90(b)) to new § 1271.90(c), and would insert a new § 1271.90(b) entitled ''Exceptions for Reproductive Use'' to clarify that if an embryo was originally intended for reproductive use for a specific individual or couple, its use for directed or anonymous donation, would not be prohibited under § 1271.45(c), even when the applicable donor eligibility requirements under part 1271, subpart C, are not met. FDA also clarifies that we are not creating an exception for deficiencies that occurred in making the donor eligibility determination for either the oocyte donor or the semen donor as required under § 1271.45(b), or for deficiencies in performing donor screening or testing, as required under §§ 1271.75, 1271.80, and 1271.85.

The proposed rule also would require appropriate labeling for embryos that would describe the donor eligibility status of the individual donors whose gametes were used to form the embryo. The content of the labeling is not different from that required under current regulations. Consistent with current regulations, the intent of the proposed labeling is to help ensure that physicians have specific and accurate information to provide to recipients for use in making informed medical decisions.

Costs and Benefits

The proposed rule would ensure that any related costs and burdens are kept to a minimum.

I. Background

Under the authority of section 361 of the PHS Act, by delegation from the Surgeon General and the Secretary of Health and Human Services, FDA may make and enforce regulations necessary to prevent the introduction, transmission, or spread of communicable diseases. Communicable diseases include, but are not limited to, those transmitted by viruses, bacteria, fungi, parasites, and transmissible spongiform encephalopathy agents. Certain diseases are transmissible through implantation, transplantation, infusion, or transfer of HCT/Ps derived from donors infected with those diseases. To prevent the introduction, transmission, or spread of such communicable diseases, we consider it necessary to require establishments to take appropriate measures to prevent the use of cells or tissues from infected donors. FDA regulates HCT/Ps intended for implantation, transplantation, infusion, or transfer into a human recipient under part 1271 that was issued under the authority of section 361 of the PHS Act. Part 1271 requires HCT/P establishments to screen and test donors for relevant communicable disease agents and diseases, to prepare and follow written standard operating procedures for the prevention of the spread of communicable diseases, and to maintain records. Part 1271 also requires that for most HCT/Ps, the cell or tissue donor must be determined to be eligible, based on the results of screening and testing for relevant communicable disease agents and diseases. In most cases, a donor who tests reactive for a particular communicable disease, or who possesses clinical evidence of, or risk factors for, communicable disease agents and diseases, would be considered ineligible, and cells or tissues from that donor would not ordinarily be used.

FDA has published three final rules that make up part 1271. In the **Federal Register** of January 19, 2001 (66 FR 5447), FDA published regulations requiring HCT/P establishments to register and list their HCT/Ps with FDA (registration final rule). In the **Federal Register** of May 25, 2004 (69 FR 29786), we published regulations requiring most cell and tissue donors to be tested and screened for relevant communicable disease agents and diseases (donor eligibility final rule). In the **Federal Register** of November 24, 2004 (69 FR 68612), we published regulations requiring HCT/P establishments to follow current good tissue practice (CGTP), which governs the methods used in, and the facilities and controls used for, the manufacture of HCT/Ps, recordkeeping, and the establishment of a quality program (CGTP final rule). These regulations apply to HCT/Ps recovered on or after May 25, 2005.

As part of our ongoing effort to implement our framework for regulating HCT/Ps, in the **Federal Register** of May 25, 2005 (70 FR 29949), we issued an interim final rule entitled ''Human Cells, Tissues, and Cellular and Tissue-Based Products; Donor Screening and

Testing, and Related Labeling'' (2005 interim final rule), which had an effective date simultaneous with publication. This interim final rule was then adopted without change in the **Federal Register** of June 19, 2007, in the final rule entitled ''Human Cells, Tissues, and Cellular and Tissue-Based Products; Donor Screening and Testing, and Related Labeling'' (72 FR 33667) (2007 final rule). The 2007 final rule amended regulations regarding the screening and testing of donors of HCT/Ps, timing of specimen collection, record retention requirements, and related labeling requirements in response to public comments concerning the importance of cryopreserved embryos to individuals seeking access to donated embryos. The 2007 final rule also added an exception to the donor eligibility requirements in § 1271.90(a)(4) for cryopreserved embryos that, while originally exempt from the donor eligibility requirements because the donors were sexually intimate partners, are later intended for directed or anonymous donation.

In recent years, industry and the medical community have raised concerns that the current regulations restrict the use of embryos that were intended for personal reproductive use and therefore impose limitations on individuals and couples involved in family building. In response to these concerns, we are proposing this rulemaking to clarify and further develop the current exceptions to the donor eligibility requirements. If finalized, the proposed rule will provide HCT/P establishments with the flexibility to make available any embryos originally formed for reproductive use for a specific individual or couple and now intended for reproductive use, provided that specific criteria are met, including requirements for labeling.

II. Description of the Proposed Rule

The proposed rule is intended to allow the use of all embryos for reproductive use by expanding the current exceptions to the prohibition on use under § 1271.90. This proposal is in response to our enhanced understanding in this area and to increase the options for individuals and couples seeking access to these HCT/Ps.

A. Current Exceptions to Prohibition on Use

As set forth in the donor eligibility final rule, an HCT/P must not be implanted, transplanted, infused, or transferred until the donor has been determined to be eligible (§ 1271.45(c)) based on the results of donor screening (§ 1271.75) and testing (§§ 1271.80 and 1271.85) for relevant communicable disease agents and diseases. These donor eligibility requirements apply to all donors of HCT/Ps, including donors of reproductive cells or tissues. In the case of an embryo or of cells derived from an embryo, a donor eligibility determination is required for both the oocyte donor and the semen donor (§ 1271.45(b)).

Section 1271.90(a) contains exceptions from the requirement of determining donor eligibility for the following HCT/Ps: (1) Cells and tissues for autologous use; (2) reproductive cells or tissue donated by a sexually intimate partner of the recipient for reproductive use; (3) cryopreserved cells or tissues for reproductive use that are for autologous use or donated by a sexually intimate partner and are subsequently intended for directed donation; and (4) a cryopreserved embryo that is formed from gametes of sexually intimate partners and is subsequently intended for directed or anonymous donation.

The 2007 final rule added the § 1271.90(a)(4) exception to allow for directed or anonymous donation of cryopreserved embryos originally intended for use by a sexually intimate partner, without the need for a donor eligibility determination. This exception addresses the situation where sexually intimate partners who were not screened and tested at the time of cryopreservation of their embryos later wish to make a directed or anonymous donation of their cryopreserved embryos. As explained in the preamble to the 2005 interim final rule, we recognize that because the embryos were intended for use in a sexually intimate relationship, the donors would not have been required to be screened and tested for communicable disease agents and diseases at the time that the oocytes and semen were recovered. While the 2005 interim final rule recommended that appropriate measures be taken to screen and test the semen and oocyte donors before transfer of the embryo to a recipient, the rule also specifically stated that ''[I]f screening and testing of the semen and oocyte donors are not performed, this rule would not prohibit the transfer of the embryo into a recipient'' (70 FR 29949 at 29951).

The Agency provided additional guidance on this point in the guidance entitled, ''Guidance for Industry: Eligibility Determination for Donors of Human Cells, Tissues, and Cellular and Tissue-Based Products (HCT/Ps)'' dated August 2007. The guidance states that, as in other cases involving directed donations of reproductive tissue, the regulatory language in § 1271.90(a)(4) allows for the use of embryos from a directed, ineligible donor. In the guidance, FDA also clarified that we intend to apply this policy to a sexually intimate couple's cryopreserved embryos where one of the gametes is from a qualified (*i.e.,* eligible) third party gamete donor, and the other gamete is from the sexually intimate partner of the intended recipient. As specifically stated in the guidance in section VIII.A, ''. . . although FDA requires appropriate screening and testing when possible, if appropriate screening and testing are not possible (*e.g.,* because one of the donors is unavailable), you may still transfer the embryo into a recipient.'' In this proposed rulemaking, our intent is to expand this exception beyond the current exception in § 1271.90(a) for reproductive cells or tissue donated by a sexually intimate partner of the recipient for reproductive use. Under this proposed rule, an embryo, originally intended for reproductive use for a specific individual or couple, may be subsequently used for directed or anonymous donation even when the applicable donor eligibility requirements under part 1271, subpart C are not met. As stated in the new § 1271.90(b), nothing in this paragraph creates an exception for deficiencies that occurred in making the donor eligibility determination for either the oocyte donor or the semen donor as required under § 1271.45(b), or for deficiencies in performing donor screening or testing, as required under §§ 1271.75, 1271.80, and 1271.85.

B. Continued Obligations Under HCT/P Regulations

As discussed previously, this proposed rule would clarify and further develop the current exceptions to the prohibition on use and provide greater accommodation to individuals and couples wanting access to embryos intended for reproductive use, while continuing to emphasize the applicability of the donor eligibility screening and testing requirements for individual gamete donors. FDA reminds industry of its continued obligations under part 1271, subpart C to determine donor eligibility based on the results of donor screening (§ 1271.75) and testing (§§ 1271.80 and 1271.85). Establishments must also continue to comply with part 1271 requirements applicable to reproductive HCT/Ps to prevent the introduction, transmission, or spread of communicable disease.

C. Labeling Requirements

This proposed rule describes the continued applicability of labeling requirements for embryos intended for reproductive use that would be excepted from the prohibition on use. This proposed rule would require prominent labeling that describes the donor eligibility status of the individual donors whose gametes were used to form the embryo. The required labeling would provide information to the treating physician to permit discussion of the potential risks of communicable diseases with the recipient. We expect that a recipient would be fully informed of the risks involved in using an embryo for reproductive purposes as described under proposed § 1271.90(b) even when the donor eligibility requirements under part 1271, subpart C are not met.

Specifically, under proposed § 1271.90(c)(2) through (c)(6), an embryo originally intended for reproductive use for a specific individual or couple that is subsequently intended for directed or anonymous donation must be prominently labeled with the following statements as they are applicable:

- ''NOT EVALUATED FOR INFECTIOUS SUBSTANCES'';
- ''WARNING: Advise recipient of communicable disease risk'';
- the BIOHAZARD legend shown in § 1271.3(h);
- ''WARNING: Reactive test results for (name of disease agent or disease)'';
- ''Advise recipient that screening and testing of the donor(s) were not performed at the time of recovery or cryopreservation of the reproductive cells or tissue, but have been performed subsequently.''

The proposed labeling requirements are based on the expectation that a physician will be closely involved in the decision to use an embryo and the recognition that physicians are under legal and ethical obligations that require them to discuss the risks of communicable disease transmission stemming from the use of HCT/Ps. FDA relies on physicians to meet these obligations when discussing procedures involving HCT/Ps with recipients. FDA expects that HCT/P establishments will take appropriate measures to screen and test the semen and oocyte donor(s) before making available for reproductive use the embryo excepted under proposed § 1271.90(b). For this reason, proposed § 1271.90(b) also specifically states that ''[N]othing in this paragraph creates an exception for deficiencies that occurred in making the donor eligibility determination for either the oocyte donor or the semen donor as required under § 1271.45(b), or for deficiencies in performing donor screening or testing, as required under §§ 1271.75, 1271.80, and 1271.85.''

III. Proposed Revisions to FDA Regulations

We are proposing revisions to the following FDA regulations:

A. Proposed Amendments to § 1271.90

Section 1271.90 sets forth exceptions where HCT/P establishments are not required to make a donor eligibility determination under § 1271.50 or to perform donor screening or testing under §§ 1271.75, 1271.80, and 1271.85. We are proposing to add language to the exceptions listed in this section to provide clarity and update the regulation by allowing for an embryo originally intended for reproductive use for a specific individual or couple, to be subsequently used for directed or anonymous donation, even when the donor eligibility requirements under part 1271, subpart C are not met.

We are proposing to amend § 1271.90 as follows:

- Changing the heading of this section by deleting ''from the requirement of determining donor eligibility,'' and inserting ''other'' before ''exceptions.'' If this change is finalized, the heading for § 1271.90 would read ''Are there other exceptions and what labeling requirements apply?'' We made this change for clarity; the new heading would be more accurate.
- Changing § 1271.90(a)(3) by replacing ''exempt'' with ''excepted,'' which is the term used in the introductory title for this provision. Thus, this change would make the language more consistent. If this change is finalized, the beginning of § 1271.90(a)(3) would read, ''Cryopreserved cells or tissues for reproductive use, other than embryos, originally excepted. . . .''
- Changing current § 1271.90(a)(4) by replacing ''exempt'' with ''excepted,'' and by adding ''(a)(1) and'' before ''(a)(2)'' to clarify that as proposed, § 1271.90(a)(4) would refer to a cryopreserved embryo formed for autologous use and the reproductive cells or tissue were donated by a sexually intimate partner of the recipient for reproductive use. If this change is finalized, § 1271.90(a)(4) would read, ''A cryopreserved embryo, originally excepted under paragraphs (a)(1) and (a)(2). . . .''
- Redesignating current § 1271.90(b) as § 1271.90(c) and adding a new paragraph (b) to § 1271.90.
- Changing newly designated § 1271.90(c) by adding ''and (b)'' after ''(a)'' in the introductory text, revising § 1271.90(c)(2) to replace ''(b)(6)'' with ''(c)(6)'', and by adding ''recovery or'' before ''cryopreservation'' in new § 1271.90(c)(6) to clarify that some testing and screening activities may take place before recovery, not just before cryopreservation.

B. Proposed § 1271.90(b)

We are proposing to redesignate the current § 1271.90(b) to § 1271.90(c), and insert a new § 1271.90(b) entitled ''Exceptions for Reproductive Use.'' Under proposed § 1271.90(b), an embryo originally intended for reproductive use for a specific individual or couple that is subsequently intended for directed or anonymous donation is excepted from the prohibition on use under § 1271.45(c) even when the applicable donor eligibility requirements under part 1271, subpart C are not met. Accordingly, when an establishment fails to comply with applicable donor eligibility requirements under part 1271, subpart C, the establishment would not be prohibited from making available for reproductive use such embryos for reproductive purposes in accordance with this section. The proposed exception from the prohibition on use does not create an exception for deficiencies that occurred in making the donor eligibility determination for either the oocyte donor or the semen donor as required under § 1271.45(b), or for deficiencies in performing donor screening or testing, as required under §§ 1271.75, 1271.80, and 1271.85.

We note that the language we are proposing to add to the exceptions currently listed in § 1271.90 is additive. It creates an additional exception for the use of certain reproductive HCT/Ps that are not currently excepted, but it does not impact or restrict the exceptions currently provided for in the regulations.

C. Proposed § 1271.90(c)

Under proposed § 1271.90(c), HCT/P establishments must prominently label an HCT/P described in paragraphs (a) and (b) of this section as required in paragraph (c). The labeling requirements are intended to help ensure that physicians have specific and accurate information to provide to recipients for use in making informed medical decisions.

If finalized, the nonsubstantive change to § 1271.90(c)(2) would clarify that the labeling requirements contained in § 1271.90(c)(2) do not apply to reproductive cells or tissue labeled in accordance with § 1271.90(c)(6). The proposed change to § 1271.90(c)(6) would include ''recovery or'' before the word ''cryopreservation''. Thus, the

proposed § 1271.90(c)(6) provision requires HCT/P establishments to prominently label an HCT/P described in § 1271.90(a)(3) or (a)(4) with ''Advise recipient that screening and testing of the donor(s) were not performed at the time of recovery or cryopreservation of the reproductive cells or tissue, but have been performed subsequently'' for HCT/Ps described in § 1271.90(a)(3) or (a)(4). This proposed change is made to recognize that some testing and screening activities may take place even before recovery of HCT/Ps, not just before cryopreservation.

D. Proposed Amendments to § 1271.370

Section 1271.370 sets forth labeling requirements in addition to those that apply under §§ 1271.55, 1271.60, 1271.65, and 1271.90. Because, as discussed previously, this rule is proposing to redesignate the current labeling requirements under § 1271.90(b) to § 1271.90(c), we are proposing to amend § 1271.370(b)(4) to revise the reference from § 1271.90(b) to § 1271.90(c).

IV. Legal Authority

FDA is proposing this rulemaking under the authority of section 361 of the PHS Act. Under section 361 of the PHS Act, FDA may issue and enforce regulations necessary to prevent the introduction, transmission, or spread of communicable disease between the States or from foreign countries into the States. It is important to recognize that HCT/Ps recovered in one State may be sent to another for processing, and then shipped for use throughout the United States, or beyond. FDA has been involved in many recalls where HCT/Ps processed in a single establishment have been distributed in many States. In any event, intrastate transactions affecting interstate communicable disease transmission may also be regulated under section 361 of the PHS Act. (See *Louisiana* v. *Mathews,* 427 F. Supp. 174, 176 (E.D. La. 1977); *Independent Turtle Farmers of Louisiana, Inc.* v. *United States of America, et al.,* 2010 U.S. Dist. LEXIS 31117). This rulemaking proposes changes in response to our enhanced understanding of the uses of certain types of HCT/Ps in specific situations and in response to comments from stakeholders regarding the importance of embryos to individuals and couples seeking access to donated embryos.

V. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct Agencies to assess all 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, and other advantages; distributive impacts; and equity). This proposed rule is not a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the costs associated with this rule are expected to be minimal, we propose to certify that this rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $141 million, using the most current (2013) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this proposed rule to result in a 1-year expenditure that would meet or exceed this amount.

This rule proposes to amend certain regulations regarding donor eligibility and labeling related to the screening and testing of donors of particular HCT/Ps. The proposed rule would provide additional flexibility to HCT/P establishments to make available for reproductive use embryos originally intended for reproductive use for a specific individual or couple and subsequently intended for directed or anonymous donation. Specifically, the proposed rule would clarify that if an embryo was originally intended for reproductive use for a specific individual or couple, its use for directed or anonymous donation would not be prohibited under § 1271.45(c), even when the applicable donor eligibility requirements under part 1271, subpart C are not met. This proposed exception from prohibition for use would not create an exception for deficiencies that occurred in making the donor eligibility determination for either the oocyte donor or the semen donor as required under § 1271.45(b), or for deficiencies in performing donor screening or testing, as required under §§ 1271.75, 1271.80, and 1271.85. The proposed rule also requires appropriate labeling that describes the donor eligibility status of the individual donors whose gametes were used to form the embryo.

This rule will provide greater accommodation of individuals and couples wanting access to embryos originally intended for reproductive use, while continuing to emphasize the applicability of the donor eligibility screening and testing requirements for individual gamete donors. If finalized, the proposed rule will provide HCT/P establishments with the flexibility to make available embryos originally intended for reproductive use, provided that specific criteria are met. Consistent with current regulations, the proposed labeling requirements will help ensure that physicians have specific and accurate information to provide to recipients for use in making informed medical decisions. Because this proposed rule would impose no additional regulatory burdens, the costs associated with this rule are expected to be minimal. FDA requests comment on this conclusion.

VI. Environmental Impact

The Agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VII. Federalism

FDA has analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the proposed rule, if finalized, would not contain policies that 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. Accordingly, the Agency tentatively concludes that the proposed rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VIII. The Paperwork Reduction Act of 1995

The labeling requirements contained in this proposed rule are not subject to review by the Office of Management and Budget (OMB) because they do not constitute a ''collection of information''

under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520). Rather, the requirement to label HCT/Ps in accordance with the proposed rule is a ''public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public'' (5 CFR 1320.3(c)(2)). Therefore, FDA tentatively concludes that these proposed requirements in this document are not subject to review by OMB because they do not constitute a ''collection of information'' under the PRA.

IX. Comments

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

List of Subjects in 21 CFR Part 1271

Biologics, Drugs, Human cells and tissue-based products, Medical devices, Reporting and recordkeeping requirements.

Therefore, under the Public Health Service Act and under the authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 1271 be amended as follows:

PART 1271—HUMAN CELLS, TISSUES, AND CELLULAR AND TISSUE-BASED PRODUCTS

■ 1. The authority citation for 21 CFR part 1271 continues to read as follows:

Authority: 42 U.S.C. 216, 243, 263a, 264, 271.

■ 2. In § 1271.90:
■ a. Revise the heading;
■ b. Revise paragraphs (a)(3) and (a)(4) by removing ''exempt'' and by adding in its place ''excepted'';
■ c. Revise paragraph (a)(4) by removing ''paragraph'' and by adding in its place ''paragraphs ''; and by adding ''(a)(1) and'' before ''(a)(2)'';
■ d. Redesignate paragraph (b) as paragraph (c);
■ e. Add a new paragraph (b);
■ f. Revise newly designated paragraph (c) by removing ''paragraph'' and by adding in its place ''paragraphs'' and by adding ''and (b)'' after ''(a)'' in the introductory text;
■ g. Revise newly designated paragraph (c)(2) by removing ''(b)(6)'' and by adding in its place ''(c)(6)''; and
■ h. Revise newly designated paragraph (c)(6) by adding ''recovery or'' before ''cryopreservation''.

The revisions read as follows:

§ 1271.90 Are there other exceptions and what labeling requirements apply?

(a) * * *

(3) Cryopreserved cells or tissue for reproductive use, other than embryos, originally excepted under paragraphs (a)(1) or (a)(2) of this section at the time of donation, that are subsequently intended for directed donation, provided that

* * * * *

(4) A cryopreserved embryo, originally excepted under paragraphs (a)(1) and (a)(2) of this section at the time of cryopreservation, that is subsequently intended for directed or anonymous donation. When possible, appropriate measures should be taken to screen and test the semen and oocyte donors before transfer of the embryo to the recipient.

(b) *Exceptions for Reproductive Use.* An embryo originally intended for reproductive use for a specific individual or couple that is subsequently intended for directed or anonymous donation for reproductive use is excepted from the prohibition on use under § 1271.45(c) even when the applicable donor eligibility requirements under part 1271, subpart C are not met. Nothing in this paragraph creates an exception for deficiencies that occurred in making the donor eligibility determination for either the oocyte donor or the semen donor as required under § 1271.45(b), or for deficiencies in performing donor screening or testing, as required under §§ 1271.75, 1271.80, and 1271.85.

(c) *Required labeling.* As applicable, you must prominently label an HCT/P described in paragraphs (a) and (b) of this section as follows:

(1) * * *

(2) ''NOT EVALUATED FOR INFECTIOUS SUBSTANCES,'' unless you have performed all otherwise applicable screening and testing under §§ 1271.75, 1271.80, and 1271.85. This paragraph does not apply to reproductive cells or tissue labeled in accordance with paragraph (c)(6) of this section.

* * * * *

(6) ''Advise recipient that screening and testing of the donor(s) were not performed at the time of recovery or cryopreservation of the reproductive cells or tissue, but have been performed subsequently,'' for paragraphs (a)(3) or (a)(4) of this section.

* * * * *

■ 3. Amend § 1271.370(b)(4) by removing ''§ 1271.90(b)'' and by adding in its place ''§ 1271.90(c)''.

Dated: December 23, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–30528 Filed 12–30–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 100

[Docket No. MSHA–2014–0009]

RIN 1219–AB72

Criteria and Procedures for Assessment of Civil Penalties

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule; notice of public hearings; extension of comment period; close of record.

SUMMARY: The Mine Safety and Health Administration (MSHA) will hold two additional public hearings on the Agency's proposed rule for Criteria and Procedures for Assessment of Civil Penalties.

DATES: MSHA will hold public hearings on February 5, 2015, and February 12, 2015, at the locations listed in the **SUPPLEMENTARY INFORMATION** section of this document.

Post-hearing comments must be received or postmarked by midnight Eastern Standard Time on March 12, 2015.

ADDRESSES: Submit comments, informational materials, and requests to speak, identified by RIN 1219–AB72 or Docket No. MSHA–2014–0009, by one of the following methods:

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-Mail: zzMSHA-comments@dol.gov.* Include RIN 1219–AB72 or Docket No. MSHA–2014–0009 in the subject line of the message.
- *Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939.
- *Hand Delivery or Courier:* MSHA, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m., Monday through Friday,

except Federal holidays. Sign in at the receptionist's desk on the 21st floor.

• *Fax:* 202–693–9441.

Instructions: All submissions must include ''MSHA'' and ''RIN 1219–AB72'' or ''Docket No. MSHA–2014–0009.'' Do not include personal information that you do not want publicly disclosed; MSHA will post all comments without change to *http://www.regulations.gov* and *http://www.msha.gov/currentcomments.asp,* including any personal information provided. For additional instructions for participation in Public Hearings on this rulemaking, see the ''Public Hearings'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read comments received, go to *http://www.regulations.gov* or *http://www.msha.gov/currentcomments.asp.* To read background documents, go to *http://www.regulations.gov.* Review the docket in person at MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except Federal Holidays. Sign in at the receptionist's desk on the 21st floor.

Email notification: To subscribe to receive an email notification when MSHA publishes rules, program information, instructions, and policy, in the **Federal Register**, go to *http://www.msha.gov/subscriptions/subscribe.aspx.*

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at *mcconnell.sheila.a@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 2014, MSHA published a proposed rule (79 FR 44494) to amend its civil penalty regulation to simplify the criteria, which will promote consistency, objectivity, and efficiency in the proposed assessment of civil penalties and facilitate the resolution of enforcement issues. The proposal would place a greater emphasis on the more serious safety and health conditions and provide improved safety and health for miners. MSHA is also proposing alternatives that would address the scope and applicability of its civil penalty regulation.

In response to requests from the public, MSHA held public hearings on December 4, 2014, in Arlington, Virginia, and on December 9, 2014, in Denver, Colorado. The post-hearing comment period was scheduled to close on January 9, 2015.

II. Public Hearings

In response to requests from the public, MSHA will hold two additional public hearings on the proposed rule to provide the public an opportunity to present their views on this rulemaking. MSHA is holding the hearings on the following dates at the locations indicated:

Date	Location	Contact No.
Thursday, February 5, 2015	Sheraton Birmingham Hotel, 2101 Richard Arrington Jr. Boulevard North, Birmingham, AL 35203.	205–324–5000
Thursday, February 12, 2015	Embassy Suites Chicago—Downtown, 600 N. State Street, Chicago, IL 60654	312–943–3800

The hearings will begin with an opening statement from MSHA, followed by oral presentations from members of the public. The public hearings will begin at 9:00 a.m. and end no later than 5:00 p.m., or earlier if the last person presenting testimony has spoken.

Persons and organizations wishing to speak are encouraged to notify MSHA in advance for scheduling purposes. Persons do not have to make a written request to speak; however, MSHA will give priority to persons who have notified us, in advance, of their intent to speak and will provide others an opportunity to present oral testimony if time allows. MSHA requests that parties making presentations at the hearings submit them no later than five days prior to the hearing. Testimony, presentations, and accompanying documentation will be included in the rulemaking record.

The hearings will be conducted in an informal manner. Formal rules of evidence and cross examination will not apply. The hearing panel may ask questions of speakers and speakers may ask questions of the hearing panel. Verbatim transcripts of the proceedings will be prepared and made a part of the rulemaking record. Copies of the transcripts will be available to the public on *http://www.regulations.gov* and on MSHA's Web site at *http://www.msha.gov/tscripts.htm.*

Commenters are requested to be specific in their comments and submit detailed rationale and supporting documentation for any comment or suggested alternative as MSHA cannot sufficiently evaluate general comments. All comments must be received or postmarked by March 12, 2015.

Dated: December 23, 2014.

Joseph A. Main,

Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 2014–30578 Filed 12–30–14; 8:45 am]

BILLING CODE 4510–43–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 50, 51, 52, 53, and 58

[EPA–HQ–OAR–2008–0699; FRL–9921–26–OAR]

RIN 2060–AP38

National Ambient Air Quality Standards for Ozone

AGENCY: Environmental Protection Agency.

ACTION: Announcement of public hearings.

SUMMARY: The Environmental Protection Agency (EPA) is announcing three public hearings for the proposed rule titled, ''National Ambient Air Quality Standards for Ozone,'' that was published in the **Federal Register** on December 17, 2014. The hearings will be held in Washington, DC, Arlington, Texas, and Sacramento, California.

Based on its review of the air quality criteria for ozone (O_3) and related photochemical oxidants and national ambient air quality standards (NAAQS) for O_3, the EPA proposes to make revisions to the primary and secondary NAAQS for O_3 to provide requisite

protection of public health and welfare, respectively. The EPA is proposing to revise the primary standard to a level within the range of 0.065 to 0.070 parts per million (ppm), and to revise the secondary standard to within the range of 0.065 to 0.070 ppm, which air quality analyses indicate would provide air quality, in terms of 3-year average W126 index values, at or below a range of 13–17 ppm-hours. The EPA proposes to make corresponding revisions in data handling conventions for O_3 and conforming changes to the Air Quality Index; to revise regulations for the Prevention of Significant Deterioration program to add a transition provision for certain applications; and to propose schedules and convey information related to implementing any revised standards. The EPA is proposing changes to the O_3 monitoring seasons, the Federal Reference Method (FRM) for monitoring O_3 in the ambient air, Federal Equivalent Method procedures for testing, and the Photochemical Assessment Monitoring Stations network.

Along with proposing exceptional event schedules related to implementing any revised O_3 standards, the EPA is proposing to apply this same schedule approach to other future revised NAAQS and to remove obsolete regulatory language for expired exceptional event deadlines. The EPA is proposing to make minor changes to the procedures and time periods for evaluating potential FRMs and equivalent methods (including making the requirements for nitrogen dioxide consistent with the requirements for O_3) and to remove an obsolete requirement for the annual submission of documentation by manufacturers of certain particulate matter monitors.

DATES: The public hearings will be held on January 29, 2015, in Washington, DC and Arlington, Texas, and on February 2, 2015, in Sacramento, California. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on the public hearings.

ADDRESSES: The hearings will be held at the following locations:

1. Washington: EPA, WJC East Building, Room 1153, 1201 Constitution Avenue NW., Washington, DC. Identification is required. If your driver's license is issued by Alaska, American Samoa, Arizona, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Montana, New York, Oklahoma, or the state of Washington, you must present an additional form of identification to enter (see **SUPPLEMENTARY INFORMATION** for additional information on this location).

2. Sacramento: California Air Resources Board, Byron-Sher Auditorium, 1001 ''I'' Street, Sacramento, CA 95814. Commenters will be required to sign in and show valid picture identification to security staff upon entering.

3. Arlington: Arlington City Hall, Arlington Municipal Building, 101 W. Abram Street, Arlington, Texas 76010.

Written comments on the proposed rule may also be submitted to the EPA electronically, by mail, by facsimile, or through hand delivery/courier. Please refer to the proposed rule for the addresses and detailed instructions.

A complete set of documents related to the proposed rule is available for public inspection at the EPA Docket Center, located at Docket ID No. EPA–HQ–OAR–2008–0699, EPA, WJC West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. Documents are also available through the electronic docket system at *www.regulations.gov.*

The EPA Web site for the rulemaking, which includes the proposal and information about the public hearings, can be found at *http://www.epa.gov/glo/actions.html.*

FOR FURTHER INFORMATION CONTACT: If you would like to speak at the public hearings or have questions concerning the public hearings, please contact Ms. Eloise Shepherd, Office of Air Quality Planning and Standards, Health and Environmental Impacts Division, Environmental Protection Agency, Research Triangle Park, NC 27711; telephone: (919) 541–5507; fax number: (919) 541–0804; email address: *shepherd.eloise@epa.gov.*

Questions concerning the proposed rule should be addressed to Ms. Susan Stone, Office of Air Quality Planning and Standards, Health and Environmental Impacts Division, Mail Code: C504–06, Research Triangle Park, NC 27711; telephone: (919) 541–1146; email address: *stone.susan@epa.gov.*

SUPPLEMENTARY INFORMATION: The proposed rule for which the EPA is holding the public hearings was published in the **Federal Register** on December 17, 2014 (79 FR 75234), and is available at *www.epa.gov/glo/actions.html.* The public hearings will provide interested parties the opportunity to present data, views, or arguments concerning the proposed rule. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearings. Written comments must be postmarked by the last day of the comment period, March 17, 2015, as specified in the proposed rule.

The three public hearings will be held in Washington, DC; Arlington, Texas; and Sacramento, California. The public hearings will begin each day at 9:00 a.m. (local time) and continue until 7:30 p.m. (local time). The EPA will make every effort to accommodate all speakers that arrive and register before 7:30 p.m. The EPA is scheduling lunch breaks from 12:30 p.m. until 2:00 p.m. Please note that the Washington, D.C. hearing is being held at a U.S. government facility. Individuals planning to attend the Washington, D.C. hearing should be prepared to show valid picture identification to the security staff in order to gain access to the building. The REAL ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. These requirements took effect July 21, 2014. If your driver's license is issued by Alaska, American Samoa, Arizona, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Montana, New York, Oklahoma, or the state of Washington, you must present an additional form of identification to enter the federal building in Washington, DC where the public hearing will be held. Acceptable alternative forms of identification include federal employee badges, passports, enhanced driver's licenses, and military identification cards. In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building and demonstrations will not be allowed on federal property for security reasons. Individuals planning to attend the public hearing in Sacramento, California will also be required to sign in and show valid picture identification to security staff in order to gain access to the building.

If you would like to present oral testimony at the hearings, please notify Ms. Eloise Shepherd, U.S. EPA, Office of Air Quality Planning and Standards, Mail Code: C504–02, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711; telephone: (919) 541–5507; fax: (919) 541–0804; email address: *shepherd.eloise@epa.gov*

(preferred method for registering). Ms. Shepherd will arrange a general time slot for you to speak. The EPA will make every effort to follow the schedule as closely as possible on the day of the hearings.

Oral testimony will be limited to 5 minutes for each commenter to address the proposed revisions. The EPA will not provide audiovisual equipment for presentations unless we receive special requests in advance. Commenters should notify Ms. Shepherd if they will need specific equipment. Commenters should notify Ms. Shepherd if they need specific translation services for non-English speaking commenters. The EPA encourages commenters to provide written versions of their oral testimonies either electronically on computer disk or CD–ROM or in paper copy.

The hearing schedules, including lists of speakers, will be posted at *www.epa.gov/glo/actions.html* prior to the hearings. Verbatim transcripts of the hearings and written statements will be included in the rulemaking docket.

How can I get copies of this document and other related information?

The EPA has established the official public docket for the proposed rule under Docket ID No. EPA–HQ–OAR–2008–0699. The EPA has also developed a Web site for the proposed rule at *www.epa.gov/glo/actions.html.* Please refer to the proposed rule (79 FR 75234, December 17, 2014) for detailed information on accessing information related to the proposed rule.

Dated: December 23, 2014.

Mary E Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2014–30688 Filed 12–30–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2013–0542; FRL–9921–09–Region 6]

Approval and Promulgation of Air Implementation Plans; Texas; Revisions to the New Source Review State Implementation Plan; Flexible Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Texas New Source Review (NSR) State Implementation Plan (SIP) submitted by the Texas Commission on Environmental Quality (TCEQ) on July 31, 2014. These revisions support this action to convert the approved conditional Flexible Permit Program (FPP) to a fully approved FPP. The EPA is proposing to find the TCEQ has satisfied all the elements of our July 14, 2014, final conditional approval, and as such, the FPP conditional approval is proposed for full approval with this action. Those commitments consisted of revising the rules to ensure they are properly structured. The EPA has determined that these SIP revisions comply with the Federal Clean Air Act (the Act or CAA) and are consistent with the EPA's regulations and policies. This action is being taken under section 110(k) of the Act.

DATES: Comments must be received on or before January 30, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2013–0542, by one of the following methods:

- *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email:* Ms. Stephanie Kordzi at *kordzi.stephanie@epa.gov.*
- *Mail or Delivery:* Ms. Stephanie Kordzi, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2013–0542. The EPA'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 (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or email, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that the 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 along with any disk or CD–ROM submitted. 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 and any form of encryption and should be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253.

FOR FURTHER INFORMATION CONTACT: Ms. Stephanie Kordzi (6PD–R), Air Permits Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue (6PD–R), Suite 1200, Dallas, TX 75202–2733. Telephone (214) 665–7520, email at *kordzi.stephanie@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

Table of Contents

I. Background

On July 14, 2014, the EPA took final rulemaking action conditionally approving revisions to the Texas NSR SIP to establish the Texas Minor NSR Flexible Permits Program, submitted by the (TCEQ). The EPA's proposed conditional approval was published in 79 FR 8368, February 12, 2014. The

conditional approval was predicated on a commitment from TCEQ in a letter dated December 9, 2013, to adopt certain minor clarifications to the Flexible Permit Program by November 30, 2014. (97 FR 40666, July, 14, 2014). On September 12, 2014, Environmental Integrity Project, et al., filed a Petition for Review challenging the EPA conditional approval of the FPP with the Fifth Circuit Court of Appeals. The Appeal is on-going as of the date of publication of this notice.

II. What action is the EPA taking?

We are proposing to approve revisions to the Texas SIP submitted by the TCEQ on July 31, 2014. The FPP was conditionally approved by EPA on July 14, 2014. This action only addresses the minor changes the State has submitted to the conditionally approved FPP and converts the conditional to a full approval. The docket to this action contains the full FPP as revised and will replace the current conditional approved rules. The FPP is a minor NSR permit program which functions as an alternative to the traditional preconstruction permit program that is authorized in Title 30 of the Texas Administrative Code (30 TAC) Chapter 116, Subchapter G. The FPP is intended to eliminate the need for owners or operators of participating facilities to submit an amendment application each time certain types of operational or physical changes are made at a permitted facility. The revisions we are proposing to approve amend existing sections §§ 116.13, 116.710, 116.711, 116.715, 116.716, 116.717, 116.718, 116.721, and 116.765. In addition, the commission resubmitted §§ 116.720; 116.740(a); and 116.750, from the October 21, 2013, submittal. The EPA is proposing to find that the TCEQ has satisfied all elements of our July 14, 2014, final conditional approval of the FPP with the submittal of the July 31, 2014, SIP submittal; and as such the FPP is proposed for full approval.

III. What did Texas submit?

We are proposing to approve revisions to the Texas SIP submitted on July 31, 2014, specific to the Texas FPP. The revisions were adopted on July 2, 2014, and include certain changes to the rules for FPP in the 30 TAC Chapter 116, Subchapter G. The rulemaking contains rules that are now properly structured within and according to the rulemaking requirements of the Texas Administrative Procedure Act and the Texas Administrative Code. The TCEQ committed to making these rule revisions in its commitment letter of December 9, 2013. This action was necessary because some of the rules were repealed and readopted in 1998, and from the 1999 to 2003 timeframe. The rulemaking would also repeal text of the rules adopted in 2010 which were not part of the submission by the Commission on September 24, 2013, with the exception of some selected citations agreed upon by both EPA and TCEQ. These rule changes ensure that all regulatory citations in the package are labeled and referenced correctly and placed in proper sequence. The TCEQ committed to providing a SIP submittal by November 30, 2014, that would reformat, reorganize and renumber the FPP into a cohesive rule to ensure the rules are properly structured within and according to the rulemaking requirements of the Texas Administrative Procedure Act and the Texas Administrative Code. With the submittal of this rule package, the EPA has determined that the commitment was met. The commitment letter is available in the docket for this rulemaking. All the necessary provisions of the FPP were included in the submission and the conditions address formatting and style requirements as specified by state law.

A copy of the July 31, 2014, SIP submittal as well as our Technical Support Document (TSD) can be obtained from the Docket, as discussed in the ''Docket'' section above. A discussion of the specific Texas rule changes that we are approving is included in the TSD and summarized below.

The existing SIP-approved version of Subchapter G was adopted by the TCEQ on September 24, 2013, and conditionally approved by the EPA on July 14, 2014 (see 79 FR 40666). The revisions adopted by the TCEQ on July 2, 2014, amend the rules to fulfill the commitment necessary so that the EPA can grant full approval of the Commission's SIP revision for the FPP. The amendments cover revisions to 30 TAC Sections 116.13, 116.710, 116.711(1), (2)(A), (B) and (C)(i) and (ii), (D)–(J), and (L)–(N); 116.715(a)–(e) and (f)(1) and (2)(B); 116.716; 116.717; 116.718; 116.721; and 116.765 as revisions to the SIP. In addition, the commission is submitting amended 116.720, 116.740(a), and 116.750 as adopted on December 14, 2010. All of these rule amendments are submitted to fulfill the condition for EPA SIP-approval of the Commission's SIP revision for the FPP adopted by the Commission on September 24, 2013, and minor NSR FPP.

IV. What is the EPA's evaluation of this SIP revision?

The Act at Section 110(a)(2)(C) requires states to develop and submit to the EPA for approval into the state SIP, preconstruction review programs applicable to new and modified stationary sources of air pollutants for attainment and nonattainment areas that cover both major and minor new sources and modifications, collectively referred to as the New Source Review (NSR) SIP. The CAA NSR SIP program is composed of three separate programs: Prevention of Significant Deterioration (PSD), Nonattainment New Source Review (NNSR), and Minor NSR. PSD is established in part C of title I of the CAA and applies in areas that meet the National Ambient Air Quality Standards (NAAQS), *i.e.,* ''attainment areas'', as well as areas where there is insufficient information to determine if the area meets the NAAQS, *i.e.,* ''unclassifiable areas.'' The NNSR SIP program is established in part D of title I of the CAA and applies in areas that are not in attainment of the NAAQS, *i.e.,* ''nonattainment areas.'' The Minor NSR SIP program addresses construction or modification activities that do not emit, or have the potential to emit, more than certain major source thresholds and thus do not qualify as ''major''.

The EPA regulations governing the criteria that states must satisfy for the EPA approval of the NSR programs as part of the SIP are contained in 40 CFR Sections 51.160–51.166. Regulations covering minor NSR programs are contained in 40 CFR Section 51.160–51.164. In addition, there are several provisions in 40 CFR part 51 that apply generally to all SIP revisions. The TCEQ has developed the FPP as a component of the Texas Minor NSR program; therefore, we evaluated the revisions to the approved Texas FPP as submitted in July 31, 2014, and the December 9, 2013, commitment letter against the federal requirements for minor NSR programs.

The EPA has preliminarily determined that the July 31, 2014, revisions to Chapter 116, Subchapter G, are approvable. The July 2, 2014, revisions to 30 TAC Sections 116.13, 116.710, 116.711(1), (2)(A), (B) and (C)(i) and (ii), (D)–(J), and (L)–(N); 116.715(a)–(e) and (f)(1) and (2)(B); 116.716; 116.717; 116.718; 116.721; and 116.765 were revised to ensure that the amended rules are properly structured and consistent with the actions taken by the Commission and the rulemaking requirements of the Texas Administrative Procedure Act. Please see section V of this notice for a

discussion of how the TCEQ has addressed the elements of the FPP conditional approval and the December 9, 2013, commitment letter. The EPA believes the commitment to restructure the rules without removing the content or its intent was followed. Therefore, the EPA is now publishing in the **Federal Register** a proposal that converts the conditional approval of the FPP to a full approval.

V. What is the EPA's evaluation of the TCEQ's response to the FPP conditional approval?

A. What is a conditional approval?

Under section 110(k)(4) of the Clean Air Act, the EPA may conditionally approve a plan based on a commitment from the State to adopt specific enforceable measures within one year from the date of approval. The conditional approval remains in effect until the EPA takes its final action—either a final approval or disapproval.

If the EPA determines that the revised rule is approvable, the EPA will propose approval of the rule through a notice and comment rulemaking. After responding to comments received, the EPA will publish a final approval of the rule and the conditional approval is no longer in effect. However, if the State fails to meet its commitment by the date specified within the one year period, then the EPA must proceed with a disapproval action. The EPA will propose disapproval of the rule through notice and comment rulemaking, and will finalize the disapproval after responding to all comments received. Note that the EPA will conditionally approve a certain rule only once. Subsequent submittals of the same rule that attempt to correct the same specifically identified problems will not be eligible for conditional approval.

B. What are the terms of the Texas FPP conditional approval?

The EPA conditionally approved the Texas FPP on July 14, 2014. Our conditional approval was based on a commitment letter submitted by the TCEQ on December 9, 2013. The December 9, 2013, commitment letter included a provision that the TCEQ agreed to address by November 30, 2014. Specifically, the TCEQ would propose and adopt rule amendments ensuring that the rules are properly structured within and according to the rulemaking requirements of the Texas Administrative Procedure Act and the Texas Administrative Code.

C. Were the terms of the FPP conditional approval met?

The TCEQ adopted the appropriate FPP citations of 30 TAC Section 116 and submitted the revised rules as a SIP revision within the specified time frame. The EPA analyzed each FPP element of the revised rules submitted in response to the December 9, 2013, commitment letter. All regulatory components discussed and agreed upon between the EPA and TCEQ were included in the SIP submittal package. Therefore, the EPA has determined that TCEQ met the commitment of the conditional approval.

VI. Proposed Action

For the reasons presented above and in our accompanying TSD, the EPA is proposing to approve the following revisions to the Texas FPP submitted on July 31, 2014, as a minor NSR permit program in accordance with the CAA Section 110. The revisions to the Texas SIP were submitted on July 31, 2014, and the amendments are identified below:

- Revisions to 30 TAC Section 116.13—Flexible Permit Definitions.
- Revisions to 30 TAC Section 116.710—Applicability.
- Revisions to 30 TAC Section 116.711(1), (2)(A), (B) and (C)(i) and (ii), (D)–(J), and (L)–(N)—Flexible Permit Application.
- Revisions to 30 TAC Section 116.715(a)–(e) and (f)(1) and (2)(B)—General and Special Conditions.
- Revisions to 30 TAC Section 116.716—Emission Caps and Individual Emission Limitations.
- Revisions to 30 TAC Section 116.717—Implementation Schedule for Additional Controls.
- Revisions to 30 TAC Section 116.718—Significant Emission Increase.
- Revisions to 30 TAC Section 116.720—Limitation of Physical and Operational Changes.
- Revisions to 30 TAC Section 116.721—Amendments and Alterations.
- Revisions to 30 TAC Section 116.740—Public Notice.
- Revisions to 30 TAC Section 116.750—Flexible Permit Fee.
- Revisions to 30 TAC Section 116.765—Compliance Schedule.

The EPA invites the public to make comments on our proposal to approve the July 31, 2014, Texas SIP revision and to convert our conditional approval of the Texas FPP to a full approval. We also are proposing to find that Texas has met its December 9, 2013, commitment to submit the SIP revision in a timely manner in advance of the November 30, 2014, deadline.

VII. Statutory and Executive Order Reviews

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

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

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial

direct costs on tribal governments or preempt tribal law.''

List of Subjects in 40 CFR Part 52

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

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

Dated: December 16, 2014.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2014–30717 Filed 12–30–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R07–OAR–2014–0900; FRL–9921–23–Region 7]

Approval and Promulgation of Implementation Plans; Attainment Redesignation for Missouri Portion of the St. Louis MO-IL Area; 1997 8-Hour Ozone Standard and Associated Maintenance Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the State of Missouri's request to redesignate the Missouri portion of the St. Louis MO-IL nonattainment area, the ''St. Louis area'' or ''area'' to attainment for the 1997 8-hour National Ambient Air Quality Standards (NAAQS or Standard) for ozone (O_3). The Missouri counties comprising the St. Louis area are Franklin, Jefferson, St. Charles, and St. Louis along with the City of St. Louis. In addition to the redesignation request, EPA is proposing to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the O_3 standard for the Missouri portion of the St. Louis area. In a separate action published in the **Federal Register** on June 12, 2012, EPA has taken final action to address the Illinois portion of the St. Louis area.

DATES: Comments must be received on or before January 30, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2014–0900, by one of the following methods:

1. *www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *Email: kemp.lachala@epa.gov.*
3. *Mail or Hand Delivery or Courier:* Ms. Lachala Kemp, Environmental Protection Agency, Air Planning and Development Branch, Air and Waste Management Division, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2014–0900. EPA'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 (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or email information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and should be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Ms. Lachala Kemp, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, KS 66219 at (913) 551–7214 or by email at *kemp.lachala@epa.gov.*

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

Table of Contents

I. What action is EPA proposing to take?

EPA is proposing to approve actions related to Missouri's request to redesignate the St. Louis area to attainment for the 1997 8-hour ozone standard. Missouri submitted the first request on November 3, 2011, and then supplemented and revised their request on April 29, 2014. In this notice, when EPA refers to Missouri's redesignation request, we are referring to both the 2011 and 2014 submissions together unless otherwise specified. Today's proposed actions are summarized as follows and described in greater detail throughout this notice of proposed rulemaking. EPA proposes to approve the redesignation request for the Missouri portion of the St. Louis area to attainment for the 1997 8-hour O_3 NAAQS, and also proposes to approve under section 175A of the Clean Air Act (CAA or Act), Missouri's 1997 8-hour O_3 NAAQS maintenance plan.

First, EPA proposes to determine that the Missouri portion of the St. Louis area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. In this action, EPA is proposing to approve a request to change the legal designation of Franklin, Jefferson, St. Charles, and St. Louis Counties along with the City of St. Louis from nonattainment to attainment for the 1997 8-hour O_3 NAAQS.

Second, EPA is proposing to approve Missouri's 1997 8-hour ozone (O_3) NAAQS maintenance plan for the Missouri portion of the St. Louis area as meeting the requirements of CAA section 175A (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to keep the St. Louis area in attainment of the 1997 8-hour O_3 NAAQS through 2025.

II. What is the background for EPA's proposed actions?

Ground-level ozone is generally not emitted directly by sources. Rather, directly-emitted oxides of nitrogen (NO_X) and volatile organic compounds (VOC) react in the presence of sunlight to form ground-level ozone, as a secondary pollutant, along with other secondary compounds. NO_X and VOC are referred to as precursors of ozone. Reduction of peak ground-level ozone concentrations is typically achieved through controlling of VOC and NO_X emissions.

On July 18, 1997, EPA promulgated a revised 8-hour ozone NAAQS of 0.08 parts per million (ppm) (62 FR 38856). Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS, based on the three most recent years of ambient air quality data at the conclusion of the designation process. On April 30, 2004, EPA published a final rule designating and classifying areas under the 8-hour ozone NAAQS. (69 FR 23857). These designations became effective on June 15, 2004. EPA designated as nonattainment any area that was violating the 8-hour ozone NAAQS based on the three most recent years of air quality data, 2001–2003.

The CAA contains two sets of provisions, subpart 1 and subpart 2, that address planning and control requirements for nonattainment areas. (Both are found in title I, part D, of the CAA; 42 U.S.C. 7501–7509a and 7511–7511f, respectively.) Subpart 1 contains general requirements for nonattainment areas for any pollutant, including ozone, governed by a NAAQS. Subpart 2 provides more specific requirements for ozone nonattainment areas.

Under EPA's implementation rule for the 1997 8-hour ozone standard, (69 FR 23951, April 30, 2004), an area was classified under subpart 2 based on its 8-hour ozone design value (*i.e.* the three-year average annual fourth-highest daily maximum 8-hour average ozone concentration), if it had a 1-hour design value at the time of designation at or above 0.121 ppm (the lowest 1-hour design value in Table 1 of subpart 2) (69 FR 23954). All other areas were covered under subpart 1, based upon their 8-hour design values (69 FR 23958). The St. Louis area was designated as a subpart 2, 8-hour ozone moderate nonattainment area by EPA on April 30, 2004 (69 FR 23857, 23898, and 23915), based on air quality monitoring data from 2001–2003 (69 FR 23860). 40 CFR 50.10 and 40 CFR part 50, appendix I provide that the 8-hour ozone standard is attained when the three-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm, when rounded. The data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than ninety percent, and no single year has less than seventy five percent data completeness. See 40 CFR part 50, appendix I, 2.3(d).

In this proposed redesignation, EPA takes into account a number of decisions and orders of the D.C. Circuit and Supreme Court of the United States regarding the status of EPA's Cross State Air Pollution Rule (CSAPR) that impact this proposed redesignation action. The effect of those court actions on this rulemaking are discussed in detail in Section IV of this notice.

III. What are the criteria for redesignation to attainment?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation provided the following criteria are met: (1) The Administrator determines that the area has attained the applicable NAAQS, (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k), (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions, (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A, and (5) the state containing such area has met all requirements applicable to the area under section 110 and part D of title I of the CAA.

IV. What is EPA's analysis of the state's request?

As stated above, in accordance with the CAA, EPA proposes in today's action: (1) To redesignate the Missouri portion of the St. Louis to attainment for the 1997 8-hour O_3 NAAQS; and (2) to approve the Missouri portion of the St. Louis area's 1997 8-hour O_3 maintenance plan. These actions are based upon EPA's determination that the Missouri portion of the St. Louis area continues to attain the 1997 8-hour O_3 NAAQS and that all other redesignation criteria have been met for the Missouri portion of the St. Louis area. The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the area in the following paragraphs of this section.

Criteria (1)—The St. Louis Area Has Attained the 1997 8-Hour O_3 NAAQS

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). EPA is proposing to determine that the St. Louis area is attaining the 1997 8-hour O_3 NAAQS.

For O_3, an area may be considered to be attaining the 1997 8-hour ozone if it meets the 1997 8-hour ozone NAAQS, as determined in accordance with 40 CFR 50.10 and appendix I of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain this NAAQS, the fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, appendix I, the standard is attained if the design value [1] is 0.084 ppm or below. The relevant data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA Air Quality System (AQS) database. The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

On June 9, 2011, EPA determined that the St. Louis area was attaining the 1997 8-hour O_3 NAAQS (76 FR 33647). In that action, EPA reviewed O_3 monitoring data from monitoring stations in the area for the 1997 8-hour O_3 NAAQS for 2008–2010. These data have been quality-assured and are recorded in AQS. On April 30, 2012, at 77 FR 25363, EPA also finalized a determination that the St. Louis area attained the 1997 8-hour O_3 NAAQS by the applicable attainment date of June 15, 2010. In addition, EPA has reviewed more recent data, which indicates that

[1] The design value is the highest three-year average of the fourth-highest daily maximum 8-hour average for all monitors within the area.

the St. Louis area is currently attaining the 1997 8-hour O_3 NAAQS. The most recent year available with complete, quality-assured and certified ambient air monitoring is 2013, during which the area recorded a three year average O_3 concentration of 0.082 ppm. As summarized in Table 1 below, the 3-year average of annual arithmetic mean concentrations (*i.e.,* design values) for the years 2010, 2011, and 2013 for the St. Louis area are below the 1997 8-hour O_3 NAAQS.

TABLE 1—DESIGN VALUE CONCENTRATIONS FOR THE MISSOURI PORTION OF THE ST. LOUIS AREA FOR THE 1997 8-HOUR O_3 NAAQS

State	County	Monitor	AQS site ID	Annual O_3 3-year design values (ppm)			
				2008–2010	2009–2011	2010–2012	2011–2013
Missouri ..	Jefferson	Arnold	29–099–0019	0.072	0.074	0.079	0.076
Missouri ..	St. Charles	Orchard Farm	29–183–1004	0.074	0.075	0.080	0.078
		West Alton	29–183–1002	0.077	0.079	0.086	0.082
Missouri ..	St. Louis	Maryland Heights	29–189–0014	0.071	0.075	0.082	0.080
		Pacific	29–189–0005	0.065	0.067	0.07	0.074
Missouri ..	St. Louis City	Blair Street	29–510–0085	0.069	0.071	0.079	0.077

As discussed above, the design value for an area is the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentration recorded at any monitor in the area for a 3-year period. Therefore, the 3-year design value for the period on which Missouri based its redesignation request (2008–2010) for the St. Louis area is 0.077 ppm, which meets the NAAQS as described above. Additional details can be found in EPA's final clean data determination for the St. Louis area (76 FR 33647, June 9, 2011). EPA has reviewed the most recent data available, which indicate that the St. Louis area is currently attaining the 1997 O_3 NAAQS beyond the submitted 3-year attainment period of 2008–2010.[2] The certified 3-year design value for 2011–2013 is 0.082 ppm.[3] As discussed in more detail below, MDNR has committed to continue monitoring in this area in accordance with 40 CFR part 58.

EPA proposes to determine that the data submitted by Missouri, as well as the data taken from AQS, and additional EPA analysis indicate that the St. Louis area is attaining the 1997 8-hour O_3 NAAQS.

Criteria (2)—The Missouri Portion of the St. Louis Area Has a Fully Approved SIP Under Section 110(k) and Criteria (5)—the Area Has Met All Applicable Requirements Under Section 110 and Part D

EPA has determined that Missouri has met all currently applicable SIP requirements for purposes of redesignation for the Missouri portion of the St. Louis area under section 110 of the CAA (general SIP requirements). Additionally, EPA has also determined that the Missouri SIP meets all SIP requirements currently applicable for purposes of redesignation under part D of title I of the CAA (requirements specific to moderate nonattainment areas), in accordance with CAA section 107(d)(3)(E)(v). In addition, EPA has determined that the Missouri SIP has been fully approved with respect to all requirements applicable for purposes of redesignation in accordance with CAA section 107(d)(3)(E)(ii).

In proposing these determinations, EPA ascertained which requirements are applicable to the Missouri portion of the St. Louis area and, if applicable, that they are fully approved under section 110(k) of the CAA. *See* sections IV. a and b below.

a. The Missouri Portion of the St. Louis Area Has Met All Applicable Requirements for Purposes of Redesignation Under Section 110 and Part D of the CAA

General SIP Requirements. Section 110(a)(2) of title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques; provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality; and programs to enforce the limitations. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: (1) Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; (2) provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; (3) implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)); (4) provisions for the implementation of part D requirements (Nonattainment New Source Review (NNSR) permit programs); (5) provisions for air pollution modeling; and (6) provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. The section 110(a)(2)(D) requirements are not linked with a particular nonattainment area's designation and classification in that state. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, EPA believes other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are not applicable requirements for purposes of redesignation. The Missouri portion of the area will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability of conformity (*i.e.,* for redesignations) and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and

[2] The 3 year design value for the 2010–2012 period for the St. Louis area recorded a violation at 0.086 ppm, but the area has since come into attainment.

[3] Under EPA's rounding convention described above, the standard is attained if the design value is 0.084 ppm or below.

final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001).

Part D Requirements. EPA has determined that Missouri has met all currently applicable SIP requirements for purposes of redesignation for the Missouri portion of the St. Louis area under part D of the CAA. Subpart 1 of part D, found in sections 171–179 of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas. Subpart 2 of part D, which includes section 182 of the CAA, establishes additional specific requirements depending on the area's nonattainment classification.

The St. Louis area was classified as a moderate nonattainment area under subpart 2, therefore the state must meet the applicable requirements of both subpart 1 and subpart 2 of part D. The applicable subpart 1 requirements are contained in sections 172(c)(1)–(9) and in section 176. The applicable subpart 2 requirements are contained in sections 182(a) and (b) (marginal and moderate nonattainment area requirements).

For purposes of evaluating this redesignation request, the applicable part D, subpart 1 SIP requirements for all nonattainment areas are contained in sections 172(c)(1)–(9) and in section 176. A thorough discussion of the requirements contained in section 172 can be found in the General Preamble for Implementation of title I (57 FR 13498, April 16, 1992).

Subpart 1 Section 172 Requirements: Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all reasonably available control measures(RACM) as expeditiously as practicable and to provide for the attainment of the national ambient air quality standards. EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in each area as components of the area's attainment demonstration. Under Section 172, states with nonattainment areas must submit plans providing for timely attainment and meeting a variety of other requirements. Section 182 of the CAA, found in subpart 2 of part D, establishes additional specific requirements depending on the areas ozone nonattainment classification. For purposes of evaluating this redesignation request, the applicable part D, subpart 2 SIP requirements for all moderate nonattainment areas are contained in section 182 (b)(1) through (5).

EPA's longstanding interpretation of the nonattainment planning requirements of section 172 is that once an area is attaining the NAAQS, those requirements are not ''applicable'' for purposes of CAA section 107(d)(3)(E)(ii) and therefore need not be approved into the SIP before EPA can redesignate the area. In the 1992 General Preamble for Implementation of Title I, EPA set forth its interpretation of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard. *See* 57 FR 13498, 13564 (April 16, 1992). EPA noted that the requirements for reasonable further progress and other measures designed to provide for attainment do not apply in evaluating redesignation requests because those nonattainment planning requirements ''have no meaning'' for an area that has already attained the standard. *Id.* This interpretation was also set forth in the Calcagni Memorandum (September 4, 1992).[4] EPA's understanding of section 172 also forms the basis of its Clean Data Policy, which was articulated with regard to ozone in 40 CFR 51.918, and suspends a state's obligation to submit most of the attainment planning requirements that would otherwise apply, including an attainment demonstration and planning SIPs to provide for reasonable further progress (RFP), RACM, and contingency measures under section 172(c)(9). Courts have upheld EPA's interpretation of section 172(c)(1)'s ''reasonably available'' control measures and control technology as meaning only those controls that advance attainment, which precludes the need to require additional measures where an area is already attaining. *NRDC* v. *EPA,* 571 F.3d 1245, 1252 (D.C. Cir. 2009); *Sierra Club* v. *EPA,* 294 F.3d 155, 162 (D.C. Cir. 2002); *Sierra Club* v. *EPA,* 314 F.3d 735, 744 (5th Cir. 2002).

[4] John Calcagni, Director Air Quality Management Division (MD–15), Office of Air Quality Planning and Standards. ''Procedures for Processing Requests to Redesignate Areas to Attainment'' Memorandum to EPA Director, Air, Pesticides, and Toxics Management Division, Regions I and IV, Director, Air and Waste Management Division, Region II, Director, Air, Radiation and Toxics Division, Region III, Director, Air and Radiation Division, Region V, Director, Air, Pesticides, and Toxics Division, Director, Air, and Toxics Division, Regions VII, VIII, IX, and X, September 4, 1992, (Calcagni Memorandum).

Therefore, because attainment has been determined in the St. Louis Area, no additional measures are needed to provide for attainment, and section 172(c)(1) requirements for an attainment demonstration and RACM are no longer considered to be applicable for purposes of redesignation as long as the Area continues to attain the standard until redesignation. The section 172(c)(2) requirement that nonattainment plans contain provisions promoting reasonable further progress toward attainment is also not relevant for purposes of redesignation because EPA has determined that the St. Louis Area has monitored attainment of the 1997 8-hour ozone NAAQS. In addition, because the Area has attained the NAAQS and is no longer subject to an RFP requirement, the requirement to submit the section 172(c)(9) contingency measures is not applicable for purposes of redesignation. Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the NAAQS. Because attainment has been reached, no additional measures are needed to provide for attainment.

Sections 172(c)(3) and 182(b)(1) require submission and approval of a comprehensive, accurate, and current inventory of actual emissions. Section 182(b) references section 182(a) of the CAA which requires, in part, that states submit a current inventory of actual emissions (CAA Section 182(a)(1)). Missouri submitted a 2002 base-year emissions inventory on June 16, 2006, and EPA approved the submission on May 31, 2007, as meeting the section 172(c)(3) and section 182(b)(1) emissions inventory requirement. *See* 72 FR 30272.

Section 172(c)(4) of the CAA requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and CAA section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA has determined that, since the PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a nonattainment NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting

Redesignation to Attainment.'' Nevertheless, Missouri currently has an approved NNSR program and Missouri's approved PSD program for the 1997 8-hour O_3 NAAQS will become effective in the Missouri portion of the St. Louis area upon redesignation to attainment.

Section 172(c)(7) of the CAA requires the SIP to meet the applicable provisions of CAA section 110(a)(2). As noted previously, we believe the Missouri SIP meets the requirements of CAA section 110(a)(2) that are applicable for purposes of redesignation.

Subpart 1 Section 176 Conformity Requirements. Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects developed, funded or approved under Title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other Federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability which EPA promulgated pursuant to its authority under the CAA. EPA approved the most recent revisions to the transportation conformity SIP for the Missouri portion of the St. Louis area on August 29, 2013 (78 FR 53247).

Thus, for purposes of redesignating the Missouri portion of the St. Louis area to attainment, EPA is proposing that Missouri has satisfied all applicable requirements for purposes of redesignation for the St. Louis area under CAA section 110 and part D of title I of the CAA.

Subpart 2 Section 182(a) and (b) Requirements Comprehensive Emissions Inventory. Section 182(a)(1) requires the submission of a comprehensive emission inventory. As mentioned above, EPA approved Missouri's 2002 inventory as meeting the section 182(a)(1) comprehensive emissions inventory requirement. *See* 72 FR 30272. Missouri also submitted a 2008 emissions inventory as the base year as part of the maintenance plan.

Emissions Statement. Section 182(a)(3)(B) requires states with areas designated nonattainment for the ozone NAAQS to submit a SIP revision to require emissions statements to be submitted to the state by sources within that nonattainment area. EPA approved Missouri's emission statement SIP on May 31, 2007 (72 FR 30272).

VOC RACT. Section 182(b)(2) requires states with moderate nonattainment areas to implement RACT under section 172(c)(1) with respect to each of the following: (1) All sources covered by a Control Technology Guideline (CTG) documented issued between November 15, 1990, and the date of attainment; (2) all sources covered by a CTG issued prior to November 15, 1990; and, (3) all other major non-CTG stationary sources. With respect to the first category, EPA issued CTGs for five source categories in September 2006, three source categories in September 2007, and five additional source categories in Sept 2008. Areas classified as moderate and above were required to submit VOC RACT for the source categories covered by these CTGs, by September 2007, September 2008, and September 2009, respectively. Missouri submitted a SIP revision on January 17, 2007, with a supplemental revision on June 1, 2007, and May 8, 2012. EPA approved the VOC RACT rules on January 23, 2012, (77 FR 3144) and January 6, 2014 (79 FR 580).

NO_X RACT. Section 182(f) establishes NO_X requirements for ozone nonattainment areas. However, it provides that these requirements do not apply to an area if the Administrator determines that NO_X reductions would not contribute to attainment of the NAAQS. On July 21, 2011, EPA approved a request from Missouri to exempt sources of NO_X in the Missouri portion of the St. Louis area from section 182(f) NO_X RACT requirements. *See* 76 FR 43598. Therefore, the state of Missouri need not have fully approved NO_X control measures under section 182(f) for the Missouri portion of the St. Louis area to be redesignated to attainment.

Stage II Vapor Recovery. Originally, the section 182(b)(3) Stage II requirements applied to all moderate ozone nonattainment areas. However, under section 202(a)(6) of the CAA, 42 U.S.C. 7521(a)(6), the requirements of section 182(b)(3) no longer apply in moderate ozone nonattainment areas after EPA promulgated the onboard refueling vapor recovery standards on April 6, 1994 (59 FR 16262), codified at 40 CFR parts 86 (including 86.098–8), 88 and 600. Under implementation rules issued in 2002 for the 1997 8-hour ozone NAAQS, EPA retained the Stage II-related requirements under section 182(b)(3) as they applied for the now-revoked 1-hour ozone NAAQS. *See* 40 CFR 51.900(f)(5)and 40 CFR 51.916(a). Therefore, as a moderate ozone nonattainment area for the 1997 standard, the Missouri portion of the St. Louis area is not subject to the Stage 2 vapor recovery program requirements.

Vehicle Inspection and Maintenance (I/M). Section 182(b)(4) of the CAA requires states with areas designated nonattainment for the ozone NAAQS to submit SIPs requiring inspection and maintenance of vehicles (I/M). EPA approved Missouri's 10 CSR 10–5.380 ''Motor Vehicle Emissions Inspection'' rule into the Missouri SIP on May 18, 2000 (65 FR 31480), and approved an additional revision on May 12, 2003 (68 FR 25414). Missouri replaced this rule with 10 CSR 10–5.381, ''On-board Diagnostics Motor Vehicle Emissions Inspection'', and has been implementing the program since 2007. EPA has included in the docket for this action the TSD for the proposed approval of 10 CSR 10–5.381, which is being addressed in a separate action. The TSD explains in detail the projected emissions based on the state-approved I/M program. As demonstrated in the TSD, emissions have continued to trend downward since the implementation of this program by the State. The TSD further explains EPA's basis for proposing approval of 10 CSR 10–5.381 into the SIP. If EPA receives comments on that proposal and they impact this redesignation request, EPA will address those comments in relation to this action as well.[5]

Thus, for purposes of redesignating the Missouri portion of the St. Louis area to attainment, EPA determines that Missouri has satisfied all applicable requirements for CAA section 110 and part D of title I of the CAA.

b. The Missouri Portion of the St. Louis Area has a Fully Approved Applicable SIP Under Section 110(k) of the CAA.

EPA has fully approved the state's SIP for the Missouri portion of the St. Louis area for the 1997 8-hour ozone nonattainment area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (see Calcagni Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–90 (6th Cir. 1998); *Wall* v. *EPA,* 265 F.3d 426(6th Cir. 2001, upholding this interpretation)) plus any additional measures it may approve in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein). Following passage of the CAA of 1970, Missouri has adopted and submitted, and EPA has fully approved at various times, provisions addressing the various SIP elements applicable for the 1997 8-hour ozone NAAQS in the

[5] EPA–R07–OAR–2014–0399.

St. Louis area (*e.g.,* (72 FR 25975, May 8, 2007) and (76 FR 40619, July 11, 2011)).

Criteria (3)—The Air Quality Improvement Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions (Section 107(d)(3)(E)(iii)).

For redesignating a nonattainment area to attainment, section 107(d)(3)(E)(iii) of the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable reductions. EPA proposes to find that Missouri has demonstrated that the observed air quality improvement in the St. Louis area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, Federal measures, and other state adopted measures discussed below.

In making this demonstration, MDNR has calculated the change in emissions from a nonattainment year inventory to an attainment year inventory. For the nonattainment inventory, Missouri developed a 2002 base year emissions inventory. For the attainment inventory, Missouri developed an inventory for 2008, one of the years the St. Louis area monitored attainment of the standard. See section b. below for discussion on development of these inventories. The reduction in emissions and the corresponding improvement in air quality over this time period can be attributed to a number of permanent and enforceable regulatory control measures that St. Louis and upwind areas have implemented in recent years.

a. Permanent and Enforceable Controls Implemented

The following is a discussion on the permanent and enforceable measures that have been implemented in the area. Reductions in VOC and NO_X emissions have occurred statewide and in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. Federal emission control measures include the following:

Tier 2 vehicle standards and low-sulfur gasoline. These emission control requirements result in lower VOC and NO_X emissions from new cars and light duty trucks, including sport utility vehicles. The Federal rules were phased in between 2004 and 2009. EPA has estimated that, after phasing in the new requirements, new vehicles emit less NO_X in the following percentages: Passenger cars (light duty vehicles)—seventy seven percent; light duty trucks, minivans, and sports utility vehicles—eighty six percent; and larger sports utility vehicles, vans, and heavier trucks—sixty-nine to ninety-five percent. VOC emission reductions are expected to range from 12 to 18 percent. EPA expects fleet wide average emissions to decline by similar percentages as new vehicles replace older vehicles. Some of these emission reductions occurred by the attainment years (2008–2010) and additional emission reductions will occur throughout the maintenance period.

Heavy-duty Diesel Engine Rule. On October 6, 2000, EPA promulgated a rule to reduce NO_X and VOC emissions from heavy-duty gasoline and diesel highway vehicles that began to take effect in 2004 (65 FR 59896). The program should achieve a ninety-five percent reduction in NO_X emission for new engines compared to existing engines.

Tier 4 Non-Road Diesel Engine Rule. Promulgated in 2004, this rule is being phased in between 2008 and 2014. This rule will require stricter emission standards for nonroad diesel engines. When fully implemented, these rules will reduce NO_X emissions by up to ninety percent. Some of these emission reductions occurred by the attainment years (2008–2010) and additional emission reductions will occur throughout the maintenance period.

Nonroad Large spark-ignition engines and recreational engines standards. The nonroad spark-ignition and recreational engine standards, effective in July 2003, regulate NO_X, and hydrocarbons from groups of previously unregulated nonroad engines. These engine standards apply to large spark-ignition engines (*e.g.,* forklifts and airport ground service equipment), recreational vehicles (*e.g.,* off-highway motorcycles and all-terrain-vehicles), and recreational marine diesel engines sold in the United States and imported after the effective date of these standards.

When all of the nonroad spark-ignition and recreational engine standards are fully implemented, an overall seventy-two percent reduction in hydrocarbons and eighty percent reduction in NO_X, emissions are expected by 2020. These controls will help reduce ambient concentrations of ozone.

Furthermore, because ozone concentrations in the St. Louis area are likely impacted by the transport of nitrogen oxides, or transport of ozone produced downwind from nitrogen oxides, the area's air quality is likely affected by regulation of NO_X emissions from power plants in other states. EPA promulgated the NO_X SIP Call, Clean Air Interstate Rule (CAIR) and CSAPR to address NO_X emissions from large electric generating units (EGUs) and certain non-EGUs across the eastern United States.

NO_X SIP Call. On October 27, 1998 (63 FR 57356), EPA issued the NO_X SIP Call pursuant to the CAA to require 22 states and the District of Columbia to reduce NO_X emissions. Affected states were required to comply with Phase I of the SIP Call beginning in 2004, and Phase II beginning in 2007. As part of the NO_X SIP Call, the eastern third of Missouri was required to comply with Phase II of the program. In response, Missouri developed rules governing the control of NO_X emissions from EGUs, major non-EGU industrial boilers, major cement kilns, and large internal combustion engines. EPA approved Missouri's Phase II NO_X SIP Call rules on August 15, 2006 (71 FR 46860). Implementation of the Phase II rules was projected to result in an eighty-two percent NO_X reduction from 1995 levels. Missouri rules which address the NO_X SIP call include:

- *10 CSR 10–6.350, Emissions limitations and Emissions Trading of Oxides of Nitrogen*
- 10 CSR 10–6.360, *Controlling NO_X Emissions From Electric Generating Units and Non-Electric Generating Boilers*
- 10 CSR 10–6.380, *Control of NO_X Emissions From Portland Cement Kilns*
- 10 CSR 10–6.390, *Control of NO_X Emissions From Large Stationary Internal Combustion Engines*

Clean Air Interstate Rule (CAIR) and the *Cross State Air Pollution Rule (CSAPR).* The Clean Air Interstate Rule (CAIR) was promulgated in 2005 and required twenty eight eastern states and the District of Columbia to significantly reduce emissions of SO_2 and NO_X from electric generating units (EGUs) in order to limit the interstate transport of these pollutants and the ozone and fine particulate matter these pollutants form in the atmosphere. 70 FR 25162 (May 12, 2005). In 2008, the D.C. Circuit initially vacated CAIR and ordered EPA to replace CAIR in its entirety, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur in order to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008). On August 8, 2011, acting on the

Court's remand, EPA promulgated CSAPR in order to replace CAIR and address interstate transport of emissions and the resulting secondary formation of ozone and fine particulate matter (76 FR 48208).[6] CSAPR requires substantial reductions of SO_2 and NO_X emissions from EGUs in twenty eight states in the eastern United States. Implementation of the rule was scheduled to begin on January 1, 2012, when CSAPR's cap-and-trade programs would have superseded the CAIR cap-and-trade programs. However, numerous parties filed petitions for review of CSAPR, and on December 30, 2011, the D.C. Circuit issued an order staying implementation of CSAPR pending resolution of the petitions for review and directing EPA to continue to administer CAIR. *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302 (D.C. Cir. Dec. 30, 2011), ECF No. 1350421 at 2.

On August 21, 2012, the D.C. Circuit issued a decision addressing a subset of the issues raised by the petitioners which vacated and remanded CSAPR to the Agency and once again ordered continued implementation of CAIR. *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012). The D.C. Circuit subsequently denied EPA's petition for rehearing en banc. *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302 (D.C. Cir. Jan. 24, 2013), ECF No. 1417012. EPA and other parties then petitioned the Supreme Court for a writ of certiorari, and the Supreme Court granted the petitions on June 24, 2013. *EPA* v. *EME Homer City Generation, L.P.,* 133 S. Ct. 2857 (2013).

On April 29, 2014, the Supreme Court reversed the D.C. Circuit's decision regarding CSAPR and remanded the case back to the D.C. Circuit for further proceedings consistent with its opinion. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). In light of the Supreme Court decision, EPA filed a motion asking the D.C. Circuit to lift the stay and toll all deadlines in CSAPR by three years, and on October 23, 2014, the D.C. Circuit granted EPA's motion. *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302 (D.C. Cir. Oct. 23, 2014), ECF No. 1518738 at 3.

As noted above, CAIR was promulgated in 2005 and incentivized early reductions from sources in all covered states, including those upwind of the St. Louis area. On December, 14, 2007, EPA approved Missouri's CAIR rules into the SIP and the state's CAIR rules became effective in 2009.(72 FR 71073) With regard to the EGUs located in the Missouri portion of the St. Louis nonattainment area, the requirements in CAIR were no more stringent than the requirements under the NO_X SIP Call other than the fact that the annual NO_X emissions had to be controlled in addition to ozone season NO_X emissions. The Missouri rule written to comply with the NO_X SIP Call requirements for EGUs was replaced with the CAIR NO_X regulations, 10 CSR 10–6.362, *Clean Air Interstate Rule Annual NO_X Trading program* and 10 CSR 10–6.364, *Clean Air Interstate Rule Seasonal NO_X Trading program,* and include limits for non-EGU boilers, specifically Trigen Units 5 and 6 and Anheuser Busch Unit 6. However, these three units have all been retired, and received retired unit exemptions that prohibit these units from operating.

Missouri's redesignation request lists CAIR as a control measure. CAIR was thus in place and getting emission reductions in Missouri and in states upwind of Missouri when the St. Louis area began monitoring attainment of the 1997 8-hour ozone NAAQS, and the quality-assured, certified monitoring data used to demonstrate the area's attainment of the 1997 8-hour ozone NAAQS is therefore impacted by CAIR. Furthermore, because ozone concentrations in the St. Louis area are likely impacted by the transport of nitrogen oxides, or transport of ozone produced downwind from nitrogen oxides, the area's air quality is likely affected by regulation of NO_X emissions from power plants in other states.

Table 2 presents statewide NO_X EGU emissions data for the years 2002 and 2008 for the several states that were found to significantly contribute to ambient ozone concentrations in the St. Louis area. Emissions for 2008 reflect implementation of CAIR. Table 2 shows that states contributing to the St. Louis area reduced NO_X emissions from EGUs by thirty nine percent between 2002 and 2008.

TABLE 2—COMPARISON OF 2002, 2008, AND 2013 STATEWIDE EGU NO_X EMISSIONS TONS PER YEAR (TPY) FOR STATES IMPACTING THE ST. LOUIS AREA[7]

State	EGU CAMD ozone season NO_X				
	2002 (tons)	2008 (tons)	Net change 2002–2008 (tons)	2013 (tons)	Net change 2008–2013 (tons)
AR	25,662	21,743	−3,920	22,614	871
IL	100,374	57,565	−42,808	29,158	−28,407
IN	158,379	94,253	−64,126	59,232	−35,021
KY	107,953	69,007	−38,946	47,014	−21,994
MI	78,343	57,124	−21,219	38,241	−18,883
MO	77,389	48,627	−28,762	42,629	−5,997
MS	30,583	27,445	−3,139	14,586	−12,859
OH	215,907	102,730	−113,176	49,160	−53,571
TN	95,012	38,902	−56,110	14,243	−24,659
Total	889,602	517,396	−372,206	316,877	−200,520

On November 21, 2014, the Administrator signed an action that published in the **Federal Register** on December 3, 2014, (79 FR 71163) amending the regulatory text of CSAPR to reflect the Court's October 23, 2014, order tolling all deadlines in CSAPR by three years, including provisions governing the sunsetting of CAIR. CAIR will therefore sunset at the end of 2014 and be replaced by CSAPR beginning January 1, 2015. Relative to CAIR, CSAPR requires similar or greater emission reductions from relevant upwind areas starting in 2015 and

[6] CAIR addressed the 1997 p.m.2.5 annual standard and the 1997 8-hour ozone standard. CSAPR addresses contributions from upwind states to downwind nonattainment and maintenance of the 2006 24-hour $PM_{2.5}$ standard as well as the ozone and $PM_{2.5}$ NAAQS addressed by CAIR.

[7] EPA CAMD quarterly data: *ftp://ftp.epa.gov/dmdnload/emissions/daily/quarterly/.*

beyond. *See* Tables 6 through 8 for area emissions inventory projections that incorporate expected EGU emissions reductions from CSAPR within Missouri, and Table 9 for EGU emissions projections in states upwind of the St. Louis area. The emission reductions associated with CAIR that helped the St. Louis area achieve attainment of the 1997 8-hour ozone NAAQS can therefore be considered permanent and enforceable for purposes of redesignation under section 107(d)(3)(E)(iii) of the CAA.

State and Local Measures. Missouri has several other state regulations that provide permanent and enforceable controls for NO_X and VOC emissions in the St. Louis area. These SIP approved rules include:

- *10 CSR 10–5.070 ''Open Burning Restrictions''*
- *10 CSR 10–6.070 ''New Source Performance Regulations''*
- *10 CSR 10–6.075 ''Maximum Achievable Control Technology Regulations''*
- *10 CSR 10–6.080 ''Emissions Standards for Hazardous Air Pollutants''*
- *10 CSR 10–5.330 ''Control of Emissions from Industrial Surface Coating Operations''*
- *10 CSR 10–5.340 ''Control of Emissions from Rotogravure and Flexographic Printing''*
- *10 CSR 10–5.442 ''Control of Emissions from Lithographic Printing Operations''*
- *10 CSR 10–5.455 ''Control of Emissions from Solvent Cleanup Operations''*

Reformulated Gasoline (RFG). In July of 1998, Missouri requested that EPA extend the requirement for sale of RFG to St. Louis, Franklin, Jefferson, and St. Charles counties and the City of St. Louis in an effort to address the St. Louis ozone nonattainment area. On March 3, 1999 (64 FR 10366), EPA granted this request with compliance required by June 1, 1999.

Vehicle Inspection and Maintenance Program. To meet nonattainment area requirements for the one-hour ozone standard, Missouri implemented an inspection and maintenance program beginning in 2000 in the counties of St. Louis, St. Charles, and Jefferson and the City of St. Louis. Missouri codified the program through state rule 10 CSR 10–5.380, ''Motor Vehicle Emissions Inspection,'' and EPA approved an additional revision to this rule on May 12, 2003 (68 FR 25414). The program was established to address ozone formation and reduce NO_X and VOC emissions in the area. The mobile source emissions inventory projections used in this demonstration incorporate a new inspection and maintenance program rule, 10 CSR 10–5.381, which replaces the 10–5.380 rule. The State has implemented 10 CSR 10–5.381 since 2007. EPA has included in the docket for this action the TSD for the proposed approval of 10 CSR 10–5.381, which is being proposed for approval in a separate action.[8] The TSD explains in detail the projected emissions based on the state-approved I/M program. As demonstrated in the TSD, emissions have continued to trend downward since the implementation of this program by the State. The TSD further explains EPA's basis for proposing approve of 10 CSR 10–5.381 into the SIP. If EPA receives comments on that proposal and they impact this redesignation request, EPA will address those comments in relation to this action as well.

b. Emission Reductions

Missouri is using the 2002 comprehensive emissions inventory submitted to EPA's National Emissions Inventory (NEI) to meet the requirement of section 172(c)(3) of the CAA as the nonattainment base year inventory. MDNR's inventory contains NO_X and VOC emissions for point, area, nonroad and onroad sources and was EPA approved May 31, 2007, (*http://www.gpo.gov/fdsys/pkg/FR-2007-05-31/html/E7-10231.htm*).

The St. Louis area attained the 1997 8-hour O_3 NAAQS based on monitoring data for the 3-year period from 2008–2010. MDNR has selected 2008 as the attainment emission inventory year. The attainment inventory identifies a level of NO_X and VOC emissions in the area that is sufficient to attain the 1997 8-hour O_3 NAAQS. Missouri prepared a comprehensive 2008 emissions inventory to use as the attainment year inventory. Point source ozone season day emissions were calculated on the Emissions Inventory Questionnaire of actual emissions or EIQ form 2.0Z, Ozone Season Information. Area ozone season day emissions were calculated from Emissions Modeling Clearinghouse (EMCH) temporal allocation profiles that are Source Classification Codes (SCC)-specific. Ozone season day emissions are typical of a Tuesday in July. Nonroad emissions were generated using EPA's NONROAD model and onroad attainment year inventories originated from EPA's mobile model, Mobile6.2. For more information on EPA's analysis of the 2002 and 2008 emissions inventory, see EPA's TSD dated October 28, 2014, or appendix A, B, and E of the state submittal, available on line at *www.regulations.gov,* Docket ID No. EPA–OAR–R07–2014–0900.

Using the inventories described above Missouri has documented changes in emissions from 2002 to 2008 for the St. Louis area as shown in tables below. Table 5 demonstrates that the entire St. Louis area has reduced emissions during the period except as described below.

TABLE 3—2002 VOC AND NO_X EMISSIONS FOR THE MISSOURI PORTION OF THE ST. LOUIS NONATTAINMENT AREA TONS PER DAY

[tpd]

Source category	VOC	NO_X
Point Sources	32.7	127.2
Area Sources	71.3	19.4
On-Road Mobile Sources	68.1	159.0
Non-Road Mobile Sources	47.0	60.7
Totals	219.1	366.3

[8] EPA–R07–OAR–2014–0399.

TABLE 4—2008 VOC AND NO_X EMISSIONS FOR THE MISSOURI PORTION OF THE ST. LOUIS NONATTAINMENT AREA

[tpd]

Source category	VOC	NO_X
Point Sources	18.0	88.8
Area Sources	99.5	6.5
On-Road Mobile Sources	57.9	96.2
Non-Road Mobile Sources	45.2	53.6
Totals	220.5	245.2

TABLE 5—COMPARISON OF 2002 AND 2008 VOC AND NO_X EMISSIONS FOR THE MISSOURI SIDE OF THE ST. LOUIS NONATTAINMENT AREA

[tpd]

Source category	VOC	NO_X
Point Sources	−14.7	−38.4
Area Sources	+28.2	−12.9
On-Road Mobile Sources	−10.2	−68.2
Non-Road Mobile Sources	−1.8	−7.1
Totals	+1.4	−121.1

* **Note**: A negative value indicates a projected decrease in emissions from 2008 to 2025. A positive value indicates a projected increase in emissions from 2008 to 2025.

As indicated in the table 5, NO_X emissions decreased by 121 tpd which is a thirty three percent reduction. Total VOC emissions remained relatively stable with a slight increase of less than one percent or 1.4 tpd. MDNR determined that the VOC increase is due to a change in the reporting of small, non-Title-V-permitted sources from the point category in 2002 to the nonpoint category in 2008, as well as numerous changes in the area source estimation methodologies and emission factors. The substantial reduction in NO_X emissions between 2002 and 2008, along with other regional controls have resulted in the improved monitored ground-level ozone concentrations in the St. Louis nonattainment area attributable to the 1997 ozone NAAQS compliance.

Based on the information summarized above, and information provided in EPA's technical support document, which is a part of this docket, Missouri has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

Criteria (4)—The Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA (Section 107(d)(3)(E)(iv))

In conjunction with its request to redesignate the St. Louis area to attainment for the 1997 8-hour O_3 NAAQS, MDNR submitted a SIP revision on November 1, 2011, supplemented on April 29, 2014, and further clarified on September 17, 2014, to provide for the maintenance of the 1997 8-hour O_3 NAAQS for at least ten years after the effective date of redesignation to attainment. EPA believes this maintenance plan meets the requirements for approval under section 175A of the CAA.

a. Maintenance Plan Requirements

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, MDNR must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the ten years following the initial ten-year period, if applicable. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, as EPA deems necessary, to assure prompt correction of any future 1997 8-hour O_3 NAAQS violations. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: (1) The attainment emissions inventory, (2) a maintenance demonstration, (3) a commitment to maintain the existing monitoring network, (4) verification of continued attainment, and (5) a contingency plan to plan or prevent or correct future violations. As discussed below, EPA is proposing that MDNR's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Missouri SIP.

b. Maintenance Plan Base Year Inventory

As discussed previously, the 2008 inventory used for the year of attainment is called the Attainment Year Inventory. It is also referred to as the Maintenance Plan Base Year Inventory and becomes the inventory future years will be compared to in order to show maintenance. However, MDNR created a different 2008 onroad inventory for the comparison to future years in the maintenance plan. As explained previously, for the 2008 onroad attainment inventory, MDNR used NEI data which was developed using Mobile6.2 to compare with the 2002 nonattainment base year. A second 2008 onroad inventory was developed utilizing MOVES to establish a maintenance base year for comparison to the future 2017 and 2025 MOVES based future year inventories. This allows for a smooth transition to the updated model and to prevent comparing a MOVES version of 2008 attainment year with the MOBILE6 version of the 2002 nonattainment base year inventory. Therefore, the 2008 onroad mobile source inventory used for supporting maintenance was developed using the most current version of EPA's highway mobile source emissions model MOVES2010a.

Emissions projections to support maintenance through 2025 have been prepared for the years 2017 and 2025, which is at the ten-year interval required in section 175(A) of the CAA.

EPA has reviewed the documentation provided by MDNR and found the emissions inventory to be acceptable. For more information on EPA's analysis of the 2008 emissions inventory, see EPA's TSD dated October 28, 2014, or appendix B and E of the state submittal, available on line at *www.regulations.gov,* Docket ID No. EPA–OAR–R07–2014–0900.

c. Maintenance Demonstration

Section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the Area ''for at least 10 years after the redesignation.'' EPA has interpreted this as a showing of maintenance ''for a period of ten years following redesignation.'' Calcagni Memorandum, p. 9. Where the emissions inventory method of showing maintenance is used, the purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. Calcagni Memorandum, pp. 9–10.

As discussed in detail in the subsection below, Missouri's maintenance plan submission demonstrates that the area's emissions inventories will remain below the attainment year inventories through 2025. For a demonstration of maintenance, emissions inventories are required to be projected to future dates to assess the influence of future growth and controls; however, the maintenance demonstration need not be based on air quality modeling. *See Wall* v. *EPA,* 265 F.3d 426 *(6th Cir.2001); Sierra Club* v. *EPA,* 375 F. 3d 537 [*(7th Cir.2004)*]. *See also* 66 FR 53099–53100; 68 FR 25430–25432. MDNR uses projection inventories to show that the area will remain in attainment. MDNR developed projection inventories for an interim year of 2017 and a maintenance plan end year of 2025 to show that future emissions of NO_X and VOC will remain at or below the attainment year 2008 emissions levels in the St. Louis area through the year 2025. In light of more recent information on CSAPR, Missouri submitted on September 17, 2014, a revision that updated their future year projections for EGU facilities using the presumption that CSAPR will be in place to control emissions from sources. Non-EGU Point source and nonpoint sources were developed using growth factors created from the EGAS model (*http://www.epa.gov/ttnecas1/egas5.htm*) using economic growth projections from the Policy Insight® Model for Regional Economic Model, Inc. (REMI) to project the future year inventory. EPA's Nonroad Model and EPA's onroad mobile model, MOVES, were utilized to project mobile source future inventories.

EPA has reviewed the documentation provided by MDNR and found the methodologies acceptable. Tables 6 and 7 below show the inventories for the 2008 attainment year, 2017 interim year, and the 2025 maintenance plan end year for the Missouri portion of the area.

TABLE 6—ACTUAL AND PROJECTED ANNUAL NO_X EMISSIONS FOR THE MISSOURI PORTION OF THE ST. LOUIS AREA

[tpd]

Source category	2008	2017	2025
Point Sources	88.84	87.01	89.81
Area Sources	6.52	6.68	6.85
On-Road Mobile Sources	160.38	62.32	41.66
Off-Road Mobile Sources	60.85	35.53	29.44
Totals	316.59	191.54	167.76

TABLE 7—ACTUAL AND PROJECTED ANNUAL VOC EMISSIONS FOR THE MISSOURI PORTION OF THE ST. LOUIS AREA

[tpd]

Source category	2008	2017	2025
Point Sources	18.0	22.82	28.01
Area Sources	98.74	115.85	130.91
On-Road Mobile Sources	58.53	27.51	20.15
Off-Road Mobile Sources	46.44	28.88	28.17
Totals	221.71	195.06	207.24

TABLE 8—COMPARISON OF 2008 AND 2025 NO_X AND VOC EMISSIONS FOR THE MISSOURI PORTION OF THE ST. LOUIS AREA

[tpd]

Source category	NO_X	VOC
Point Sources	+0.97	+10.01
Area Sources	+0.33	+31.44
On-Road Mobile Sources	−119.59	−40.71
Off-Road Mobile Sources	−24.17	−16.99
Totals	−148.83	−14.47

* **Note**: A negative value indicates a projected decrease in emissions from 2008 to 2025.
A positive value indicates a projected increase in emissions from 2008 to 2025.

Table 8 above shows between 2008 and 2025, the area is projected to reduce NO_X emissions by 148.83 tpd, and VOC emissions by 14.47 tpd. Thus, the projected emissions inventories show that the area will continue to maintain the 1997 8-hour O_3 NAAQS during the 10 year maintenance period.

As discussed in detail above, the state's maintenance plan submission demonstrates that the area's emission inventories will remain below the attainment year inventories through at least 2025. In addition, for the reasons set forth below, EPA believes that the state's submission, in conjunction with additional supporting information, further demonstrates that the area will continue to maintain the 1997 8-hour O_3 NAAQS at least through 2025.

Maintenance of the 1997 8-hour O_3 standard in the area is a function of regional as well as local emissions trends. The regional impacts are dominated by the impacts of NO_X emissions. As discussed above, CAIR resulted in substantial NO_X emission reductions for the area, and beginning in 2015, CSAPR will replace CAIR. CSAPR establishes emissions budgets for the total emissions that may be emitted annually from EGUs in each covered state.[9] Table 9 below shows that for states significantly contributing to ozone concentrations that actual EGU emissions in 2013 under CAIR, as well as Phase I budgets and Phase II assurance levels under CSAPR, are well below the level of actual EGU emissions in those same states during the attainment year of 2008. EPA therefore believes that with CSAPR in place, regional emissions will not affect maintenance of the 1997 8-hour ozone standard for the St. Louis area.

TABLE 9—COMPARISON OF 2008 AND 2013 STATEWIDE EGU OZONE SEASON NO_X EMISSIONS WITH CSAPR 2015 PHASE I BUDGET AND 2017 PHASE II ASSURANCE LEVELS (TPY) FROM STATES THAT IMPACT THE ST. LOUIS AREA[10]

State	Attainment year 2008	2013	CSAPR 2015 Phase I budget	CSAPR 2017 Phase II assurance level
AR	21,743	22,614	15,110	18,283
IL	57,565	29,158	21,208	21,662
IN	94,253	59,232	46,876	55,872
KY	69,007	47,014	36,167	39,536
MI	57,124	38,241	28,041	32,536
MO	48,627	42,629	22,788	25,530
MS	27,445	14,586	12,429	15,039
OH	102,730	49,160	41,284	47,206
TN	38,902	14,243	14,908	9,699

EPA's proposed approval is based on a showing, in accordance with CAA section 175A, that Missouri's submittal demonstrates that the area can maintain through 2025.

d. Monitoring Network

There is an extensive monitoring network measuring O_3 in the St. Louis area. MDNR has committed to continue operation of the network in the area in compliance with 40 CFR part 58 and have thus addressed the requirement for monitoring. EPA approved Missouri's 2013 monitoring plan on November 22, 2013. *http://www.epa.gov/region7/air/quality/quality.htm.*

e. Verification of Continued Attainment

MDNR has the legal authority to enforce and implement the requirements of the Missouri portion of the St. Louis area 1997 8-hour O_3 maintenance plan. This includes the authority to adopt, implement and enforce any subsequent emissions control contingency measures determined to be necessary to correct future O_3 attainment problems.

MDNR will track the progress of the maintenance plan by performing future reviews of triennial emission inventories for the St. Louis area as required in the Air Emissions Reporting Rule (AERR). For these periodic inventories, MDNR will review the assumptions made for the purpose of the maintenance demonstration concerning projected growth of activity levels.

f. Contingency Measures in the Maintenance Plan

Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

The contingency plan included in the submittal includes a triggering mechanism to determine when contingency measures are needed and a process of developing and implementing appropriate control measures. MDNR will use actual ambient monitoring data as the triggering event to determine when contingency measures should be implemented.

Missouri has identified two different levels of corrective responses should the 8-hour O_3 level exceed the NAAQS in any year. A level I trigger occurs when the fourth highest 8-hour ozone concentration exceeds 84 ppb in any year at any monitoring station in the nonattainment area as described in the state's submittal for the St. Louis area.

MDNR will evaluate a level I condition, if it occurs, as expeditiously as practicable to determine the causes of

[9] CSAPR's assurance provisions and associated penalties will take effect January 1, 2017. *See* EPA interim final rule published December 3, 2014 79 FR 71663. EPA does not expect states' emissions under CSAPR's Phase 1 budgets, which will apply in 2015 and 2016, to exceed what would have been their Phase 1 assurance levels under CSAPR's originally planned implementation schedule, because in the aggregate, state emissions are already meeting the Phase 1 budgets. *See* EPA Motion to Lift the Stay Entered on December 30, 2011, *EME Homer City Generation, L.P.* v. *EPA,* Case No. 11–1302 (filed June 26, 2014), ECF No. 1499505, Attachment at 9–15. *See also* 77 FR 10324, 10330–32 (February 21, 2012) (discussing EPA's rationale for revising effective date of assurance provisions).

[10] *http://www.epa.gov/airtransport/CSAPR/pdfs/OzoneSeasonNOx.xls.*

the ambient O_3 increase. If adverse emission trends are likely to continue, MDNR will first evaluate and subsequently adopt and implement control measures, taking into consideration the ease of implementation and the technical and economic feasibility of selected measures, as outlined in the state's plan no later than twenty four months after quality-assured ambient data has been entered into EPA's AQS database indicating a level I trigger.

A level II trigger is activated when any violation of the 8-hour O_3 NAAQS at any Federal reference method monitor in the St. Louis maintenance area is recorded, based on quality-assured monitoring data. In this event, MDNR will conduct a comprehensive study to determine the cause of the violation within six months of the triggering event. Selected measures will be implemented as expeditiously as practicable, taking into consideration the ease of implementation and the technical and economic feasibility of selected measures, as outlined in the state's plan no later than twenty four months after quality-assured ambient data has been entered into EPA's AQS database indicating a level II trigger.

The comprehensive measures will be selected from the following types of measures, as further detailed in the state's submission, or from any other measure deemed appropriate and effective at the time the selection is made by MDNR:

- Controls for local individual sources with significant effects on the monitored violation;
- Revisions to current rules that control NO_X and VOC emissions such as lowering limits and applicability thresholds of current rules; and
- Establishing new rules that control NO_X and VOC emissions.

In addition to the triggers indicated above, Missouri commits to compiling and monitoring O_3 inventories for the Missouri portion of the area every three years throughout the duration of the maintenance period to facilitate the emissions trends analysis included in the contingency plan under levels I and II.

EPA has concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: Attainment emission inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. Therefore, EPA proposes to find that the maintenance plan SIP revision submitted by MDNR for the Missouri portion of the St. Louis area meets the requirements of section 175A of the CAA and is approvable.

g. Motor Vehicle Emissions Budgets for Transportation Conformity Purposes

Generally, maintenance plans establish motor vehicle emissions budgets for the last year of the maintenance plan, at a minimum (40 CFR 93.118(b)(2)(i)). However, Missouri did not include motor vehicle emissions budgets for the last year of this maintenance plan because EPA revoked the 1997 ozone NAAQS for transportation conformity purposes on May 21, 2012 and, therefore, the area is not required to demonstrate conformity for the 1997 ozone NAAQS. (77 FR 30167) EPA notes that Missouri has submitted motor vehicle emissions budgets for the 2008 ozone NAAQS. Those budgets will become applicable when either EPA completes the adequacy process that was started on October 4, 2013, or approves these budgets, whichever occurs earlier.

In addition, the state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. As explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

V. Summary of Proposed Actions

EPA is proposing several actions regarding the area's redesignation and maintenance of the 1997 8-hour O_3 NAAQS. We are processing this as a proposed action because we are soliciting comments. First, EPA is proposing to determine, based on complete, quality-assured and certified monitoring data for the 2008–2010 monitoring period, and after review of all available data in AQS, that the St. Louis area is currently attaining the 1997 8-hour O_3 NAAQS. EPA is also proposing to determine that the St. Louis area has met the criteria under CAA section 107(d)(3)(E) for redesignation from nonattainment to attainment for the 1997 8-hour O_3 NAAQS, as discussed in more detail above in section IV. Therefore, EPA is proposing to approve Missouri's request to redesignate the St. Louis Area and change the legal designation of Franklin, Jefferson, St. Charles, and St. Louis Counties along with the City of St. Louis from nonattainment to attainment for the 1997 8-hour ozone NAAQS.

Second, EPA is proposing to approve the maintenance plan for the St. Louis area. The maintenance plan demonstrates that the area will continue to maintain the 1997 8-hour O_3 NAAQS.

If finalized, approval of the redesignation request would change the official designation of the Missouri portion of the St. Louis area for the 1997 8-hour O_3 NAAQS, found at 40 CFR part 81, from nonattainment to attainment.

VI. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). This action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rulemaking 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 rulemaking would approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rulemaking also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). Thus Executive Order 13132 does not apply to this action. This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rulemaking also is not subject to

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) because it approves a state rule implementing a Federal standard.

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 2, 2015. Filing a petition for reconsideration by the Administrator of this proposed rule does not affect the finality of this rulemaking for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such future rule or action.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen Oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control.

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

Dated: December 19, 2014.

Karl Brooks,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the Environmental Protection Agency proposes to amend 40 CFR parts 52 and 81 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart AA—Missouri

■ 2. Section 52.1342 is amended by adding paragraph (c) to read as follows:

§ 52.1342 Control strategy: Ozone.

* * * * *

(c) On November 3, 2011, and April 29, 2014, Missouri submitted requests to redesignate the Missouri portion of the St. Louis MO–IL area to attainment of the 1997 8-hour ozone standard. The Missouri portion of the St. Louis MO–IL area includes Jefferson, Franklin, St. Charles, and St. Louis Counties along with the City of St. Louis. As part of the redesignation request, the State submitted a plan for maintaining the 1997 8-hour ozone standard through 2025 in the area as required by Section 175A of the Clean Air Act.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 3. The authority citation for part 81 continues to read as follows:

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

Subpart C—Section 107 Attainment Status Designations

■ 4. Section 81.326 is amended by revising the entry for St. Louis MO–IL in the table entitled ''Missouri—1997 8-Hour Ozone NAAQS (Primary and Secondary)'' to read as follows:

§ 81.326 Missouri.

* * * * *

MISSOURI—1997 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
* * * * * * *				
St. Louis, MO–IL:				
Franklin County		Attainment.		
Jefferson County		Attainment.		
St. Charles County		Attainment.		
St. Louis City		Attainment.		
St. Louis County		Attainment.		
* * * * * * *				

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is June 15, 2004, unless otherwise noted.

* * * * *

[FR Doc. 2014–30573 Filed 12–30–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2013–0290 and EPA–HQ–OAR–2013–0291; FRL–9921–25–OAR]

RIN 2060–AP69

NESHAP for Brick and Structural Clay Products Manufacturing; and NESHAP for Clay Ceramics Manufacturing

AGENCY: Environmental Protection Agency.

ACTION: Supplemental notice of proposed rulemaking; extension of public comment period and change to public hearing date.

SUMMARY: On December 18, 2014, the Environmental Protection Agency (EPA) proposed national emission standards for hazardous air pollutants (NESHAP) for brick and structural clay products manufacturing and NESHAP for clay ceramics manufacturing. The EPA is extending the deadline for written comments on the proposed rule by 30 days to March 19, 2015. In addition, the EPA is changing the date of the public hearing, if requested, to January 27, 2015, and the date to pre-register for the hearing if it is held.

DATES: *Comments.* The public comment period for the proposed rule published in the **Federal Register** on December 18, 2014 (79 FR 75622) is being extended for 30 days to March 19, 2015.

Public Hearing. If anyone contacts the EPA requesting a public hearing by January 15, 2015, the EPA will hold a public hearing on January 27, 2015, from 1:00 p.m. [Eastern Standard Time] to 5:00 p.m. [Eastern Standard Time] at the U.S. Environmental Protection Agency building located at 109 T.W. Alexander Drive, Research Triangle Park, NC 27711. If the EPA holds a public hearing, the EPA will keep the record of the hearing open for 30 days after completion of the hearing to provide an opportunity for submission of rebuttal and supplementary information.

ADDRESSES: *Comments.* Written comments on the proposed rule may be submitted to the EPA electronically, by mail, by facsimile or through hand delivery/courier. Please refer to the proposal for the addresses and detailed instructions.

Docket. The EPA has established dockets for this rulemaking under Docket ID No. EPA–HQ–OAR–2013–0291 for Brick and Structural Clay Products Manufacturing and Docket ID No. EPA–HQ–OAR–2013–0290 for Clay Ceramics Manufacturing. All documents in the dockets are listed in the 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, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in regulations.gov or in hard copy at the EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744 and the telephone number for the EPA Docket Center is (202) 566–1742.

Public Hearing. If requested by January 15, 2015, the EPA will hold a public hearing on January 27, 2015, from 1:00 p.m. [Eastern Standard Time] to 5:00 p.m. [Eastern Standard Time] at the U.S. Environmental Protection Agency building located at 109 T.W. Alexander Drive, Research Triangle Park, NC 27711. Please contact Ms. Pamela Garrett of the Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–7966; email address: *garrett.pamela@epa.gov* to request a hearing, register to speak at the hearing or to inquire as to whether or not a hearing will be held. The last day to pre-register in advance to speak at the hearing will be January 23, 2015. Additionally, requests to speak will be taken the day of the hearing at the hearing registration desk, although preferences on speaking times may not be able to be fulfilled. Please refer to the proposal for the more detailed information on the public hearing.

FOR FURTHER INFORMATION CONTACT: For questions about the proposed rule for Brick and Structural Clay Products Manufacturing and Clay Ceramics Manufacturing, contact Ms. Sharon Nizich, Minerals and Manufacturing Group, Sector Policies and Program Division (D243–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; Telephone number: (919) 541–2825; Fax number: (919) 541–5450; Email address: *nizich.sharon@epa.gov.*

SUPPLEMENTARY INFORMATION:

After considering a request to extend the public comment period, the EPA has decided to extend the public comment period for an additional 30 days. Therefore, the public comment period will end on March 19, 2015, rather than February 17, 2015. This extension will help ensure that the public has sufficient time to review the proposed rule and the supporting technical documents and data available in the docket.

Dated: December 23, 2014.

Mary E. Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2014–30715 Filed 12–30–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 79

[CG Docket No. 05–231; FCC 14–206]

Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing, Inc. Petition for Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission issues a Second Further Notice of Proposed Rulemaking seeking additional comment on several issues related to matters raised in the Commission's *Closed Captioning Quality Order.* These issues include whether the Commission should require video programmers to file contact information and certifications of captioning compliance with the Commission and whether other means would make programmer contact information and certifications more widely available.

DATES: Comments are due January 20, 2015 and reply comments are due January 30, 2015.

ADDRESSES: You may submit comments, identified by CG Docket No. 05–231, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS), through the Commission's Web site *http://fjallfoss.fcc.gov/ecfs2/.* Filers should follow the instructions provided on the Web site for submitting comments. For ECFS filers, in completing the

transmittal screen, filers should include their full name, U.S. Postal service mailing address, and CG Docket No. 05–231.

• *Paper filers:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

• Commercial Mail sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington, DC 20554.

In addition, parties must serve one copy of each pleading with the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, or via email to *fcc@bcpiweb.com.* For detailed instructions for submitting comments and additional information on the rulemaking process, *see* the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Eliot Greenwald, Consumer and Governmental Affairs Bureau, Disability Rights Office, (202) 418–2235, email: *Eliot.Greenwald@fcc.gov;* or Caitlin Vogus, Consumer and Governmental Affairs Bureau, Disability Rights Office, (202) 418–1264, email: *Caitlin.Vogus@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Further Notice of Proposed Rulemaking, document FCC 14–206, adopted December 12, 2014, released December 15, 2014. The full text of document FCC 14–206, and any subsequently filed documents in this matter will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. It also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone: (800) 378–3160, fax: (202) 488–5563, or Internet: *www.bcpiweb.com.* Document FCC 14–206 can also be downloaded in Word or Portable Document Format (PDF) at *http://www.fcc.gov/encyclopedia/disability-rights-office-headlines.* 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).

Initial Paperwork Reduction Act of 1995 Analysis

Document FCC 14–206 seeks comment on potential revised information collection requirements. If the Commission adopts any revised information collection requirements, the Commission will publish another notice in the **Federal Register** inviting the public to comment on the requirements, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks comment on how the Commission might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Synopsis

1. In FCC 14–206, the Commission seeks additional comment on several issues related to matter raised in the Commission's February 24, 2014 Further Notice of Proposed Rulemaking on closed captioning. *Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing, Inc., Petition for Rulemaking,* CG Docket No. 05–231, Further Notice of Proposed Rulemaking (*Further Notice*); published at 79 FR 17093, March 27, 2014. The Commission invites comment on requiring video programmers to file contact information and certifications of captioning compliance with the Commission. The Commission also invites comment on whether any other means would make programmer contact information and certifications more widely available to consumers, video programming distributors (VPDs), and other interested parties. Further, the Commission seeks comment on whether these potential rule modifications alter previous Commission positions and whether there are justifications for the Commission changing course at this time.

2. The Commission invites comment on whether to require video programmers to file contact information with the Commission for inclusion in the registry of VPD contact information (VPD Registry) or a separate database, if the Commission were to decide to extend to video programmers some of the responsibilities for compliance with its closed captioning rules and for the resolution of captioning complaints. The Commission also invites comment on whether such filings should utilize a web form, *i.e.,* an interactive form on the Commission's Web site designed to receive and transfer information to a publicly available Commission database. What are the costs and benefits of requiring video programmers to file contact information with the Commission? Should the Commission require video programmers to provide the same contact information as is currently required of VPDs by its existing rules? Do video programmers generally have a designated person available to handle immediate closed captioning concerns, and if not, what benefits and burdens would result from a requirement that programmers designate such a person? Is there additional information beyond that required of VPDs that the Commission should require video programmers to file? Should video programmers also be required to place the contact information on their Web sites, if they have a Web site, or to provide the information in some other way for added access by the public?

3. The Commission also seeks comment on whether it should alter its requirements regarding certifications by video programmers as to their compliance with rules on the provision and quality of closed captioning, if the Commission decides to extend some responsibilities for compliance with its closed captioning rules to video programmers. 47 CFR 79.1(j)(1) requires VPDs to exercise best efforts to obtain a certification from each video programmer from which the VPD obtains programming stating (i) that the video programmer's programming satisfies the required caption quality standards; (ii) that in the ordinary course of business, the video programmer adopts and follows the Best Practices in captioning its programming; or (iii) that the video programmer is exempt from the closed captioning rules, under one or more properly obtained and specified exemptions. The Commission seeks comment on whether it should amend 47 CFR 79.1(j)(1) to

require video programmers to file their certifications on captioning quality with the Commission, or whether the Commission should require them to make such certifications widely available through other means. Should the Commission additionally modify the Video Programmer Best Practices' certification procedures set forth in 47 CFR 79.1(k)(1)(iv) to make filing certifications with the Commission part of the video programmers' best practices? Why should the Commission change its position and require video programmer certifications to be filed with the Commission rather than making such certifications widely available through other means? What are the benefits and costs of requiring the certifications mandated by 47 CFR 79.1(j)(1) and 47 CFR 79.1(k)(1)(iv) to be filed with the Commission? What would be the expected volume of such video programmer certifications on captioning quality? Would requiring video programmers to file these certifications with the Commission assist VPDs, consumers and the Commission in locating the certifications, in addition to providing video programmers with a convenient means of making their certifications widely available?

4. The Commission further seeks comment on whether it should otherwise amend its rules regarding certifications for the provision of closed captioning. Currently, 47 CFR 79.1(g)(6) allows VPDs to rely upon certifications from ''programming suppliers'' to demonstrate compliance with the Commission's rules for the provision of closed captioning. According to 47 CFR 79.1(g)(6), ''programming supplier'' includes ''programming producers, programming owners, networks, syndicators and *other distributors*'' (emphasis added). If the Commission retains 47 CFR 79.1(g)(6) in some form, either as a separate rule or incorporated into another rule, should the Commission amend the rule to replace the term ''programming supplier'' with the term ''video programmer''? The Commission notes that unlike the term ''programming supplier,'' the term ''video programmer'' does not include VPDs. Rather, the term ''video programmer'' is defined as ''any entity that provides video programming that is intended for distribution to residential households including, but not limited to, broadcast or nonbroadcast television networks and the owners of such programming.'' Is this rule amendment necessary to help differentiate the responsibilities of regulated entities, if the Commission were to decide to impose some obligations directly on video programmers? The term ''programming supplier'' also is used in 47 CFR 79.1(e)(6). Should the use of the term in 47 CFR 79.1(e)(6) be replaced to be consistent with any changes to 47 CFR 79.1(g)(6) or its successor rule? Are there other subsections contained within 47 CFR 79.1 in which the term ''programming supplier'' should be replaced with ''video programmer''?

5. Further, although 47 CFR 79.1(g)(6) allows VPDs to rely upon certifications from programming suppliers, it does not require programming suppliers to provide such certifications. Should the Commission amend 47 CFR 79.1(g)(6) to require programming suppliers or video programmers to file certifications with the Commission certifying that they are in compliance with the Commission's rules for the provision of closed captioning? The Commission currently does not require such certifications from either VPDs or video programmers. Is there a reason why the Commission should change its approach? If a programming supplier or video programmer claims that it is exempt from providing closed captioning, should the Commission require it to specify the exemption it claims as part of the certification? As an alternative to amending 47 CFR 79.1(g)(6), should the Commission include within 47 CFR 79.1(j)(1) or 47 CFR 79.1(k)(1)(iv) certification language to the effect that the video programmer is in compliance with the Commission's rules for the provision of closed captioning? What are the benefits and costs of requiring programming suppliers or video programmers to provide such certification? Would such certification help to ensure programming supplier or video programmer compliance with the Commission's rules requiring the provision of closed captioning? If so, how?

6. If the Commission requires video programmers to file certifications regarding the provision and quality of closed captioning with the Commission, should the Commission require each VPD, when arranging to carry a video programmer's programming, to alert the video programmer to the requirement to register with and provide certification to the Commission? Once a VPD alerts a video programmer of any such requirement and a video programmer fails to provide a certification to the Commission, should that video programmer be solely responsible for failing to comply with Commission rules? Or, alternatively, should the Commission task VPDs with monitoring video programmers' compliance with a certification requirement and require them to report to the Commission any failure by a video programmer to comply? Would placing such an obligation on VPDs be inconsistent with the approach of shifting certain responsibilities in the areas of closed captioning from VPDs to video programmers? What would be the costs and benefits of these requirements? The Commission seeks comment on these and any other matters relating to VPDs' obligations pertaining to such certifications. Is there any reason that the Commission would not have statutory authority to impose the requirements proposed in this and other paragraphs of FCC 14–206?

Initial Regulatory Flexibility Analysis

7. As required by the Regulatory Flexibility Act (RFA) of 1980, as amended, this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the Public Notice has been prepared. An IRFA was previously included with the *Further Notice* in the *Closed Captioning Quality Order.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on document FCC 14–206. The Commission will send a copy of document FCC 14–206, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (''SBA'').

8. In the *Further Notice,* the Commission sought comment on extending some of the responsibilities for complying with its rules regarding the provision and quality of closed captioning on television beyond VPDs to other entities involved in the production and delivery of video programming. The Commission also sought comment on adopting a burden-shifting approach for complaint resolution that would require both VPDs and video programmers to be involved in the resolution of consumer complaints. Further, the Commission asked whether 47 CFR 79.1(g)(6), which permits VPDs to rely on certifications from programming suppliers to demonstrate compliance with the Commission's captioning requirements, should be eliminated if the Commission were to reapportion responsibility for compliance with the Commission's television closed captioning rules, and more generally whether other changes to its rules would be appropriate if the Commission decides to impose some obligations directly on programming entities other than VPDs.

9. In response to the *Further Notice,* some commenters have raised concerns

regarding the ability of VPDs and consumers to locate the correct contact information for video programmers for the resolution of closed captioning complaints, should the Commission decide to extend to video programmers some of the responsibilities for compliance with its closed captioning rules and for the resolution of captioning complaints. Several have proposed requiring video programmers to file contact information with the Commission for inclusion in a database. The Commission is therefore inviting comment on whether such contact information should be filed, and if so, whether such filings should utilize a web form.

10. 47 CFR 79.1(g)(6) allows VPDs to rely on certifications from video programming suppliers, including programming producers, programming owners, networks, syndicators and other distributors, to demonstrate compliance with the Commission's rules for the provision of closed captioning. 47 CFR 79.1(j)(1) requires VPDs to exercise best efforts to obtain a certification from each video programmer from which the VPD obtains programming stating (i) that the video programmers' programming satisfies the required caption quality standards, (ii) that in the ordinary course of business, the video programmers adopt and follow the Best Practices in captioning its programming, or (iii) that the video programmers are exempt from the closed captioning rules, under one or more properly attained, specified exemptions.

11. One commenter on the *Further Notice* suggests that the Commission require video programmers to file certifications pursuant to 47 CFR 79.1(g)(6) and 47 CFR 79.1(j)(1) with the Commission, rather than providing them to the VPD (in the case of 47 CFR 79.1(g)(6)) or making them widely available (in the case of 47 CFR 79.1(j)(1)). The Commission is inviting comment on whether the Commission should amend 47 CFR 79.1(j)(1) to require video programmers to file certifications on captioning quality with the Commission, or whether the Commission should require video programmers to make such certifications widely available through other means. The Commission specifically asks for comment on whether requiring video programmers to file these certifications with the Commission would assist VPDs, consumers and the Commission in locating the certifications, in addition to providing video programmers with a convenient means of making their certifications widely available.

12. The Commission is also inviting comment on whether the Commission should amend other Commission rules regarding certifications for the provision of closed captioning. Although 47 CFR 79.1(g)(6) allows VPDs to rely upon certifications from programming suppliers, it does not require programming suppliers to provide such certifications. The Commission is therefore asking whether it should amend 47 CFR 79.1(g)(6) to require video programmers to file certifications with the Commission certifying that they are in compliance with the Commission's rules for the provision of closed captioning. Alternatively, the Commission is asking whether it should include within 47 CFR 79.1(j)(1) or 47 CFR 79.1(k)(1)(iv) certification language to the effect that the video programmer is in compliance with the Commission's rules for the provision of closed captioning. The Commission also seeks comment on whether such certification would help to ensure video programmer compliance with the Commission's rules requiring the provision of closed captioning.

13. Additionally, the Commission is seeking comment on whether it should require each VPD, when arranging to carry a video programmer's programming, to alert the video programmer to the requirement to register with and provide certification to the Commission, and whether the VPD should be required to report to the Commission any video programmers that have failed to do so.

14. The authority for this proposed rulemaking is contained in sections 4(i), 303(r) and 713 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) and 613.

15. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

16. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* The Commission's action may, over time, affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three comprehensive, statutory small entity size standards that encompass entities that could be directly affected by the proposals under consideration. As of 2009, small businesses represented 99.9% of the 27.5 million businesses in the United States, according to the SBA. Additionally, a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2007, there were approximately 1,621,315 small organizations. Finally, the term ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2007 indicate that there were 89,527 governmental jurisdictions in the United States. The Commission estimates that, of this total, as many as 88,761 entities may qualify as ''small governmental jurisdictions.'' Thus, the Commission estimates that most governmental jurisdictions are small.

17. *Cable Television Distribution Services.* These services have been included within the broad economic census category of Wired Telecommunications Carriers, which is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.'' The SBA has developed a small business size standard for this category, which is all such firms having 1,500 or fewer employees. To gauge small business prevalence for the Cable Television Distribution service, the Commission relies on data from the U.S. Census Bureau for the year 2007, the most recent year currently available. According to that source, there were 3,188 Wired Telecommunications Carrier firms that operated for the entire year in 2007. Of these, 3,144 operated with less than 1,000 employees, and 44 operated with 1,000 or more employees. However, as to the latter 44 there is no data available that shows how many operated with more than 1,500 employees. Thus, under this category and the associated small business size standard, the vast majority of firms can be considered small.

18. *Cable Companies and Systems.* The Commission has also developed its own small business size standards, for the purpose of cable rate regulation.

Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers, nationwide. Industry data shows that there are 1,100 cable companies. Of this total, all but 10 incumbent cable companies are small under this size standard. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,945 cable systems nationwide. Of this total, 4,380 cable systems have less than 20,000 subscribers, and 565 systems have 20,000 subscribers or more, based on the same records. Thus, under this second size standard, most cable systems are small.

19. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' There were approximately 56.4 million incumbent cable video subscribers in the United States as of 2012. Accordingly, an operator serving fewer than 564,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, the Commission finds that all but 10 incumbent cable operators are small under this size standard. The Commission notes that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250 million the Commission is unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

20. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. DBS, by exception, is now included in the SBA's broad economic census category of Wired Telecommunications Carriers, which was developed for small wireline firms. Under this category, the SBA deems a Wired Telecommunications Carrier to be small if it has 1,500 or fewer employees. Currently, only two entities provide DBS service, which requires a great investment of capital for operation: DIRECTV and DISH Network. Each currently offers subscription services. DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Because DBS service requires significant capital, the Commission believes it is unlikely that a small entity as defined by the SBA would have the financial wherewithal to become a DBS service provider.

21. *Wireless Cable Systems—Broadband Radio Service and Educational Broadband Service.* Wireless cable systems use the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) to transmit video programming to subscribers. In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of no more than $40 million in the previous three calendar years. The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, the Commission estimates that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent BRS licensees that are considered small entities. After adding the number of small business auction licensees to the number of incumbent licensees not already counted, the Commission finds that there are currently approximately 440 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules. In 2009, the Commission conducted Auction 86, the sale of 78 licenses in the BRS areas. The Commission offered three levels of bidding credits: (i) A bidder with attributed average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years (small business) received a 15 percent discount on its winning bid; (ii) a bidder with attributed average annual gross revenues that exceed $3 million and do not exceed $15 million for the preceding three years (very small business) received a 25 percent discount on its winning bid; and (iii) a bidder with attributed average annual gross revenues that do not exceed $3 million for the preceding three years (entrepreneur) received a 35 percent discount on its winning bid. Auction 86 concluded in 2009 with the sale of 61 licenses. Of the 10 winning bidders, two bidders that claimed small business status won four licenses; one bidder that claimed very small business status won three licenses; and two bidders that claimed entrepreneur status won six licenses.

22. In addition, the SBA's placement of Cable Television Distribution Services in the category of Wired Telecommunications Carriers is applicable to cable-based Educational Broadcasting Services. These services have been defined within the broad economic census category of Wired Telecommunications Carriers, which was developed for small wireline businesses. This category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services.'' The SBA has developed a small business size standard for this category, which is all such businesses having 1,500 or fewer employees. Census Bureau data for 2007, the most recent year currently available, shows that there were 3,188 Wired Telecommunications Carrier firms that operated for the entire year in 2007. Of these, 3,144 operated with less than 1,000 employees, and 44 operated with 1,000 or more employees. However, as to the latter 44 there is no data available that shows how many operated with more than 1,500 employees. Therefore, under this size standard, the Commission estimates that the majority of these businesses can be considered small entities. In addition to Census Bureau data, the Commission's internal records indicate that as of September 2012, there are 2,239 active EBS licenses. The Commission estimates that of these 2,239 licenses, the majority are held by non-profit educational institutions and school

districts, which are by statute defined as small businesses.

23. *Open Video Services.* Open Video Service (OVS) systems provide subscription services. The OVS framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers. The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Although some entities have filed for certifications to operate OVS systems, the Commission believes that most OVS subscribers are included in cable multichannel video programming distributor (MVPD) subscriber data and the Commission does not have a way to count them separately. Because OVS operators provide subscription services, OVS falls within the SBA small business size standard covering cable services, which is Wired Telecommunications Carriers. The SBA has developed a small business size standard for this category, which is all such firms having 1,500 or fewer employees. To gauge small business prevalence for the OVS service, the Commission relies on data from the U.S. Census for the year 2007, the most recent year currently available. According to that source, there were 3,188 firms that in 2007 were Wired Telecommunications Carriers. Of these, 3,144 operated with less than 1,000 employees, and 44 operated with 1,000 or more employees. However, as to the latter 44 there is no data available that shows how many operated with more than 1,500 employees. Based on this data, the majority of these firms can be considered small.

24. *Television Broadcasting.* The SBA defines a television broadcasting station as a small business if such station has no more than $35.5 million in annual receipts. Business concerns included in this industry are those ''primarily engaged in broadcasting images together with sound.'' The Commission has estimated the number of licensed full power commercial television stations to be 1,388. To gauge the number of broadcast stations that are owned by small businesses, the Commission relies on data from the U.S. Census for the year 2007, the most recent year currently available. According to that source, there were 2,076 television broadcasting establishments in 2007. Of these, 1,515 establishments had receipts under $10 million, and 561 had receipts of $10 million or more. However, as to the latter 561 there is no data available that shows how many had receipts in excess of $35.5 million. Based on this data, the majority of these establishments can be considered small. The Commission notes, however, that, in assessing whether a business concern qualifies as small under the above definition, business control affiliations must be included. Because many of these stations may be held by large group owners, and the revenue figures on which the Commission's estimate is based does not include or aggregate revenues from control affiliates, the Commission's estimate likely overstates the number of small entities that might be affected by its action.

25. The Commission has estimated the number of licensed noncommercial educational (NCE) full power television stations to be 396. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities. There are also 428 Class A television stations and 1,986 low power television stations (LPTV). Given the nature of these services, the Commission will presume that all Class A television and LPTV licensees qualify as small entities under the SBA definition, even though a number of these stations may be owned by entities that do not qualify as small entities.

26. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and is therefore over-inclusive to that extent. Also as noted, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities, and its estimates of small businesses to which they apply may be over-inclusive to this extent.

27. *Incumbent Local Exchange Carriers (ILECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for ILECs. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small ILECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. The Commission has therefore included small ILECs in the RFA analysis, although the Commission emphasizes that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

28. Census Bureau data for 2007, the most recent year currently available, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of less than 1000 employees, and 44 firms had had employment of 1,000 or more. According to Commission data, 1,307 carriers have reported that they are engaged in the provision of ILEC services. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Consequently, the Commission estimates that most providers of ILEC service are small entities that may be affected by the rules and policies adopted. The Commission estimates that three large ILECs, each of whom employ more than 1,500 people, currently provide video programming.

29. *Competitive Local Exchange Carriers (CLECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, the most recent year currently available, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of less than 1000 employees, and 44 firms had had employment of 1,000 employees or more. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either CLEC services or CAP services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. Seventy-two carriers have reported that they are Other Local Service Providers, and of the 72, 70 have 1,500 or fewer employees and 2 have more than 1,500 employees. Consequently, most CLECs, CAPs, Shared-Tenant Service Providers, and

Other Local Service Providers can be considered small entities.

30. *Electric Power Distribution Companies.* These entities can provide video services over power lines (BPL). The Census Bureau defines Electric Power Distribution companies as ''electric power establishments primarily engaged in either (1) operating electric power distribution systems (*i.e.,* consisting of lines, poles, meters, and wiring) or (2) operating as electric power brokers or agents that arrange the sale of electricity via power distribution systems operated by others.'' These types of MVPDs serve few subscribers and their subscriber base is declining. To gauge small business prevalence in the Electric Power Distribution category, the Commission relies on data from the U.S. Census Bureau for the year 2007, the most recent year currently available. The SBA has developed a small business size standard for this category, which is all such firms having 1,000 or fewer employees. Census Bureau data for 2007 show that there were 1,174 firms that operated for the entire year in this category. Of these firms, 50 had 1,000 employees or more, and 1,124 had fewer than 1,000 employees. Based on this data, a majority of these firms can be considered small.

31. *Cable and Other Subscription Programming.* These entities may be directly or indirectly affected by the Commission's action. The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. . . . These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers.'' To gauge small business prevalence in the Cable and Other Subscription Programming industries, the Commission relies on data from the U.S. Census Bureau for the year 2007, the most recent year currently available. The size standard established by the SBA for this business category is that annual receipts of $35.5 million or less determine that a business is small. According to 2007 Census Bureau data, there were 396 firms that were engaged in production of Cable and Other Subscription Programming. Of these, 349 had annual receipts below $25 million, 12 had annual receipts ranging from $25 million to $49,999,999, and 35 had annual receipts of $50 million or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small.

32. *Motion Picture and Video Production.* These entities may be directly or indirectly affected by the Commission's action. The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in producing, or producing and distributing motion pictures, videos, television programs, or television commercials.'' The Commission notes that firms in this category may be engaged in various industries, including cable programming. Specific figures are not available regarding how many of these firms produce and/or distribute programming for VPDs. To gauge small business prevalence in the Motion Picture and Video Production industries, the Commission relies on data from the U.S. Census Bureau for the year 2007, the most recent year currently available. The size standard established by the SBA for this business category is that annual receipts of $30 million or less determine that a business is small. According to 2007 Census Bureau data, there were 9,095 firms that were engaged in Motion Picture and Video Production. Of these, 8,995 had annual receipts of less than $25 million, 43 had annual receipts ranging from $25 million to $49,999,999, and 57 had annual receipts of $50 million or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small.

33. *Internet Publishing and Broadcasting and Web Search Portals.* These entities may be indirectly affected by the Commission's action. The Census Bureau defines this category to include ''establishments primarily engaged in (1) publishing and/or broadcasting content on the Internet exclusively or (2) operating Web sites that use a search engine to generate and maintain extensive databases of Internet addresses and content in an easily searchable format (and known as Web search portals). The publishing and broadcasting establishments in this industry do not provide traditional (non-Internet) versions of the content that they publish or broadcast. They provide textual, audio, and/or video content of general or specific interest on the Internet exclusively. Establishments known as Web search portals often provide additional Internet services, such as email, connections to other Web sites, auctions, news, and other limited content, and serve as a home base for Internet users.''

34. In this category, the SBA has deemed an Internet publisher or Internet broadcaster or the provider of a web search portal on the Internet to be small if it has fewer than 500 employees. For this category of manufacturers, Census Bureau data for 2007, the most recent year currently available, show that there were 2,705 such firms that operated that year. Of those 2,705 firms, 2,682 (approximately 99%) had fewer than 500 employees, and 23 had 500 or more employees. Accordingly, the majority of establishments in this category can be considered small under that standard.

35. Certain rule changes proposed in FCC 14–206, if adopted by the Commission, would modify rules or add requirements governing reporting, recordkeeping and other compliance obligations.

36. If the Commission were to adopt rules requiring video programmers to register and file contact information with the Commission or to make such contact information widely available through other means, such regulations would impose new reporting and recordkeeping obligations on video programmers, video programming owners, and other entities, including small entities.

37. If the Commission were to adopt rules requiring video programmers to file certifications with the Commission regarding compliance with the Commission's rules on the provisioning and quality of closed captioning, such regulations would impose different reporting and recordkeeping obligations than currently required on video programmers, video programming owners, and other entities, including small entities.

38. If the Commission were to adopt rules requiring each VPD, when arranging to carry a video programmer's programming, to alert the video programmer of the requirement to provide certification to the Commission and to report to the Commission any video programmers that have failed to do so, such regulations would impose different reporting and recordkeeping obligations than currently required on VPDs, video programmers, video programming owners, and other entities, including small entities.

39. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of

compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

40. If the Commission were to adopt rules requiring video programmers to register and file contact information with the Commission or to make such contact information widely available through other means, such regulations would impose new reporting and recordkeeping obligations on video programmers, video programming owners, and other entities, including small entities. However, the proposed requirement takes into consideration the impact on small entities. The filing of contact information is a simple task that should take no more than a few minutes. In addition, such requirements may benefit other entities, such as VPDs and consumers, who would be able to search the registration information for contact information, thereby enabling them to more readily contact video programmers who can address their closed captioning concerns.

41. If the Commission were to adopt rules requiring video programmers to file certifications with the Commission regarding compliance with the Commission's rules on the provisioning and quality of closed captioning, such regulations would impose different reporting and recordkeeping obligations than currently required on video programmers, video programming owners, and other entities, including small entities. The proposed rules would not impose additional burdens on such entities, because video programmers are already required to provide certifications to VPDs and to make such certifications widely available under the Commission's rules. *See* 47 CFR 79.1(j)(1) and (k)(1)(iv); *see also* 47 CFR 79.1(g)(6). The proposed rule may ease the burden on video programmers, because video programmers would know to go directly to the Commission's Web site to provide certification and would not need to determine how to make such certification widely available, and the proposed rules would ease the burden on VPDs and consumers by having all certifications in one easy to find place.

42. If the Commission were to adopt rules requiring each VPD, when arranging to carry a video programmer's programming, to alert the video programmer of the requirement to provide certification to the Commission and to report to the Commission any video programmers that have failed to do so, such regulations would impose different reporting and recordkeeping obligations than currently required on VPDs, video programmers, video programming owners, and other entities, including small entities. The proposed rules would not impose additional burdens on such entities, because VPDs who are unable to locate certifications on widely available sources are already required to alert video programmers of the requirement and report such noncompliance to the Commission. *See* 47 CFR 79.1(j)(1). The proposed rule may ease the burden on VPDs, because VPDs would be able to go directly to the Commission's Web site to confirm whether the video programmer has registered and certified, which may be easier than having to determine on which Web site or other widely available place the information appears.

43. *Federal Rules Which Duplicate, Overlap, or Conflict With, the Commission's Proposals.*

None.

Ordering Clauses

44. Pursuant to sections 4(i), 303(r), and 713 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) and 613, document FCC 14–206 IS ADOPTED.

45. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of document FCC 14–206 including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Sheryl D. Todd,

Deputy Secretary.

[FR Doc. 2014–30576 Filed 12–30–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket Nos. FWS–R8–ES–2014–0058; FWS–R3–ES–2014–0056; 4500030113]

Endangered and Threatened Wildlife and Plants; 90-Day Findings on Two Petitions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition findings and initiation of status reviews.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce 90-day findings on a petition to delist the coastal California gnatcatcher (*Polioptila californica californica*) and a petition to list the monarch butterfly (*Danaus plexippus plexippus*) under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that both petitions present substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, with the publication of this notice, we are initiating a review of the status of these subspecies to determine if the petitioned actions are warranted. To ensure that these status reviews are comprehensive, we are requesting scientific and commercial data and other information regarding these subspecies. Based on the status reviews, we will issue 12-month findings on the petitions, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act.

DATES: To allow us adequate time to conduct the status reviews, we request that we receive information no later than March 2, 2015. Information submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov*. In the Search box, enter the appropriate docket number (see table below). You may submit information by clicking on ''Comment Now!'' If your information will fit in the provided comment box, please use this feature of *http://www.regulations.gov,* as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: [Insert appropriate docket number; see table below]; U.S. Fish and Wildlife Service Headquarters, MS: BPHC, 5275 Leesburg Pike; Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. We will post all information received on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the Request for Information section, below, for more details).

Species	Docket No.
coastal California gnatcatcher.	FWS–R8–ES–2014–0058

Species	Docket No.
monarch butterfly	FWS–R3–ES–2014–0056

FOR FURTHER INFORMATION CONTACT: For the coastal California gnatcatcher: Mendel Stewart, Field Supervisor, Carlsbad Fish and Wildlife Office, 2177 Salk Ave, Suite 250, Carlsbad, CA 92008; telephone 760–431–9440; or facsimile (fax) 760–431–5901.

For the monarch butterfly, Tony Sullins, Chief of Endangered Species, Midwest Region, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437; telephone 612–713–5334; or fax 612–713–5292.

If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Request for Information

When we make a finding that a petition presents substantial information indicating that listing, reclassification, or delisting a species may be warranted, we are required to promptly review the status of the species (status review). For the status review to be complete and based on the best available scientific and commercial information, we request information on the coastal California gnatcatcher and monarch butterfly from governmental agencies, Native American Tribes, the scientific community, industry, and any other interested parties. For both petitioned subspecies we seek information on:

(1) The subspecies' biology, range, and population trends, including:

(a) Habitat requirements;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the subspecies, its habitat, or both.

(2) The factors that are the basis for making a listing, reclassification, or delisting determination for a species under section 4(a) of the Act (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

(3) The potential effects of climate change on the subspecies and its habitat.

(4) Information specific to a subspecies (*e.g.,* taxonomy of the entity, information about its status in a particular area, or information that may be used in a potential rule issued under section 4(d) of the Act for the conservation of the subspecies).

Specific questions for the coastal California gnatcatcher:

(1) The coastal California gnatcatcher's biology, range, and population trends, including, but not limited to, distribution, abundance, population trends, demographics, and genetics.

(2) Information related to the taxonomy, particularly the distinctiveness at the subspecies level, of California gnatcatchers in southern California and Baja California, Mexico, including:

(a) New morphological, genetic, or other relevant information;

(b) New analyses or new interpretations of existing morphological, genetic, or other relevant information;

(c) Information on the methods, results, and conclusions of Zink *et al.* (2000, entire) and Zink *et al.* (2013, entire), on which the petition heavily relies; and

(d) Information related to consideration of the coastal California gnatcatcher as a distinct population segment (DPS).

Specific questions for the monarch butterfly:

(1) Any relevant aspects of the life history or behavior of the monarch butterfly that have not yet been documented; and

(2) Thermo-tolerance range and microclimate requirements of the monarch butterfly.

If, after the status review, we determine that listing the monarch butterfly is warranted, we will propose critical habitat (see definition in section 3(5)(A) of the Act) under section 4 of the Act, to the maximum extent prudent and determinable at the time we propose to list the subspecies. Therefore, we also request data and information on:

(1) What may constitute ''physical or biological features essential to the conservation of the species,'' within the geographical range occupied by the subspecies;

(2) Where these features are currently found;

(3) Whether any of these features may require special management considerations or protection;

(4) Specific areas outside the geographical area occupied by the subspecies that are ''essential for the conservation of the species''; and

(5) What, if any, critical habitat you think we should propose for designation if the subspecies is proposed for listing, and why such habitat meets the requirements of section 4 of the Act.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Submissions merely stating support for or opposition to the actions under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your information concerning these status reviews by one of the methods listed in the **ADDRESSES** section. If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov*.

Information and supporting documentation that we received and used in preparing this finding will be available for you to review at *http://www.regulations.gov,* or you may make an appointment during normal business hours at the appropriate lead U.S. Fish and Wildlife Service Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information within the

Code of Federal Regulations (CFR) with regard to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to promptly commence a review of the status of the species, which will be subsequently summarized in our 12-month finding.

Section 3(6) of the Act defines an ''endangered species'' as any species which is in danger of extinction throughout all or a significant portion of its range. Section 3(20) of the Act defines a ''threatened species'' as any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Section 3(16) of the Act defines ''species'' as including any species or subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR 424 set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act:

We may delist a species according to 50 CFR 424.11(d) if the best available scientific and commercial data indicate that the species is neither endangered nor threatened for one or more of the following reasons:

(1) The species is extinct;

(2) The species has recovered and is no longer endangered or threatened; or

(3) The original scientific or commercial data used at the time the species was classified, or the interpretation of such data, were in error.

In considering what factors might constitute threats, we must look beyond the exposure of the species to a factor to evaluate whether the species may respond to the factor in a way that causes actual impacts to the species. If there is exposure to a factor and the species responds negatively, the factor may be a threat, and, during the subsequent status review, we attempt to determine how significant a threat it is. The threat is significant if it drives, or contributes to, the risk of extinction of the species such that the species may warrant listing as endangered or threatened as those terms are defined in the Act. However, the identification of factors that could affect a species negatively may not be sufficient for us to find that the information in the petition and our files is substantial. The information must include evidence sufficient to suggest that these factors may be operative threats that act on the species to the point that the species may meet the definition of an endangered or threatened species under the Act.

Review of Petition To Remove the Coastal California Gnatcatcher From the List of Endangered and Threatened Wildlife Under the Act

Additional information regarding our review of this petition can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2014–0058 under the Supporting Documents section in the document labeled Appendix for the coastal California gnatcatcher.

Subspecies and Range

This petition concerns the coastal California gnatcatcher (*Polioptila californica californica*). Its range includes coastal southern California in the United States and northwestern Baja California, Mexico.

Petition History

On June 11, 2014, we received a petition dated June 10, 2014, from Pacific Legal Foundation requesting that the coastal California gnatcatcher be removed from the List of Endangered and Threatened Wildlife (List) due to error. The petition claims that the coastal California gnatcatcher is not a valid subspecies and thus does not meet the definition of ''species'' under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(a). This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the coastal California gnatcatcher (*Polioptila californica californica*).

Thus, for the coastal California gnatcatcher, the Service requests information regarding the species taxonomy and listing factors under section 4(a)(1) of the Act (see Request for Information).

Review of Petition To List the Monarch Butterfly as a Threatened Species Under the Act

Additional information regarding our review of this petition can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R3–ES–2014–0056 under the Supporting Documents section in the document labeled Appendix for Monarch Butterfly.

Subspecies and Range

This petition concerns the monarch butterfly (*Danaus plexippus plexippus*), with a range in North America (continental United States, southern Canada, Mexico), and Cuba and other Caribbean Islands; the subspecies' nonnative dispersed range includes Hawaii, Australia, New Zealand, other Pacific Islands, Azores, Canary Islands, and coastal Spain.

Petition History

On August 26, 2014, we received a petition dated August 26, 2014, from the Center for Biological Diversity, the Center for Food Safety, the Xerces Society for Invertebrate Conservation, and Dr. Lincoln Brower requesting that we list the monarch butterfly (*Danaus plexippus plexippus*) as a threatened species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioners, required at 50 CFR 424.14(a). This finding addresses the petition.

The petition also requested that we designate critical habitat for the monarch butterfly, that we consider any significant portion of range (SPR) when making our listing determination, and that we develop a rule under section 4(d) of the Act (''4(d) rule'') allowing activities that promote conservation of the subspecies. Should we propose to list the monarch butterfly, we will at that time consider the monarch's status rangewide; whether there may be a threatened or endangered SPR if the subspecies is not found to be threatened or endangered throughout its range; if threatened status is warranted, whether a 4(d) rule may be appropriate; and propose to designate critical habitat if appropriate.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that listing may be warranted for the monarch butterfly under section 4(a)(1) of the Act, based on factors A, B, C, and E (see Appendix for Monarch Butterfly). We therefore

request information on the five listing factors under section 4(a)(1) of the Act (see Request for Information).

We reviewed the petition and information presented in the petition and determined that issuing an emergency regulation temporarily listing the subspecies under section 4(b)(7) of the Act is not warranted. However, if at any time conditions change and we determine emergency listing is necessary, an emergency rule may be developed.

Conclusion

On the basis of our evaluation of the information presented under section 4(b)(3)(A) of the Act, we have determined that the petitions summarized above for the coastal California gnatcatcher (*Polioptila californica californica*) and the monarch butterfly (*Danaus plexippus plexippus*) present substantial scientific or commercial information indicating that the requested actions may be warranted. Because we have found that the petitions present substantial information indicating that the petitioned actions may be warranted, we are initiating status reviews to determine whether these actions under the Act are warranted. At the conclusion of the status reviews, we will issue a 12-month finding in accordance with section 4(b)(3)(B) of the Act, stating whether listing, reclassification, or delisting, as appropriate, is warranted.

It is important to note that the ''substantial information'' standard for a 90-day finding differs from the Act's ''best scientific and commercial data'' standard that applies to a status review to determine whether a petitioned action is warranted. A 90-day finding does not constitute a status review under the Act. In a 12-month finding, we will determine whether a petitioned action is warranted after we have completed a thorough status review of the species, which is conducted following a substantial 90-day finding. Because the Act's standards for 90-day and 12-month findings are different, as described above, a substantial 90-day finding does not mean that the 12-month finding will result in a warranted finding.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* and upon request from the appropriate lead Field Offices (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this notice are the staff members of the Branch of Listing, Ecological Services Program, U.S. Fish and Wildlife Service.

Authority

The authority for these actions is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 18, 2014.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–30574 Filed 12–30–14; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 79, No. 250
Wednesday, December 31, 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.

GULF COAST ECOSYSTEM RESTORATION COUNCIL

Announcement for Spill Impact Component Planning Grants Restore Council

Agency: Gulf Coast Ecosystem Restoration Council.

RFA Name: Spill Impact Component Planning Grants

Announcement Type: Initial

Funding Opportunity Number: GCC–GRANT–SEP–15–001

Fiscal Year: FY 2015 and later

Catalog of Federal Domestic Assistance (CFDA) Number: 87.052

Dates: Planning State Expenditure Plans will be accepted on a rolling basis. All administrative grant application materials are due 30 days after official written approval of the planning State Expenditure Plan.

Additional information:

This announcement provides guidance to the Gulf Coast States—defined as any of the States of Alabama, Florida, Louisiana, Mississippi, and Texas—or the Gulf Coast States' administrative agents and the Gulf Consortium of Florida counties (collectively referred to in this announcement as ''eligible entities'') to apply for grants to fund planning activities to develop individual State Expenditure Plans (SEP) under the Spill Impact Component of the Resources and Ecosystem Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act). The eligible entities may apply to the Council for a grant to use the minimum allocation available under the Spill Impact Component of the RESTORE Act for planning purposes. The submission process for this announcement is organized into two phases: (1) The submission of a planning SEP by a Gulf Coast State; and (2) the administrative application process, which includes the submission of all administrative grant application materials by the eligible entities.

All planning activities proposed under this announcement are limited to the development of a comprehensive SEP, including conceptual design and feasibility studies related to specific projects. This announcement does not include engineering and environmental studies related to specific projects. It also does not include any pre-award costs incurred prior to August 22, 2014.

I. Funding Opportunity Description

The RESTORE Act, Public Law 112–141 (July 6, 2012), codified at 33 U.S.C. 1321(t) and note, makes funds available for the restoration and protection of the Gulf Coast Region through a new trust fund in the Treasury of the United States, known as the Gulf Coast Restoration Trust Fund (''Trust Fund''). The Trust Fund will contain 80 percent of the administrative and civil penalties paid by the responsible parties after July 6, 2012, under the Federal Water Pollution Control Act in connection with the Deepwater Horizon oil spill. These funds will be invested and made available through five components of the RESTORE Act. On August 15, 2014, the Department of Treasury (Treasury) issued regulations (79 FR 48039) applicable to all five components, and which generally describe the responsibilities of the Federal and State entities that administer RESTORE Act programs and carry out restoration activities in the Gulf Coast Region.

Two of the five components, the Comprehensive Plan and Spill Impact Components, are administered by the Council, an independent federal entity created by the RESTORE Act. Under the Spill Impact Component (33 U.S.C. 1321(t)(3)), 30 percent of funds in the Trust Fund will be disbursed to the five Gulf Coast States or their administrative agents based on an allocation formula established by the Council by regulation based on criteria in the RESTORE Act.

The Council is currently developing another set of regulations to more fully implement the Spill Impact Component of the RESTORE Act. These regulations will be published in the **Federal Register** at a later date and will establish how funds made available from the Trust Fund will be allocated based on the formula between the five Gulf Coast States. It will also generally describe the responsibilities of the Gulf Coast States in applying for and administering the financial assistance awards made under the Spill Impact Component.

A. Program Objective and Priorities

The purpose of the announcement is to solicit applications for State Expenditure Plans (SEP) planning grants. All planning activities proposed under this announcement are limited to the development of a comprehensive SEP, including conceptual design and feasibility studies related to specific projects. This announcement does not cover applications that propose engineering and environmental studies related to specific projects. It also does not include any pre-award costs incurred prior to publication of the RESTORE Council's RESTORE Act Spill Impact Component Planning Allocation Interim Final Rule (79 FR 49690) on August 22, 2014. Pre-award costs incurred after the date of publication will be evaluated pursuant to 2 CFR part 200. Pre-award costs, as defined by 2 CFR part 200.458, are those incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with the written approval of the Federal awarding agency.

The submission process for this announcement is organized into two phases: (1) The submission of a planning SEP by a Gulf Coast State Council member which will be approved by the Chairperson of the RESTORE Council; and (2) the administrative application process for the planning grants, which includes the submission of all administrative grant application materials by the eligible entities.

B. Program Authority

33 U.S.C. 1321(t)(3), and 40 CFR part 1800, the RESTORE Council's RESTORE Act Spill Impact Component Planning Allocation (79 FR 49690, August 22, 2014).

II. Award Information

A. Funding Availability

For this planning grant announcement, an eligible entity cannot

apply for more than the five (5) percent statutory minimum of the current amount available.

The amount currently available is $48,977,572.60 or $9,795,514.52 per eligible entity.

B. Project/Award Period

The award period for these grants should not exceed one year (12 months).

C. Type of Funding Instrument

The funds the Council disburses to the eligible entities will be in the form of grants.

III. Eligibility Information

A. Eligible Applicants

Eligible applicants are the Gulf Coast States—defined in 33 U.S.C. 1321(a)(34) as any of the States of Alabama, Florida, Louisiana, Mississippi, and Texas—or their administrative agents and the Gulf Consortium of Florida counties (collectively referred to in this announcement as ''eligible entities'').

No other entities are eligible to apply under this announcement.

B. Cost-Sharing or Matching

There is no cost share or match requirement.

C. Other

This announcement does not include any pre-award costs incurred prior to publication of the RESTORE Council's RESTORE Act Spill Impact Component Planning Allocation Interim Final Rule (79 FR 49690) on August 22, 2014. Pre-award costs incurred after the date of publication of the Interim Final Rule will be evaluated pursuant to 2 CFR part 200. Pre-award costs, as defined by 2 CFR part 200.458, are those incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with the written approval of the Federal awarding agency. Pre-award costs are subject to review and written approval by the RESTORE Council and are not guaranteed under this announcement.

IV. Application and Submission Information

A. Address To Request Application Package

Eligible entities can download application forms and other material necessary to apply for the Spill Impact Component planning grants through the RESTORE Council Web site at *http://www.restorethegulf.gov/ourwork/spill-impact.*

B. Content and Form of Application

This is a two-phase application process. The first part of the application process is the submission of a planning State Expenditure Plan by a Gulf Coast State, which must be approved by the RESTORE Council Chairperson. The second part of the application process is the submission of all administrative grant application materials by the eligible entities.

All planning activities authorized under this announcement must relate solely to the development of a comprehensive SEP. This includes conceptual design and feasibility studies related to specific projects. The intended outcome of awards funded under this announcement is the development of a SEP that meets the requirements listed in this announcement, is acceptable to the applicable Gulf Coast State and is approved by the Council Chairperson. Funds under this announcement cannot be used for the following: Engineering and environmental studies related to specific projects, or pre-award costs incurred prior to the date of publication of the RESTORE Council's RESTORE Act Spill Impact Component Planning Allocation Interim Final Rule (79 FR 49690) on August 22, 2014. For the purposes of this announcement, all activities included in the SEP must be eligible activities as defined by the RESTORE Act.

The RESTORE Act establishes a statutory minimum under which each of the five Gulf Coast States is guaranteed five (5) percent of the funds made available in the Spill Impact Component in fiscal year 2015.

The materials submitted under both the planning SEP phase and administrative grant application phase should include consecutively numbered pages and label all sections. Applications should be formatted to print on 8.5″ x 11″ paper, with 1″ margins at the top, bottom, and both sides, and page numbers at the bottom of the page. Fonts should be legible, *i.e.,* preferably 12 point Arial, Times New Roman, or other commonly used font.

Applications for funding under this announcement must include all of the following listed under each phase:

Phase I: Submission of Planning State Expenditure Plan:

The Planning State Expenditure Plan (SEP) must include the following:

1. Executive Summary:

a. Entity name and name of Gulf Coast State.

b. Contact information for the authorizing official—Include the name, title, organization, address, telephone number, fax number, and email address; if applicable, include contact information for additional points of contact.

2. Planning SEP Narrative addressing the following:

a. The planning activities proposed are limited to the development of a comprehensive SEP (defined as an eligible activity in 33 U.S.C. 1321(t)(1)(B)(i)(III)), including conceptual design and feasibility studies related to specific projects;

b. Contributes to the overall economic and ecological recovery of the Gulf Coast.

c. Takes into consideration and is consistent with the goals and objectives of the Comprehensive Plan.

d. Does not include costs for infrastructure or engineering and environmental studies related to specific projects.

This planning SEP will be for the limited purpose of developing a comprehensive State Expenditure Plan which may include conceptual design and feasibility studies related to specific projects. Detailed budget and project narrative information is required as part of Phase II, see below.

The planning SEP must be reviewed and approved by the RESTORE Council Chairperson prior to an eligible entity's submission of Phase II application materials.

Phase II: Submission of Administrative Grant Application Materials:

1. Required Forms:

a. Form SF–424, ''Application for Federal Assistance.''

b. Form SF–424A, ''Budget Information—Non-Construction Programs.''

c. Form SF–424B, ''Assurances—Non-Construction Programs.''

d. Form CD–511, ''Certification Regarding Lobbying.''

e. Form SF–LLL, ''Disclosure of Lobbying Activities,'' if applicable.

2. Project Narrative: Include a concise project narrative that identifies and describes how the funds will be used to develop the SEP.

3. Budget Narrative: Include a detailed narrative of how the funds will be spent on this planning grant. The budget narrative categories should match the line item budget categories on the SF–424A (listed directly below). Definitions of each line item follow:

a. Personnel—This refers to salaries and wages paid to employees of the

grantee organization who are directly involved in grant implementation. *This line item does not include personnel hired by a sub-grantee; those costs are included in the ''Contractual'' line item.*

b. Fringe Benefits—This refers to the allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave (vacation, family-related, sick or military), employee insurance, pensions, and unemployment benefit plans.

c. Travel—This refers to the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the non-Federal entity. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the non-Federal entity's non-federally-funded activities and in accordance with non-Federal entity's written travel reimbursement policies. This line item does not include travel expenses of a sub-grantee; those costs are included in the ''Contractual'' line item.

d. Equipment—This refers to tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or $5,000.

e. Supplies—This refers to all tangible personal property other equipment. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or $5,000, regardless of the length of its useful life.

f. Contractual—This refers to purchases of property or services needed to carry out the project or program under a Federal award. It is not specific to the legal instrument being used, so it may include both subawards and subcontracts.

g. Construction—[not applicable]

h. Other—This refers to Direct costs that do not fit any of the aforementioned categories, such as rent for buildings used to conduct grant activities, utilities and/or leased equipment, transportation expenses, tuition for training, etc.

i. Indirect costs—This refers to costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. See Section VI.B.3. for details on the three percent cap on certain indirect costs.

4. Certification and Documentation addressing the following:

a. The applicant has a financial management system in place meeting the standards prescribed in 2 CFR part 200 that tracks and records program expenditures;

b. The applicant has an accounting system that identifies the receipts and expenditures of program funds separately for each award;

c. The applicant's history of performance in managing Federal awards (*e.g.* timeliness of compliance with reporting, conformance with terms and conditions);

d. The results of applicant's previous audits; and

e. The applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on non-Federal entities.

Based on the responses to this certification, the RESTORE Council will review the risk posed by applicants or when an applicant or recipient has a history of failure to comply with the general or specific terms and conditions of a Federal award, or failure to meet expected performance goals as described in 2 CFR part § 200.210 contained in a Federal award, or is not otherwise responsible, the RESTORE Council may impose additional specific award conditions as needed.

C. Dun and Bradstreet Universal Numbering System (DUNS) Number and System for Award Management (SAM).

Each applicant is required to: (i) Be registered in the System for Award Management (SAM) before submitting its application (*www.SAM.gov*);[1] (ii) provide a valid DUNS number in its application; and (iii) continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency. The RESTORE Council may not make a Federal award to an applicant until the applicant has complied with all applicable DUNS and SAM requirements and, if an applicant has not fully complied with the requirements by the time the RESTORE Council is ready to make a Federal award, the RESTORE Council may determine that the applicant is not qualified to receive a Federal award.

D. Submission Dates and Times:

Applications must be submitted via email to the following address *sep-grant_applications@restorethegulf.gov* or hard copy submission to the following address: Gulf Coast Ecosystem Restoration Counsel Office, 500 Poydras Street, Suite 1117, New Orleans, LA 70130.

Planning State Expenditure Plans will be accepted on a rolling basis.

All administrative grant application materials are due 30 days after official written approval of the planning State Expenditure Plan.

E. Intergovernmental Review

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' was issued with the intent to foster the intergovernmental partnership and strengthen federalism by relying on State and local processes for the coordination and review of proposed Federal financial assistance and direct Federal development. Consistent with the RESTORE Act, the five Gulf States are voting members of the Council and all five States participated in the design and implementation of this grant program.

F. Funding Restrictions:

Of the amounts received by an eligible entity in a grant under this announcement, not more than three percent may be used for administrative costs. The three percent limit is applied to the total amount of funds received by a recipient under each grant. The three percent limit does not apply to the administrative costs of subrecipients. All subrecipient costs are subject to the cost principles in Federal law and policies on grants. Administrative costs are defined as those indirect costs for administration incurred by the Gulf Coast States, coastal political subdivisions, and coastal zone parishes that are allocable to activities authorized under the Act. Administrative costs may include costs for general management functions, general ledger accounting, budgeting, human resource services, general procurement services, and general legal services. Administrative costs do not include indirect costs that are identified specifically with, or readily assignable to: (1) Facilities; (2) Eligible projects, programs, or planning

[1] If an applicant previously registered in the Central Contractor Registration (CCR), it will need to register with SAM. Note that a CCR username will not work in SAM; an applicant must create a new SAM User Account to renew or update its registration. Authorizations and credential corrections can take several days to establish. Please plan accordingly to avoid late submissions. For further information please visit the SAM web portal (*https://www.sam.gov/portal/public/SAM/.*)

activities; or (3) Activities relating to grant applications, awards, audit requirements, or post-award management, including payments and collections. See the *http://www.restorethegulf.gov/ourwork/spill-impact* Web site for an example of administrative costs.

All planning activities proposed under this announcement are limited to the development of a comprehensive SEP, including conceptual design and feasibility studies related to specific projects. This announcement does not cover applications that propose engineering and environmental studies related to specific projects.

G. Other Submission Requirements:

None.

V. Application Review Information

A. Evaluation Criteria

Only eligible recipients (Section III.A.) may apply for Spill Impact planning grant funds. The critical components, information, and criteria necessary to be provided in an application for planning grant funds are identified in, but not limited to, Section IV.

B. Review and Selection Process

The Spill Impact component is non-competitive with Congressionally-required authorized uses. Instead of a selection process, there is a review and approval process. The RESTORE Council may (1) review and approve an application, (2) work with eligible entities to revise applications and resubmit, or (3) rescind applications, as appropriate. All Spill Impact planning grant funding restrictions, as discussed above, must be met and applicants must adhere to the appropriate administrative requirements and cost principles prior to receipt of a grant award and throughout the grant period.

Phase I: Review of Planning State Expenditure Plan:

The RESTORE Council Chairperson will review each minimal State Expenditure Plan to ensure that it:

1. The planning activities proposed are limited to the development of a comprehensive SEP (defined as an eligible activity in 33 U.S.C. 1321(t)(1)(B)(i)(III)), including conceptual design and feasibility studies related to specific projects;

2. Contributes to the overall economic and ecological recovery of the Gulf Coast.

3. Takes into consideration and is consistent with the goals and objectives of the Comprehensive Plan.

4. Does not include costs for infrastructure or engineering and environmental studies related to specific projects.

After reviewing the planning SEP, the Chairperson will approve or disapprove the planning SEP. Once the planning SEP is approved, the applicant will submit materials required under Phase II, and the review process for Phase II will take place. In the event that a planning SEP is disapproved, the Council will provide, within 60 days of the receipt of the planning SEP, the reason(s) for disapproval in writing and consult with the applicant to address any deficiencies with the planning SEP. If the planning SEP is disapproved, the applicant may submit a revised planning SEP for review and approval.

Phase II: Review of Administrative Grant Application Materials:

The RESTORE Council will review the technical, best available science and environmental components of a project to ensure compliance with RESTORE Council program requirements. The technical reviews include evaluating the adequacy of the information submitted, including, but not limited to the following:

1. The clear applicability to the authorized uses;

2. Clear, concise goals; and

3. Objectives with measurable planning outcome.

All required forms and application components (Section IV) will be reviewed and approved before the award is made.

D. Anticipated Award Dates

After receipt of a compliant grant application, grant awards are anticipated to be made within 60 days.

VI. Award Administration Information

Payments will be on a reimbursement basis for these awards. Payments are made upon receipt and approval of an invoice from the grant recipient. Invoices must be sent directly to the Administrative Resource Center at the Department of the Treasury, the office that handles the RESTORE Council's accounting, email *Grants@fiscal.treasury.gov.* The RESTORE Council must be copied via email to *sep-invoicepmts@restorethegulf.gov* in the payment request invoice email.

The required invoice information for a payment request is:

- Vendor Name: Grantee name as entered in SAM (or the ''Doing Business As'' name in SAM)
- Duns #: From SAM
- Invoice # or Account #
- PO#: Invoice should reference the PO#. (It can reference PO line and shipment or that can be specified by the invoice approver on the approval form)
- Description: Similar to the PO description and includes prices, quantities, services provided, etc., as applicable.
- Invoice date or service period
- Dollar Amount

Once an invoice request has been submitted through the system, invoices will be transmitted to the Council's Invoice Approver for review and confirm that the request adheres to the terms and conditions of the grant award. After the Council Invoice Approver provides the Administrative Resource Center with approval, the payment will be made by electronic funds transfer, using the banking information that the recipient has provided in the System for Awards Management (SAM).

A. Award Notices

Successful applicants will receive official notification of funding signed by an authorizing Grants Officer. Notifications will be issued to the Authorizing Official either electronically or in hard copy. Unsuccessful applicants will be notified by the Council after successful applicants receive notification.

B. Administrative and National Policy Requirements

1. Administrative and National Policy Requirements

Administrative and national policy requirements for all RESTORE Council awards apply to this competition. These requirements may be found in the Council Pre-Award Notification Requirements for Grants Agreements, published in the **Federal Register** on November 24, 2014 (79 FR 69822). This notice may be accessed at the Government Printing Office (GPO) Web site at *http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR.*

2. Limitation of Liability

In no event will the RESTORE Council be responsible for proposal preparation costs if these projects or programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not oblige the RESTORE Council to award any specific project or program, or to obligate any available funds. Recipients are subject to all Federal laws and agency policies, regulations, and procedures applicable to Federal financial assistance awards.

3. Three Percent Cap on Indirect Costs

The total allowable indirect costs are subject to the three (3) percent cap on administrative costs stated in 33 U.S.C. 1321(t)(1)(iii). Pursuant to 31 CFR 34.2,

administrative costs means those indirect costs for administration incurred by the Gulf Coast States, coastal political subdivisions, and coastal zone parishes that are allocable to activities authorized under the Act. Administrative costs may include costs for general management functions, general ledger accounting, budgeting, human resource services, general procurement services, and general legal services. Administrative costs do not include indirect costs that are identified specifically with, or readily assignable to: (1) Facilities; (2) Eligible projects, programs, or planning activities; or (3) Activities relating to grant applications, awards, audit requirements, or post-award management, including payments and collections.

C. Reporting

Recipients will be required to submit financial and performance (technical) reports (also known as progress reports). All financial reports shall be submitted to Office of Finance and Budget, Chief Financial Officer/Director of Administration, RESTORE in accordance with the award conditions. Electronic submission of financial reports is preferred via email to *sep-financialrpts@restorethegulf.gov.* Performance reports should be submitted to the Deputy Director/ Director of Programs. Performance reports must include the status of a SEP that meets the requirements listed in this announcement, specifically, that it is acceptable to the applicable Gulf Coast State and is approved by the Council Chairperson. Electronic submission of performance reports is preferred via email to *sep-performancerpts@restorethegulf.gov.* All reports will be submitted on a basis determined by the results of an applicant's risk assessment. In any event, reports will be submitted no less frequently than annually, and no more frequently than quarterly, unless more frequent reporting is deemed necessary. Reports must be submitted no later than 30 days following the end of each period, if reporting is less than annually, from the start date of the award. The comprehensive final report is due 90 days after the award expiration.

The Federal Funding Accountability and Transparency Act of 2006 includes a requirement for awardees of applicable Federal grants to report information about first-tier sub-awards and executive compensation under Federal assistance awards issued in FY 2011 or later. All awardees of applicable grants and cooperative agreements are required to report to the Federal Sub-award Reporting System (FSRS) available at *www.FSRS.gov* on all sub-awards over $25,000.

VII. Agency Contacts

The contact for questions about this announcement is Mary Pleffner. Her email contact information is email: *mary.pleffner@restorethegulf.gov;* telephone number: 813–995–2025; and mailing address is Gulf Coast Ecosystem Restoration Counsel Office, 500 Poydras Street, Suite 1117, New Orleans, LA 70130.

VIII. Other Information

A. New Program

This is an announcement for a new Federal grant program authorized by the Oil Spill Restoration Impact Allocation Component of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act), specifically, 33 U.S.C. 1321(t)(3), and 40 CFR part 1800, RESTORE Council's RESTORE Act Spill Impact Component Planning Allocation (79 FR 49690, August 22, 2014).

B. Freedom of Information Act (FOIA)

Council adopts the requirements of the Freedom of Information Act (FOIA) as 5 U.S.C. 552. This statute sets forth rules for the Council regarding making requested materials, information, and records publicly available under the FOIA. Applications submitted in response to this announcement may be subject to requests for release under the FOIA. In the event that an application contains information or data that the applicant deems to be confidential commercial information which is exempt from disclosure under FOIA, that information should be identified, bracketed, and marked as Privileged, Confidential, Commercial or Financial Information. Based on these markings, the confidentiality of the contents of those pages will be protected to the extent permitted by law.

C. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

On December 26, 2013, OMB published final guidance titled *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (OMB Uniform Guidance) (*https://www.Federalregister.gov/articles/2013/12/26/2013-30465/uniform-administrative-requirements-cost-principles-and-audit-requirements-for-Federal-awards*), which streamlines the language from eight existing OMB circulars, including Cost Principles (OMB Circulars A–21, A–87, A–122) and administrative requirements (OMB Circulars A–102 and A–110), into one consolidated set of guidance applicable to Federal assistance awards. The OMB Uniform Guidance applies to awards made by the RESTORE Council. Applicants should familiarize themselves with the OMB Uniform Guidance. Additional information on the substance of and transition to the OMB Uniform Guidance may be found at *https://cfo.gov/cofar/.*

Will D. Spoon,

Program Analyst.

[FR Doc. 2014–30566 Filed 12–30–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Census Employment Inquiry.

OMB Control Number: 0607–0139.

Form Number(s): BC–170A, BC–170B, BC–170D.

Type of Request: Extension of Previously Approved Collection.

Number of Respondents: 65,000.

Average Hours per Response: 15 minutes.

Burden Hours: 16,250.

Needs and Uses: The Census Bureau proposed using a revised employment form, however based upon program needs we have decided not to use the revised form at this time. We will use the existing form for our recruitment needs in 2015 and explore revising the employment inquiry form in the future.

Job applicants complete the BC–170 (A, B, and D) before, or at the time, they are tested. Selecting officials will review the information shown on the form and determine the applicant's employment suitability. Failure to collect this information could result in the hiring of unsuitable and/or unqualified workers.

Information quality is an integral part of the pre-dissemination review of the information disseminated by the Census Bureau (fully described in the Census Bureau's Information Quality Guidelines). Information quality is also integral to the information collections conducted by the Census Bureau and is incorporated into the clearance process required by the Paperwork Reduction Act.

Affected Public: Applicants for temporary jobs in office and field positions.

Respondent's Obligation: Mandatory to apply for temporary positions.

Legal Authority: Title 13, United States Code, Section 23 a and c.

This information collection request may be viewed at *www.reginfo.gov* .Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: December 24, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–30627 Filed 12–30–14; 8:45 am]

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–132–2014]

Approval of Subzone Status, 5.11, Inc., Modesto and Lathrop, California

On November 6, 2014, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Port of Stockton, California, grantee of FTZ 231, requesting subzone status subject to the existing activation limit of FTZ 231, on behalf of 5.11, Inc., in Modesto and Lathrop, California.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (79 FR 67413, 11/13/2014). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 231B is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 231's 2,000-acre activation limit.

Dated: December 23, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–30719 Filed 12–30–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–967]

Aluminum Extrusions From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''Department'') is conducting an administrative review of the antidumping duty order on aluminum extrusions from the People's Republic of China (''PRC''). The period of review (''POR'') is May 1, 2012, through April 30, 2013. These final results cover 52 companies for which an administrative review was initiated, and for which this administrative review was not rescinded in the *Preliminary Results*.[1] For these final results, the Department examined two mandatory respondents and one voluntary respondent for which this review was initiated. The first mandatory respondent is Guangzhou Jangho Curtain Wall System Engineering Co., Ltd. and Jangho Curtain Wall Hong Kong Ltd. (collectively ''Jangho''); the second mandatory respondent is a single entity that the Department continues to find is comprised of Guang Ya Aluminum Industrial Co., Ltd. (''Guang Ya''), Foshan Guangcheng Aluminum Co., Ltd. (''Guangcheng''), Kong Ah International Co., Ltd. (''Kong Ah''), and Guang Ya Aluminum Industries (Hong Kong) Ltd. (''Guang Ya HK'') (collectively ''Guang Ya Group''), Guangdong Zhongya Aluminum Co., Ltd. (''Zhongya''), Zhongya Shaped Aluminum (HK) Holding Ltd. (''Shaped Aluminum''), and Karlton Aluminum Co., Ltd. (''Karlton'') (collectively ''Zhongya''), and Foshan Nanhai Xinya Aluminum & Stainless Steel Product Co., Ltd. (''Xinya'') (collectively ''Guang Ya Group/Zhongya/Xinya'').

The Department finds for these final results that Jangho and the Guang Ya Group/Zhongya/Xinya entity failed to demonstrate that they were eligible for separate rates and thus are part of the PRC-wide entity. For Kromet International, Inc. (''Kromet''), a voluntary respondent in this review, the Department finds that Kromet did not make sales of subject merchandise at less than normal value during the POR.

Furthermore, the Department finds that 19 of the companies under review (including Kromet) have established their eligibility for a separate rate. Additionally, we determine that four companies, Hong Kong Gree Electric Appliances Sales Limited (''Gree''), Jiuyuan Co., Ltd. (''Jiuyuan''), Shenzhen Hudson Technology Development Co., Ltd. (''Shenzhen Hudson''), and Skyline Exhibit Systems (Shanghai) Co., Ltd. (''Skyline'') had no shipments. The Department finds that the remaining companies under review either failed to establish their eligibility for a separate rate or were not responsive, and, therefore, these companies are part of the PRC-wide entity.

DATES: *Effective Date:* December 31, 2014.

FOR FURTHER INFORMATION CONTACT: James Terpstra or Paul Stolz, AD/CVD Operations, Office III, Enforcement and Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3965 or (202) 482–4474, respectively.

Background

On June 25, 2014, the Department published the *Preliminary Results* of this administrative review. At that time, we invited interested parties to comment on the *Preliminary Results*.[2] We granted parties an extension of time to submit case and rebuttal briefs.[3]

On August 8, 2014 we received case briefs from the Aluminum Extrusions Fair Trade Committee (''Petitioner'');[4] Zhongya; Skyline; Jangho; tenKsolar (Shanghai) Co., Ltd. (''tenKsolar''); Permasteelisa South China Factory and Permasteelisa Hong Kong Ltd. (collectively, ''Permasteelisa''); Taishan City Kam Kiu Aluminium Extrusion Co. Ltd., and Kam Kiu Aluminium Products Sdn. Bhd. (collectively ''Kam Kiu''). On

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 38924 (June 28, 2013) (''*Initiation Notice*''); *see also Aluminum Extrusions From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Rescission, in Part; 2012/2013,* 79 FR 36003 (June 25, 2014) (''*Preliminary Results*'').

[2] *See Preliminary Results,* 79 FR at 36006.

[3] *See* ''Second Administrative Review of the Antidumping Duty Order on Aluminum Extrusions from the People's Republic of China: Granting an Extension of Time for Parties to Provide Case Briefs and Rebuttal Case Briefs,'' dated July 7, 2014 and ''Second Administrative Review of the Antidumping Duty Order on Aluminum Extrusions from the People's Republic of China: Granting an Extension of Time for Parties to Provide Rebuttal Briefs,'' dated August 12, 2014.

[4] The individual members of the Committee are Aerolite Extrusion Company; Alexandria Extrusion Company; Benada Aluminum of Florida, Inc.; William L. Bonnell Company, Inc.; Frontier Aluminum Corporation; Futural Industries Corporation; Hydro Aluminum North America, Inc.; Kaiser Aluminum Corporation; Profile Extrusion Company; Sapa Extrusions, Inc.; and Western Extrusions Corporation.

August 20, 2014, we received rebuttal briefs from the Petitioner, Kromet, and Jangho.

On September 5, 2014, the Department extended the deadline for the final results until December 22, 2014.[5]

Scope of the Order

The merchandise covered by the *Order*[6] is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents).[7]

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (''HTS''): 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 7609.00.00.00, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTS chapters. In addition, fin evaporator coils may be classifiable under HTS numbers: 8418.99.80.50 and 8418.99.80.60. While HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Issues and Decision Memorandum, which is incorporated herein by reference. A list of the issues which parties raised, and to which we respond in the Issues and Decision Memorandum, follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS'').[8] ACCESS is available to registered users at *http://access.trade.gov,* and it is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/enforcement/frn/index.html.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on an analysis of the comments received from interested parties and a review of the record, the Department made the following changes for these final results of review:

- We corrected a calculation error for the final adjusted margin to be applied to the separate rate companies.[9]
- We adjusted the PRC-wide entity margin for both export subsidies and domestic subsidy pass-through.[10]
- We determined that Skyline did not have shipments of subject merchandise during the POR.[11]
- We made a correction to the spelling of Kam Kiu's name.[12]
- For Kromet's preliminary margin calculation, we neglected to convert the variables ''Magnesium Ingots'' and ''Aluminum Titanium Boron Wire'' using Thai exchange rates. We corrected this error, and it did not change Kromet's margin.[13]

Companies Eligible for a Separate Rate

In our *Preliminary Results,* we determined that 18 companies, plus Kromet, are eligible for a separate rate.[14] We received no information since the issuance of the *Preliminary Results* that provides a basis for reconsideration of this determination. Therefore, the Department continues to find that these 19 companies are eligible for a separate rate.

Rate for Non-Examined Companies Which Are Eligible for a Separate Rate

The Department assigned to non-examined, separate rate companies the

[5] *See* ''Aluminum Extrusions from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated September 5, 2014.

[6] *See Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order,* 76 FR 30650 (May 26, 2011) (''*Order*'').

[7] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, titled ''Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Aluminum Extrusions from the People's Republic of China,'' which is dated concurrently with and hereby adopted by this notice (''Issues and Decision Memorandum'') for a complete description of the scope of the *Order.*

[8] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (''IA ACCESS'') to AD and CVD Centralized Electronic Service System (''ACCESS''). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the reference to the Regulations can be found at 79 FR 69046 (November 20, 2014).

[9] *See* Attachment to the accompanying Issues and Decision Memorandum.

[10] *Id.; see also* Comment 3 of the accompanying Issues and Decision Memorandum.

[11] *See* Comment 7 of the accompanying Issues and Decision Memorandum.

[12] *See* Comment 8 of the accompanying Issues and Decision Memorandum.

[13] *See* Memorandum to the File titled ''Second Administrative Review of the Antidumping Duty Order on Aluminum Extrusions from the People's Republic of China: Analysis of the Final Results Margin Calculation for Kromet International,'' dated concurrently with this notice.

[14] *See Preliminary Results,* 79 FR at 36006.

weighted-average dumping margin assigned to non-examined, separate rate companies in the final determination of the antidumping investigation and for the final results of the first administrative review of the *Order.* Neither the Tariff Act of 1930, as amended (''the Act'') nor the Department's regulations address the establishment of the rate applied to individual companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in cases involving limited selection based on exporters accounting for the largest volumes of trade has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation. Section 735(c)(5)(A) of the Act instructs the Department to avoid calculating an all-others rate using any rates that are zero, *de minimis,* or based entirely on facts available in investigations. Section 735(c)(5)(B) of the Act provides that, where all rates are zero, *de minimis,* or based entirely on facts available, the Department may use ''any reasonable method'' for assigning an all-others rate.

We determine that the application of the rate from the investigation to the non-examined separate rate respondents is consistent with precedent and an appropriate method to determine the separate rate in the instant review. Pursuant to this method, we are assigning the rate of 32.79 percent, the most recent rate (from the less than fair value investigation) calculated for the non-examined separate rate respondents, to the non-examined separate rate respondents in the instant review.[15]

Adjustment Under Section 777A(f) of the Act

Pursuant to section 777A(f) of the Act, the Department has made an adjustment for countervailable domestic subsidies which have been found to have impacted the U.S. prices. We made no changes (since the *Preliminary Results*) to the adjustments made for these final results to Kromet's adjustment or the separate rate companies' adjustment (though we corrected a calculation error for the final adjusted margin to include only the passed-through portion of the domestic subsidy for the separate rate companies).[16] Pursuant to section 777A(f) of the Act, for these final results, we also made an adjustment to the PRC-wide entity's rate to account for countervailable domestic subsidies.

PRC-Wide Entity

In the *Preliminary Results,* the Department determined that the mandatory respondents Jangho and Guang Ya Group/Zhongya/Xinya were not eligible for a separate rate, and, accordingly, were found to be part of the PRC-wide entity. The Department received no information since the issuance of the *Preliminary Results* that provides a basis for reconsideration of this determination. Therefore, the Department continues to find that Jangho and Guang Ya Group/Zhongya/Xinya[17] are not eligible for a separate rate and are part of the PRC-wide entity.

In the *Preliminary Results,* the Department also found 21 companies to be part of the PRC-wide entity. For one of those companies, Skyline, the Department received information since the *Preliminary Results* sufficient to change its determination. For the remaining 20 companies, the Department received no information since the issuance of the *Preliminary Results* that provides a basis for reconsideration of its determination. Therefore, the Department continues to find that these 20 companies are not eligible for a separate rate and are part of the PRC-wide entity.[18]

Adverse Facts Available Rate for the PRC-Wide Entity

For the PRC-wide entity, the Department in the *Preliminary Results* preliminarily determined that the PRC-wide entity had not acted to the best of its ability in providing necessary information to the Department, and assigned the rate of 33.28 percent, the only rate ever determined for the PRC-wide entity in this proceeding, as adverse facts available pursuant to sections 776(a) and 776(b) of the Act. The rate of 33.28 percent has probative value because it was in the range of the individual dumping margins which we calculated for Kromet. Accordingly, we find that the rate of 33.28 percent is corroborated within the meaning of section 776(c) of the Act, and that it is appropriate to continue to apply this rate of 33.28 percent to the PRC-wide entity.[19]

Final Results of Review

As a result of this review, we determine that the following weighted-average dumping margins exist for the period May 1, 2012, through April 30, 2013:

Exporter	Weighted-average dumping margin[20]	Margin adjusted for liquidation and cash deposit purposes (%)
Kromet International, Inc	.....	0.00
Allied Maker Limited	32.79	22.28
Changzhou Changzheng Evaporator Co., Ltd	32.79	32.69
Classic & Contemporary Inc	32.79	22.28
Dynabright Int'l Group (HK) Limited	32.79	22.28
Hanyung Metal (Suzhou) Co., Ltd	32.79	22.28
Global Point Technology (Far East) Limited[21]	32.79	22.28
Jiangsu Changfa Refrigeration Co., Ltd	32.79	27.22
Jiaxing Jackson Travel Products Co., Ltd	32.79	27.22

[15] *See* Comment 4 of the accompanying Issues and Decision Memorandum for further discussion.

[16] *See Preliminary Results,* 79 FR at 36005–36006 and the Attachment to the accompanying Issues and Decision Memorandum.

[17] *See* Comments 2, 5, and 6 of the accompanying Issues and Decision Memorandum for further discussion. *See also Preliminary Results,* 79 FR at 36003–36005 and accompanying Preliminary Decision Memorandum at 14–15.

[18] These companies are: (1) Alnan Aluminium Co., Ltd.; (2) Chiping One Stop Industrial & Trade Co., Ltd.; (3) Cixi Handsome Pool Appliance Co., Ltd.; (4) DongChuan Swimming Pool Equipments Co., Ltd.; (5) Dongguan Golden Tiger Hardware Industrial Co., Ltd.; (6) Foshan Shunde Aoneng Electrical Appliances Co., Ltd.; (7) Guang Dong Xin Wei Aluminum Products Co., Ltd.; (8) Guangdong Whirlpool Electrical Appliances Co., Ltd.; (9) Guangzhou Mingcan Die-Casting Hardware Products, Co. Ltd.; (10) Hanyung Alcobis Co., Ltd.; (11) Henan New Kelong Electrical Appliances Cp., Ltd.; (12) Idex Dinglee Technology (Tianjin Co., Ltd.); (13) Nidec Sankyo (Zhejiang) Corporation; (14) Ningbo Splash Pool Appliance Co., Ltd.; (15) Samuel, Son & Co., Ltd.; (16) Shenyang Yuanda Aluminum Industry Engineering Co., Ltd.; (17) Taizhou Lifeng Manufacturing Corporation; (18) Tiazhou Lifeng Manufacturing Corporation; (19) Wenzhou Shengbo Decoration & Hardware; and (20) Whirlpool (Guangdong).

[19] *See* Comment 3 of the accompanying Issues and Decision Memorandum for further discussion.

Exporter	Weighted-average dumping margin [20]	Margin adjusted for liquidation and cash deposit purposes (%)
Justhere Co., Ltd	32.79	27.22
Kam Kiu Aluminium Products Sdn. Bhd [22]	32.79	22.28
Metaltek Group Co., Ltd	32.79	27.22
Midea International Trading Co., Ltd	32.79	27.22
Permasteelisa Hong Kong Limited [23]	32.79	22.28
Shanghai Tongtai Precise Aluminum Alloy	32.79	27.22
Sincere Profit Limited	32.79	27.22
tenKsolar (Shanghai) Co., Ltd	32.79	22.28
Tianjin Jinmao Import & Export Corp., Ltd	32.79	27.22
Union Industry (Asia) Co., Ltd	32.79	27.22
PRC-wide Entity	33.28	33.18

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries covered by this review pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b).[24] The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

For Kromet, we will instruct CBP to liquidate all appropriate entries without regard to antidumping duties because Kromet's weighted-average dumping margin is zero percent. For the 18 non-examined, separate rate companies, we will instruct CBP to liquidate all appropriate entries at a rate based on 32.79 percent and adjusted for both export and domestic subsidies as described above. For the PRC-wide entity, we will instruct CBP to liquidate all appropriate entries at a rate equal to 33.18 percent, which is adjusted for export and domestic subsidies, as appropriate.[25]

The Department recently announced a refinement to its assessment practice in non-market economy (''NME'') cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the NME-wide rate. For a full discussion of this practice, *see NME Antidumping Proceedings, supra.*

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be equal to the weighted-average dumping margin identified in ''Final Results of the Review,'' and adjusted for applicable export and domestic subsidies; (2) for previously investigated or reviewed PRC and non-PRC exporters that are not under review in this segment of the proceeding but that received a separate rate in a previous segment, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 33.18 percent, which is adjusted for export and domestic subsidies, as appropriate; [26] and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. The cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

In accordance with 19 CFR 351.305(a)(3), this notice serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under the APO. Timely written notification of the return or

[20] As explained in the *Preliminary Results,* for the Separate Rate Companies (*i.e.,* all companies other than Kromet), the Department intends to adjust the weighted-average dumping margin, for both cash deposit and liquidation purposes. *See* Attachment to the accompanying Issues and Decision Memorandum for calculations showing the export subsidy, domestic subsidy, pass-through rate, and net adjustments.

[21] Hoff Associates Mfg Reps Inc. (dba Global Point Technology, Inc.) is the U.S. importer.

[22] Taishan City Kam Kiu Aluminium Extrusions Co., Ltd. is the producer.

[23] Permasteelisa South China Factory (Permasteelisa China) is the producer.

[24] *See Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8103 (February 14, 2012) (''*NME Antidumping Proceedings*'').

[25] For the PRC-wide entity, which received an AFA rate, as an extension of the adverse inference found necessary pursuant to section 776(b) of the Act, the Department has adjusted the PRC-wide entity's AD assessment rate by the lowest export subsidy rate and the lowest estimated domestic subsidy pass-through determined for any party in the companion CVD proceeding.

[26] For the PRC-wide entity, which received an AFA rate, as an extension of the adverse inference found necessary pursuant to section 776(b) of the Act, the Department has adjusted the PRC-wide entity's AD cash deposit rate by the lowest export subsidy rate and the lowest estimated domestic subsidy pass-through determined for any party in the companion CVD proceeding. *See* Attachment to accompanying Issues and Decision memorandum.

destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

These final results of review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 22, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—Issues and Decision Memorandum

[FR Doc. 2014–30662 Filed 12–30–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–968]

Aluminum Extrusions From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2012

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) completed its administrative review of the countervailing duty (CVD) order on aluminum extrusions from the People's Republic of China (PRC) for the January 1, 2012, through December 31, 2012, period of review (POR). We determine that the Alnan Companies [1] and Jiangsu Changfa Refrigeration Co., Ltd. (Jiangsu Changfa) received countervailable subsidies during the POR. The final net subsidy rates are listed below in ''Final Results of the Review.''

DATES: *Effective Date:* December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson and Joy Zhang, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–4793 and (202) 482–1168, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 25, 2014, the Department published the *Preliminary Results* of this administrative review.[2] On August 26, 2014, the Department extended the final results of this administrative review until December 22, 2014.[3]

The Department invited interested parties to comment on the *Preliminary Results,* received case and rebuttal briefs from several parties, and held a public hearing on October 17, 2014.[4]

Scope of the Order

The merchandise covered by the *Order* [5] is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents).[6]

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00,

[1] The Alnan Companies are Alnan Aluminum Co., Ltd. (Alnan Aluminum), Alnan Aluminum Foil Co., Ltd. (Alnan Foil), Alnan (Shanglin) Industry Co., Ltd. (Shanglin Industry), and Shanglin Alnan Aluminum Comprehensive Utilization Power Co., Ltd. (Shanglin Power). Kromet International Inc., one of the selected mandatory respondents in this administrative review, reported that it is a Canada-based company that sold subject merchandise produced by the Alnan Companies to the United States during the review period.

[2] *See Aluminum Extrusions from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2012,* 79 FR 36009 (June 25, 2014) (*Preliminary Results*).

[3] *See* Department Memorandum regarding ''Aluminum Extrusions from the People's Republic of China: Extension of Deadline for Final Results of Countervailing Duty Administrative Review'' (August 26, 2014).

[4] For additional case history for this administrative review, *see* accompanying Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review: Aluminum Extrusions from the People's Republic of China, dated concurrently with this notice (Issues and Decision Memorandum).

[5] *See Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order,* 76 FR 30653 (May 26, 2011) (*Order*).

[6] For a complete description of the scope of the *Order, see* Issues and Decision Memorandum.

9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.[7]

Analysis of Comments Received

All issues raised in the parties' briefs are addressed in the Issues and Decision Memorandum, dated concurrently with this notice, which is hereby adopted by this notice. A list of the issues raised is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[8] ACCESS is available to registered users at *http://access.trade.gov* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Methodology

The Department conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[9]

For a full description of the methodology underlying all of the Department's conclusions, *see* the Issues and Decision Memorandum.

Rate for Non-Selected Companies Under Review

There are 58 companies [10] for which a review was requested and not rescinded, but were not selected as mandatory respondents. We did not calculate the non-selected rate by weight-averaging the rates of the Alnan Companies and Jiangsu Changfa, the companies selected for individual examination (mandatory respondents), using their actual export sales of subject merchandise to the United States for the POR, because doing so risks disclosure of proprietary information. We, therefore, calculated an average rate using the mandatory respondents' publicly-ranged sales data for 2012. For further information on the calculation of the non-selected rate, *see* ''*Ad Valorem* Rate for Non-Selected Companies under Review'' in the Issues and Decision Memorandum.

Rate for Non-Cooperatives Under Review

There are four companies that did not respond to the Department's Quantity and Value Questionnaire. For those non-cooperative companies, we calculated an adverse facts available rate (AFA). For further information on the calculation of the AFA rate, *see* ''*Ad Valorem* Rate for Non-Cooperative Companies under Review'' in the Issues and Decision Memorandum.

Final Results of the Review

In accordance with 19 CFR 351.221(b)(5),we calculated the listed net subsidy rates for 2012:

Company	2012 *Ad Valorem* rate (percent)
Alnan Aluminum Co., Ltd. (Alnan Aluminum), Alnan Aluminum Foil Co., Ltd. (Alnan Foil), Alnan (Shanglin) Industry Co., Ltd. (Shanglin Industry), and Shanglin Alnan Aluminum Comprehensive Utilization Power Co., Ltd. (Shanglin Power) (collectively, the Alnan Companies) and Kromet International Inc. (Kromet) [11]	10.32
Jiangsu Changfa Refrigeration Co., Ltd	2.94
Allied Maker Limited	8.54
Bracalente Metal Products (Suzhou) Co. Ltd	8.54
Changzhou Changzheng Evaporator Co., Ltd	8.54
China Square Industrial Ltd. and Zhaoqing China Square Industry Limited	8.54
Chiping One Stop Industrial & Trade Co., Ltd	8.54
Cixi Handsome Pool Appliance Co., Ltd	8.54
Classic & Contemporary Inc.	8.54
DongChuan Swimming Pool Equipments Co., Ltd	8.54
Dongguan Aoda Aluminum Co., Ltd	8.54
Dongguan Golden Tiger	8.54
Dongguan Golden Tiger Hardware Industrial Co., Ltd	8.54
Dynabright Int'l Group (HK) Limited	8.54
Ever Extend Ent. Ltd	8.54
Foshan Nanhai ZhaoYa Decorative Aluminum Ltd	8.54
Guang Ya Aluminum Industries Co. Ltd. and Kong Ah International Company Limited (collectively, the Guang Ya Companies)	8.54
Guang Zhou Sang Yi Imp & Exp Co., Ltd	8.54
Guangdong Hao Mei Aluminum Co., Ltd	8.54
Guangdong Jianmei Aluminum Profile Company Limited	8.54
Guangdong Nanhai Foodstuffs Imp & Exp Co., Ltd	8.54

[7] *See Order.*

[8] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (IA ACCESS) to AD and CVD Centralized Electronic Service System (ACCESS). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the references to the regulations can be found at 79 FR 69046 (November 20, 2014).

[9] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[10] The *Preliminary Results* stated 59 companies. For the final results, there are 58 companies because of the removal of one company. *See* Comment 22 of the Issues and Decision Memorandum.

[11] The Alnan Companies are the producer of subject merchandise, and Kromet is the exporter. The rate applies to subject merchandise produced and/or exported by any of the named companies.

Company	2012 *Ad Valorem* rate (percent)
Guangdong Weiye Aluminum Factory Co., Ltd	8.54
Guangdong Whirlpool Electrical Appliances Co., Ltd	8.54
Guangzhou Jangho Curtain Wall System Engineering Co., Ltd. and Jangho Curtain Wall Hong Kong Ltd	8.54
Hanyung Alcobis Co., Ltd	8.54
Hanyung Metal (Suzhou) Co., Ltd	8.54
Hoff Associates Mfg Reps Inc. (dba, Global Point Technology, Inc.) and Global Point Technology (Far East) Limited	8.54
Isource Asia Limited (iSource)	8.54
Jiaxing Jackson Travel Products Co., Ltd	8.54
Jiuyan Co., Ltd	8.54
Justhere Co., Ltd	8.54
Metaltek Group Co., Ltd	8.54
Metaltek Metal Industry Co., Ltd	8.54
Midea International Trading Co., Ltd	8.54
Nidec Sankyo (Zhejiang) Corporation	8.54
Ningbo Splash Pool Appliance Co., Ltd	8.54
Permasteelisa South China Factory (Permasteelisa China) and Permasteelisa Hong Kong Limited	8.54
Polight Industrial Ltd	8.54
Pushuo Mfg Co., Ltd./dba/Huiren Mfg Co Ltd	8.54
Shanghai Hong-hong Lumber Co.	8.54
Shanghai Tongtai Precise Aluminum Alloy Manufacturing Co., Ltd	8.54
Shenyang Yuanda Aluminum Industry Engineering Co., Ltd	8.54
Sihui Shi Guo Yao Aluminum Co., Ltd	8.54
Sincere Profit Limited	8.54
Skyline Exhibit Systems (Shanghai) Co., Ltd	8.54
Taishan City Kam Kiu Aluminium Extrusion Co. Ltd	8.54
Taizhou Lifeng Manufacturing Corporation	8.54
tenKsolar (Shanghai) Co., Ltd	8.54
Tianjin Jinmao Import & Export Corp., Ltd	8.54
Tiazhou Lifeng Manufacturing Corporation	8.54
Traffic Brick Network, LLC	8.54
T-World Industries Limited	8.54
Union Industry (Asia) Co., Ltd	8.54
Uniton Aluminium (HK) Ltd., Uniton Investment Ltd., and ZMC Aluminum Factory Limited	8.54
Wenzhou Shengbo Decoration & Hardware	8.54
Whirlpool (Guangdong)	8.54
Whirlpool Canada L.P.	8.54
Whirlpool Microwave Products Development Ltd	8.54
Zhaoqing New Zhongya Aluminum Co., Ltd. (New Zhongya) (also known as Guangdong Zhongya Aluminum Company Ltd.), Zhongya Shaped Aluminum (HK) Holding Limited, and Karlton Aluminum Company Ltd. (collectively, the Zhongya Companies)	8.54
Zhejiang Dongfeng Refrigeration Components Co., Ltd	8.54
Dragonluxe Limited	160.09
Henan New Kelong Electrical Appliances Co., Ltd	160.09
Press Metal International Ltd	160.09
Tianjin Ruxin Electric Heat Transmission Technology Co., Ltd	160.09

Assessment Rates

The Department intends to issue appropriate assessment instructions directly to U.S. Customs and Border Protection (CBP) 15 days after publication of these final results of review, to liquidate shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 2012, through December 31, 2012, at the *ad valorem* rates listed above.

Cash Deposit Instructions

The Department intends to instruct CBP to collect cash deposits of estimated CVDs in the amounts shown above on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results of review. For all non-reviewed firms, we will instruct CBP to collect cash deposits of estimated CVDs at the most recent company-specific or all-others rate applicable to the company. Accordingly, the cash deposit requirements that will be applied to companies covered by this order, but not examined in this review, are those established in the most recently completed segment of the proceeding for each company. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 22, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

C. Subsidies Valuation Information
D. Loan Benchmark Rates
E. Use Of Facts Otherwise Available And Adverse Inferences
F. Analysis Of Programs

Programs Determined To Be Countervailable

1. Policy Loans to Chinese Aluminum Extrusion Producers
2. Provision of Primary Aluminum for Less Than Adequate Remuneration (LTAR)
3. Special Reward Fund for Industrial Economy Transformation and Upgrading of the Whole District
4. Import and Export Credit Insurance Supporting Development Fund for Changzhou
5. Special Fund for External Economy
6. Special Funds for the Development of Five Industries
7. Award for Self-Innovation Brand/Grant for Self-Innovation Brand and Enterprise Listing (aka, Income Tax Reward for Listed Enterprises)
8. Preferential Tax Policies for the Opening and Development of Beibu Gulf Economic Zone of Guangxi Zhuang Autonomous Region (Local Income Tax Exemption)
9. Preferential Tax Program for High or New Technology Enterprises
10. International Market Exploration Fund
11. Special Funds of Guangxi Autonomous Region for Small Highland of Talents
12. Funds of Nanning Municipality for Technology Innovation
13. Funds of Guangxi Autonomous Region for Enterprises' Technology Renovation
14. Financial Assistance (interest subsidy) of Nanning Municipality for Key Technology Renovation
15. National Funds for the Industry Revitalization and Technology Renovation of the Key Fields
16. National Funds for Construction of Ten ''Key Energy Saving Projects,'' ''Key Demonstration Bases for Recycling Economy and Resource Saving,'' and ''Key Industrial Pollution Control Projects''
17. Special Funds of Guangxi Beibu Gulf Economic Zone for the Development of Key Industries
18. Awards of Guangxi Autonomous Region for Advancement of Science and Technology
19. Awards of Guangxi Autonomous Region for New Products
20. Awards to Key Enterprises for Large Consumption of Electricity
21. Awards of Nanning Municipality for New Products
22. Intellectual Property Reward
23. Assistance for Science Research and Technology Development Planning Projects of Nanning Municipality

Programs Determined Not to Confer Measurable Benefit or Not Used

1. Exemption from City Construction Tax and Education Tax for Foreign-Invested Enterprises (FIEs)
2. Two Free, Three Half Income Tax Exemptions for FIEs
3. Preferential Tax Program for FIEs Recognized as High or New Technology Enterprises (HNTEs)
4. Provincial Government of Guangdong (PGOG) Tax Offset for Research & Development (R&D)
5. Refund of Land-Use Tax for Firms Located in the Zhaoqing New and High-Tech Industrial Development Zone (ZHTDZ)
6. Tax Reductions for FIEs Purchasing Chinese-Made Equipment
7. Preferential Tax Policies for the Development of Western Regions of China
8. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
9. Refund of VAT on Products Made Through Comprehensive Utilization of Resources
10. GOC and Sub-Central Government Grants, Loans, and Other Incentives for Development of Famous Brands and China World Top Brands (Famous Brands Program)
11. Fund for SME Bank-Enterprise Cooperation Projects
12. Special Fund for Significant Science and Technology in Guangdong Province
13. Fund for Economic, Scientific, and Technology Development
14. Provincial Fund for Fiscal and Technological Innovation
15. Provincial Loan Discount Special Fund for SMEs
16. Export Rebate for Mechanic, Electronic, and High-Tech Products
17. PGOG Special Fund for Energy Saving Technology Reform
18. PGOG Science and Technology Bureau Project Fund (*aka,* Guangdong Industry, Research, University Cooperating Fund)
19. Development Assistance Grants from the ZHTDZ Local Authority
20. Expanding Production and Stabilizing Jobs Fund of Jiangsu Province
21. Technical Standards Awards
22. Guangxi Awards for Private Enterprises Designated as Pilot Innovation-Oriented Enterprises
23. Special Funds of Nanning Municipality for Small Highland of Talents
24. Special Funds of Nanning Municipality for Academic and Technical Leaders of the New Century
25. Guangxi Technology R&D Funds
26. Supporting Funds of Nanning Municipality for ''Informatization-industrialization Integration'' and Development of Information Industry
27. Funds for Projects of Science and Technology Professionals serving the Enterprises
28. Financial Supporting Funds of Nanning Municipality for Technology Renovation for Production Safety
29. Assistances for R&D projects under Funds of Nanning Municipality for Foreign Trade Development
30. Funds of Nanning Municipality for Sustainable Development of Foreign Trade
31. Awards of Guangxi Autonomous Region for Emission Reduction of Main Pollutants
32. Special Funds of Guangxi Autonomous Region for Production Safety (Supporting Fund for Eliminating Potential and Seriously Dangerous Projects)
33. Funds of Guangxi Autonomous Region for Promotion of Foreign Trade Development of the West Region
34. Awards of Nanning Municipality for Excellent Foreign Trade Enterprises
35. Special Funds for Projects of National Science and Technology Supporting Plan
36. Provision of Land-Use Rights and Fee Exemptions To Enterprises Located in the ZHTDZ for LTAR
37. Provision of Land-Use Rights To Enterprises Located in the South Sanshui Science and Technology Industrial Park for LTAR
38. Labor and Social Security Allowance Grants in Sanshui District of Guangdong Province
39. ''Large and Excellent'' Enterprises Grant
40. Advanced Science/Technology Enterprise Grant
41. Tiaofeng Electric Power Subscription Subsidy Funds
42. Award for Excellent Enterprise
43. Export Incentive Payments Characterized as VAT Rebates
44. PGOG and Foshan City Government Patent and Honor Award Grants
45. Foshan City Government Technology Renovation and Technology Innovation Special Fund Grants
46. Nanhai District Grants to State and Provincial Enterprise Technology Centers and Engineering Technology R&D Centers
47. Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
48. Provincial Tax Exemptions and Reductions for ''Productive'' FIEs
49. Tax Reductions for FIEs in Designated Geographic Locations
50. Tax Reductions for Technology- or Knowledge-Intensive FIEs
51. Tax Credits for Domestically-Owned Companies Purchasing Chinese-Made Equipment
52. Tax Reductions for Export-Oriented FIEs
53. Tax Refunds for Reinvesting of FIE Profits in Export-Oriented Enterprises
54. Accelerated Depreciation for Enterprises Located in the Northeast Region
55. Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China
56. VAT Rebates on FIE Purchases of Chinese-Made Equipment
57. Exemptions from Administrative Charges for Companies in the ZHTDZ
58. Grants to Cover Legal Fees in Trade Remedy Cases in Zhenzhen
59. Clean Production Technology Fund
60. Grants for Listing Shares: Liaoyang City (Guangzhou Province), Wenzhou Municipality (Zhejiang Province), and Quanzhou Municipality (Fujian Province)
61. Northeast Region Foreign Trade Development Fund
62. Land Use Rights in the Liaoyang High-Tech Industry Development Zone
63. Allocated Land Use Rights for State-Owned Enterprises

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–928]

Uncovered Innerspring Units From the People's Republic of China: Initiation of Anticircumvention Inquiry on Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from Leggett & Platt Incorporated (''Petitioner''), the Department of Commerce (''the Department'') is initiating an anticircumvention inquiry pursuant to section 781(b) of the Tariff Act of 1930, as amended (''the Act''), to determine whether certain imports are circumventing the antidumping duty order on uncovered innerspring units (''innerspring units'') from the People's Republic of China (''PRC'').[1]

DATES: *Effective Date:* December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Steven Hampton, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0116.

SUPPLEMENTARY INFORMATION:

Background

On December 31, 2007, Petitioner filed a petition seeking imposition of antidumping duties on imports of uncovered innerspring units from, among other countries, the PRC.[2] Following completion of an investigation by the Department and the U.S. International Trade Commission (''the Commission''), the Department imposed an antidumping duty order on subject merchandise.[3]

In the fourth administrative review of the *Order,*[4] Petitioner requested that the

[1] *See Uncovered Innerspring Units from the People's Republic of China: Notice of Antidumping Duty Order,* 74 FR 7661 (February 19, 2009) (''*Order*'').

[2] The petition also included imports of uncovered innerspring units from South Africa and the Socialist Republic of Vietnam. *See Uncovered Innerspring Units from the People's Republic of China, South Africa, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations,* 73 FR 4817 (January 28, 2008).

[3] *Order,* 74 FR at 7662.

[4] The fourth administrative review covered the period of review (''POR'') February 1, 2012, through

Department review Goldon Bedding Manufacturing (M) Sdn. Bhd (''Goldon'').[5] The Department initiated the review on March 29, 2013 [6] and sent questionnaires to the named respondents, including Goldon. On August 19, 2013, in response to the Department's supplemental questionnaire, Goldon acknowledged that it imports innerspring unit components from the PRC for use in the production of innerspring units in Malaysia.[7] On September 19, 2014, the Department applied adverse facts available to all of Goldon's PRC-origin subject merchandise upon determining that Goldon did not cooperate to the best of its ability in the review.[8]

On November 7, 2014, pursuant to section 781(b) of the Act and section 351.225(h) of the Department's regulations, Petitioner submitted a request for the Department to initiate an anticircumvention inquiry of Goldon to determine whether Goldon's innerspring units completed and assembled in Malaysia from PRC-origin components constitute circumvention of the *Order*.[9] In its request, Petitioner contends that Goldon, by its own admission, imports innerspring unit components from the PRC to Malaysia, further assembles these components into uncovered innerspring units, and exports the assembled innerspring units to the United States in the form of subject merchandise.[10] Petitioner argues that Goldon's operations constitute minor further assembly in a third country, *i.e.,* Malaysia.

Scope of the Order

The merchandise subject to the order is uncovered innerspring units composed of a series of individual metal springs joined together in sizes corresponding to the sizes of adult mattresses (*e.g.,* twin, twin long, full, full long, queen, California king, and king) and units used in smaller constructions, such as crib and youth mattresses. All uncovered innerspring units are included in the scope regardless of width and length. Included within this definition are innersprings typically ranging from 30.5 inches to 76 inches in width and 68 inches to 84 inches in length. Innersprings for crib mattresses typically range from 25 inches to 27 inches in width and 50 inches to 52 inches in length.

Uncovered innerspring units are suitable for use as the innerspring component in the manufacture of innerspring mattresses, including mattresses that incorporate a foam encasement around the innerspring. Pocketed and non-pocketed innerspring units are included in this definition. Non-pocketed innersprings are typically joined together with helical wire and border rods. Non-pocketed innersprings are included in this definition regardless of whether they have border rods attached to the perimeter of the innerspring. Pocketed innersprings are individual coils covered by a ''pocket'' or ''sock'' of a nonwoven synthetic material or woven material and then glued together in a linear fashion.

Uncovered innersprings are classified under subheading 9404.29.9010 and have also been classified under subheadings 9404.10.0000, 7326.20.0070, 7320.20.5010, or 7320.90.5010 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the order is dispositive.

Initiation of Circumvention Proceeding

Section 781(b)(1) of the Act provides that the Department may find circumvention of an antidumping duty order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting circumvention inquiries, under section 781(b)(1) of the Act, the Department will also evaluate whether: (1) The process of assembly or completion in the other foreign country is minor or insignificant; (2) the value of the merchandise produced in the foreign country to which the antidumping duty order applies is a significant portion of the total value of the merchandise exported to the United States; and (3) action is appropriate to prevent evasion of such an order or finding. As discussed below, Petitioner has provided evidence with respect to these criteria.

A. Merchandise of the Same Class or Kind

Petitioner argues that the innerspring units that Goldon completes or assembles in Malaysia and subsequently ships to the United States are of the same class or kind as that subject to the *Order.* Petitioner contends that there is no question that the uncovered innerspring units that Goldon exports to the United States meet the physical characteristics that define the scope of the order.[11] Goldon acknowledged this fact in the fourth administrative review when it stated: ''{y}es, merchandise as stated in the database are the subject merchandise that {*sic*} comprised from locally source {*sic*} material and imported material from PRC.'' [12]

B. Completion of Merchandise in a Foreign Country

Petitioner observes that the *Order* clearly indicates that innerspring units are assembled from three key components: Steel wire coils, helical wires, and in certain cases border rods.[13] Petitioner argues that Goldon admitted that it imports the key inputs used in the production of innerspring units and provided invoices describing the components as ''spring mattress coils,'' ''wire,'' ''steel frame,'' and ''steel strips.'' [14] Furthermore, Petitioner contends that Goldon indicated that 70 percent of its materials used in the production of innerspring units are sourced from the PRC, the country with respect to which the *Order* applies, and that it ''shipped the completed merchandise into the U.S.'' [15]

C. Minor or Insignificant Process

Under section 781(b)(2) of the Act, the Department is required to consider five factors to determine whether the process of assembly or completion of

January 31, 2013. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 19197 (March 29, 2013) (''*Initiation Notice*'').

[5] The Department notes that Petitioner requested an administrative review and anticircumvention inquiry of ''Goldon Bedding Manufacturing Sdn Bhd.'' However, during the 2012–2013 administrative review, Goldon provided its business license which indicated that the company's official name is ''Goldon Bedding Manufacturing (M) Sdn Bhd.'' *See Uncovered Innerspring Units from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 56338, 56339 (September 19, 2014) and accompanying Issues and Decision Memorandum (''*Final Results*''), at 1.

[6] *See Initiation Notice,* 78 FR at 19208.

[7] *See* Uncovered Innerspring Units from China: Request for a Circumvention Inquiry, dated November 7, 2014, at 3 (''Circumvention Request'').

[8] *See Final Results,* 79 FR at 56339.

[9] *See generally* Circumvention Request.

[10] *Id.,* at 3.

[11] *Id.,* at 7–8.

[12] *Id.,* at 8; and Exhibit 1, at 2.

[13] *See* Circumvention Request at 8. The Commission also noted that innerspring coils and border rods are major components of an innerspring unit. *See Uncovered Innerspring Units from South Africa and Vietnam,* USITC Pub. 4051, Inv. Nos. 731–TA–1141–1142 at I–11 (December 2008) (hereinafter, ''*USITC Uncovered Innersprings Report*''). In its final determination regarding imports of uncovered innersprings from the PRC, the Commission adopted the findings and analyses in its determinations and views regarding subject imports from South Africa and Vietnam with respect to the domestic like product, the domestic industry, cumulation, and material injury. *Uncovered Innerspring Units from China,* USITC Pub. 4061, Inv. No. 731–TA–1140 at 3 and I–1 (February 2009).

[14] *See* Circumvention Request, at 9; and Exhibit 2, at Attachment 2.

[15] *Id.,* at 9, 15 and Exhibit 2, at Attachment 2.

merchandise in a foreign country is minor or insignificant. Petitioner believes that an examination of these factors indicates that Goldon's process of assembly and completion of innerspring units in Malaysia is not significant.

(1) Level of Investment

Petitioner states that the process employed to assemble innerspring components into innerspring units is relatively simple and requires only limited investment and labor, and that the start-up investment costs and the barriers to entry into this type of assembly operation (*i.e.,* manual or semi-automated) are low.[16] Petitioner asserts that in the most basic, fully-manual operation, coils are assembled manually using a wooden or steel jig in which the coils (continuous or bonnell) [17] are hand-loaded, then hand-laced with helical wire and finished by clipping the border rods to the unit.[18] Petitioner posits that the cost of a new wooden (or steel) jig is approximately $200–$400.[19] Petitioner argues that the level of investment would also be low if Goldon relies on a semi-automated assembly operation where a machine is used to assemble the rows of coils.[20]

(2) Level of Research and Development

Petitioner is not aware that Goldon performs any research and development related to the assembly and/or production of innerspring units.[21] Moreover, Petitioner states that it would not expect Goldon to incur any research and development expenses related to its innerspring assembly operations.[22]

(3) Nature of the Production Process

According to Petitioner, the manufacturing process for assembling innerspring units from imported components is relatively simple and does not require significant start-up costs, sophisticated machinery and inputs, or substantial labor.[23] This process, as described by Goldon, is very similar to the process found to be insignificant by the Department in the prior circumvention inquiry on this *Order.* [24]

(4) Extent of Production in the Malaysia

Petitioner states that Goldon only has one facility for the production of innerspring units.[25] Goldon indicated that six to seven workers are involved in the assembly of innerspring units, with another one or two workers devoted to packing.[26] Petitioner contends that this indicates that the portion of Goldon's production facility attributable to assembly operations is small.[27]

(5) Value of Processing in Malaysia as Compared to Uncovered Innerspring Units Imported Into the United States

Petitioner asserts that the value of assembly processing performed in Malaysia represents a small portion of the total value of the innerspring units imported into the United States.[28] Petitioner believes Goldon's assembly operations likely rely on relatively unskilled, low wage employees.[29] Thus, these assembly operations involve minimal additional labor costs.[30] Petitioner asserts that, by any standard, the assembly operations represent an insignificant portion of the total value.[31]

D. Value of Merchandise Produced in PRC

Petitioner argues that the value of the components that Goldon imports from the PRC for further assembly in Malaysia into subject merchandise is a significant portion of the total value of the innerspring units exported to the United States.[32] As Petitioner noted previously, innerspring coils, helical wires, and border rods are the key components of an innerspring unit. Petitioner explains that they also constitute a significant portion of the overall costs of an innerspring unit.[33] Petitioner does not have access to other PRC innerspring unit producer/exporter costs. Therefore, it conducted an analysis related to the production costs of various innerspring unit models at its own facility in Guangzhou, PRC. Petitioner believes that its operation (and costs) in the PRC are representative of the operations (and costs) of other PRC innerspring unit producers/exporters, as it is the largest producer of innersprings in the PRC.[34] According to Petitioner's analysis of its own production costs in the PRC, the total value of these innerspring components compose a significant portion of the total value of an innerspring unit.[35]

E. Additional Factors for Consideration

Section 781(b)(3) of the Act directs the Department to consider additional factors in determining whether to include merchandise assembled or completed in a foreign country within the scope of the *Order.* Petitioner believes that an examination of these factors supports finding that Goldon's Malaysian exports of innerspring units should be within the scope of the *Order.*[36]

(1) Pattern of Trade

Goldon has stated that while it was originally set up to supply the domestic market, in 2011 it changed its business strategy to serve the United States.[37] As described by Goldon, this strategy consists of assembling innersprings from 70 percent PRC-origin components and 30 percent Malaysian components, and exporting the assembled innerspring units to the United States.[38]

Based on official U.S. import data, Petitioner contends that imports of uncovered innerspring units from Malaysia have increased dramatically since the *Order* was imposed.[39] Petitioner provided a chart that illustrated the U.S. annual imports from

[16] *See* Circumvention Request, at 10.

[17] Bonnell coils, the most commonly used type of coils in innerspring units, have an hour-glass shape which tapers inward from top to center and then outward from the center to bottom. Bonnell coils are generally the lowest priced units and the type of coil generally used in imported innerspring units. Continuous coils have entire rows of continuous coils formed from a single piece of wire. For a more detailed description of the types of innerspring coils, *see USITC Uncovered Innersprings Report* at I–8 to I–10.

[18] *See* Circumvention Request, at 10. A somewhat more advanced assembly operation may involve manual assembly using a wooden or steel jig in which the coils are hand-set, and a lacing machine is used to feed the helical to join the rows, and then the borders are manually clipped to the unit. *Id.*

[19] *Id.*

[20] *Id.*

[21] *Id.,* at 11.

[22] *Id.*

[23] *Id.*

[24] *See* Circumvention Request, at 11; *see also Uncovered Innerspring Units from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order,* 79 FR 3345 (January 21, 2014) (''*Reztec Final Determination*'').

[25] *See* Circumvention Inquiry, at 12.

[26] *Id.*

[27] *Id.*

[28] *Id.,* at 13.

[29] *Id.*

[30] *Id.* There are virtually no additional energy costs given that the machines, if utilized, are quite basic. The only additional material inputs (besides the coils, which represent the single largest cost of an innerspring unit) are steel wire for lacing and border clips. *Id.*

[31] *Id.*

[32] *Id.,* at 14.

[33] *Id.*

[34] *Id.*

[35] *Id.,* at 14–15.

[36] Petitioner did not analyze or submit evidence concerning affiliation under section 781(b)(3)(B) of the Act.

[37] *Id.,* at 15.

[38] *Id.*

[39] *See* Circumvention Inquiry, at 15–16. Petitioner states that until 2011, U.S. imports of uncovered innerspring units were properly classified and entered the United States under harmonized tariff schedule (''HTS'') 9404.29.9010 (''uncovered innerspring units''). In 2011, the HTS classification for uncovered innerspring units was refined and further broken out to provide a separate ten-digit classification for innerspring units used in cribs and toddler beds. Thus, HTS 9409.29.9010 was eliminated and replaced with 9404.29.9005 (Uncovered innerspring units: For use in a crib or toddler bed) and 9404.29.9011 (Uncovered innerspring units: Other).

Malaysia under the relevant HTSUS subheadings.[40] Petitioner states that prior to 2009, there were virtually no imports of uncovered innerspring units from Malaysia to the United States.[41] However, according to the chart, subject imports from Malaysia to the United States have steadily increased: 185,917 pieces were imported in 2009; 312,317 pieces were imported in 2010; 344,388 pieces were imported in 2011; 132,017 pieces were imported in 2012; and 52,051 pieces were imported in 2013.[42] Petitioner claims that the lower overall entry quantities over the last two years are due to the previous anticircumvention inquiry filed by Petitioner in 2012.[43] Petitioner notes that quantities of imports after 2012, while not as high as the immediately preceding years, are still significant compared to before the *Order* was in place.[44]

Furthermore, Petitioner contends that Malaysia's official import statistics indicated that imports from the PRC of one of the key components in innerspring units (*i.e.,* coils) have increased substantially since the *Order* was imposed.[45] Petitioner provided a chart of import data related to Malaysia's imports of coils from the PRC over the last several years, as well as the current year under HTS 7320.99.000 (other springs and leaves for springs, of iron/steel, kilograms (''kgs'')). This chart shows an increase of imported coils from 2,995,519 kgs in 2007 to 11,972,478 kgs in 2011, and a gradual decrease to 5,218,789 kgs for the current year.[46] Again, Petitioner notes that imports have somewhat declined starting in 2012, which may be due to the Department's determination in the previous anticircumvention inquiry filed by Petitioner.[47] Nevertheless, Petitioner contends that imports of coils from the PRC remain higher than before the *Order* was in place.[48]

(2) Increase of Subject Imports From the PRC to Malaysia After the Investigation Initiation

Petitioner did not provide any evidence regarding an increase in subject imports (*i.e.,* completed uncovered innerspring units) from the PRC to Malaysia after the initiation of the investigation. However, as noted above, Petitioner provided information that imports of one of the key components of innerspring units from PRC to Malaysia increased significantly during this time.

F. Whether Action Is Appropriate To Prevent Evasion of the Order

Based on the information provided by Petitioner, and for the reasons provided in the analysis below, the Department determines that initiating an anticircumvention inquiry is appropriate to identify any potential evasion of the *Order.*

Analysis of the Request

Based on our analysis of Petitioner's circumvention inquiry request, the Department determines that Petitioner has satisfied the criteria under section 781(b)(1) of the Act to warrant an initiation of a formal circumvention inquiry.[49] In accordance with section 351.225(e) of the Department's regulations, the Department finds that the issue of whether a product is included within the scope of an order cannot be determined based solely upon the application and the descriptions of the merchandise. Accordingly, the Department will notify by mail all parties on the Department's scope service list of the initiation of a circumvention inquiry.

In accordance with section 351.225(l)(2) of the Department's regulations, if the Department issues a preliminary affirmative determination, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of estimated duties on the merchandise. This circumvention inquiry covers Goldon. If, within sufficient time, the Department receives a formal request from an interested party regarding potential circumvention of the *Order* by other Malaysian companies, we will consider conducting additional inquiries concurrently.

The Department will establish a schedule for questionnaires and comments on the issues. In accordance with section 351.225(f)(5) of the Department's regulations, the Department intends to issue its final determination within 300 days of the date of publication of this initiation, in accordance with section 781(f) of the Act. This notice is published in accordance with section 351.225(f) of the Department's regulations.

Dated: December 22, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–30658 Filed 12–30–14; 8:45 am]

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[40] *Id.,* at 17.

[41] *Id.,* at 16.

[42] *Id.,* at 17.

[43] *Id.*

[44] *Id.*

[45] *Id.*

[46] *Id.* Petitioner also provided a description of Malaysia's relevant HTS numbers. *Id.,* at Exhibit 7.

[47] *Id.; see also Reztec Final Determination,* 79 FR 3345 and accompanying Issues and Decision Memorandum. Petitioner did not submit any Malaysian import statistics regarding imports of helical wires and border rods from the PRC.

[48] *Id.*

[49] *Id.,* at 7–17.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Certain Cased Pencils From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission; 2012–2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Department) is conducting an administrative review of the antidumping duty order on certain cased pencils (pencils) from the People's Republic of China (PRC).[1] The period of review (POR) is December 1, 2012, through November 30, 2013. This review covers two exporters of subject merchandise, Shandong Rongxin Import & Export Co., Ltd. (Rongxin) and Shanghai Foreign Trade Co., Ltd. (SFTC).

We preliminarily determine that Rongxin is not eligible for a separate rate, and, thus, remains part of the PRC-wide entity. In addition, we are rescinding the review with respect to SFTC. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Mary Kolberg, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1785.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the order includes certain cased pencils from the PRC. The subject merchandise is

[1] *See Antidumping Duty Order: Certain Cased Pencils From the People's Republic of China,* 59 FR 66909 (December 28, 1994).

currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 9609.1010. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description is dispositive. A full description of the scope of the order is contained in the Preliminary Decision Memorandum, dated concurrently with and hereby adopted by this notice.[2]

Partial Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party that requested the review withdraws the request within 90 days of the date of publication of the *Initiation Notice.* On March 3, 2014, SFTC timely withdrew its request for a review of its exports.[3] Accordingly, the Department is rescinding this administrative review with respect to SFTC.

Methodology

The Department is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). However, as we have preliminarily determined that Rongxin is not eligible for a separate rate, the Department has not calculated a margin for these preliminary results. For a full description of the analysis underlying our conclusions, *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 (ACCESS).[4] ACCESS is available to registered users at *http://access.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://enforcement.trade.gov/frn/*. 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 margins exist[5]:

Exporter	Weighted-average dumping margin (percent)
PRC-wide Rate	114.90

Disclosure and Public Comment

The Department intends to disclose to parties to this proceeding the preliminary separate rate analysis performed in reaching the preliminary results within five days of the date of publication of these preliminary results.[6] Interested parties may submit case briefs no later than 30 days after the date of publication of the preliminary results.[7] Rebuttals to case briefs may be filed no later than five days after the deadline for filing case briefs and all rebuttal comments must be limited to comments raised in the case briefs.[8] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[9] Case and rebuttal briefs must be filed electronically *via* ACCESS.[10]

Any interested party may request a hearing within 30 days of publication of this notice.[11] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.[12]

The Department intends to issue the final results of this administrative review, including the results of its analysis of issues raised in any briefs, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuing the final results of review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[13] The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of review.

If, in the course of this review, we reverse our determination and find that Rongxin is eligible for a separate rate, and Rongxin's weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent) in the final results of this review, we will calculate importer-specific (or customer-specific) *ad valorem* (or per-unit) assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value (or quantity) of those sales in accordance with 19 CFR 351.212(b)(1). Specifically, the Department will apply the assessment rate calculation method adopted in *Final Modification for Reviews.*[14] Where an importer- (or customer-) specific *ad valorem* rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[15]

On October 24, 2011, the Department announced a refinement to its assessment practice in NME cases.[16] 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, but that entered under the case number of that exporter, 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

[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado Assistant Secretary for Enforcement and Compliance, ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission: Certain Cased Pencils from the People's Republic of China; 2012–2013,'' dated concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum).

[3] *See* letter from SFTC, ''Withdrawal of Request: Antidumping Duty Administrative Review of the Antidumping Duty Order on Certain Cased Pencils from the PRC,'' dated March 3, 2014.

[4] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (IA ACCESS) to AD and CVD Centralized Electronic Service System (ACCESS). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014).

[5] As noted, Rongxin is not eligible for a separate rate.

[6] *See* 19 CFR 351.224(b).

[7] *See* 19 CFR 351.309(c)(1)(ii).

[8] *See* 19 CFR 351.309(d).

[9] *See* 19 CFR 351.309(c)(2) and (d)(2).

[10] *See* 19 CFR 351.303(b).

[11] *See* 19 CFR 351.310(c).

[12] *See* 19 CFR 351.310(d).

[13] *See* 19 CFR 351.212(b)(1).

[14] *See Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8103 (February 14, 2012) (*Final Modification for Reviews*).

[15] *See* 19 CFR 351.106(c)(2).

[16] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011).

number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate.[17]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) The cash deposit rate for Rongxin will be that established in the final results of this review (except, if the rate is zero or *de minimis,* then zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity (114.90 percent); and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These 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 these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: December 12, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

[17] *Id.*

EDITORIAL NOTE: FR Doc. 2014–30755 was originally supposed to publish in the issue of December 19, 2014, is correctly published in its entirety in the issue of December 31, 2014.

[FR Doc. 2014–30755 Filed 12–30–14; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–985]

Xanthan Gum From the People's Republic of China: Preliminary Results of 2013 Antidumping Duty New Shipper Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is conducting a new shipper review (''NSR'') of the antidumping duty order on xanthan gum from the People's Republic of China (''PRC''). The NSR covers Meihua Group International Trading (Hong Kong) Limited, Langfang Meihua Bio-Technology Co., Ltd., and Xinjiang Meihua Amino Acid Co., Ltd. (collectively, ''Meihua''). The period of review (''POR'') is July 19, 2013, through December 31, 2013. The Department preliminarily determines that Meihua has not made sales of subject merchandise at less than normal value. Interested parties are invited to comment on the preliminary results of this review.

DATES: *Effective Date:* December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0182.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The scope of the order covers dry xanthan gum, whether or not coated or blended with other products. Further, xanthan gum is included in this order regardless of physical form, including, but not limited to, solutions, slurries, dry powders of any particle size, or unground fiber. Merchandise covered by the scope of this order is classified in the Harmonized Tariff Schedule (''HTS'') of the United States at subheading 3913.90.20. This tariff classification is provided for convenience and customs purposes; however, the written description of the scope is dispositive.[1]

Preliminary Affiliation Determination

Based on the evidence presented in Meihua's questionnaire responses, we preliminarily find that Meihua Group International Trading (Hong Kong) Limited, Langfang Meihua Bio-Technology Co., Ltd., and Xinjiang Meihua Amino Acid Co., Ltd. are affiliated, pursuant to section 771(33)(F) of the Tariff Act of 1930, as amended (''the Act''). In addition, based on the information presented in the questionnaire responses, we preliminarily find that Meihua Group International Trading (Hong Kong) Limited, Langfang Meihua Bio-Technology Co., Ltd., and Xinjiang Meihua Amino Acid Co., Ltd. should be treated as a single company for the purposes of this review pursuant to section 19 CFR 351.401(f).[2]

Methodology

The Department is conducting this review in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214. The Department calculated export price in accordance with section 772 of the Act. Because the PRC is a nonmarket economy (''NME'') within the meaning of section 771(18) of the Act, the Department calculated normal value in accordance with section 773(c) of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum, which is hereby adopted with this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users

[1] For a complete description of the Scope of the Order, *see* ''Decision Memorandum for the Preliminary Results of the 2013 Antidumping Duty New Shipper Review of Xanthan Gum from the People's Republic of China,'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance (''Preliminary Decision Memorandum''), dated concurrently with this notice.

[2] *See* the memorandum from Brandon Farlander, International Trade Analyst, AD/CVD Operations Office IV to Abdelali Elouaradia, Director, AD/CVD Operations Office IV regarding ''Xanthan Gum from the People's Republic of China: Affiliation and Single Company Status'' dated concurrently with this notice.

at *http://access.trade.gov* and is available in the Central Records Unit, room 7046 of the main Department of Commerce building.[3] In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.*

Preliminary Results of Review

We preliminarily determine that the following weighted-average dumping margin exists for the period July 19, 2013 through December 31, 2013:

Exporter	Producer	Weighted-average dumping margin (percent)
Meihua Group International Trading (Hong Kong) Limited/Langfang Meihua Bio-Technology Co., Ltd./Xinjiang Meihua Amino Acid Co., Ltd.	Meihua Group International Trading (Hong Kong) Limited/Langfang Meihua Bio-Technology Co., Ltd./Xinjiang Meihua Amino Acid Co., Ltd.	0.00%

Disclosure and Public Comment

In accordance with 19 CFR 351.224(b), the Department will disclose calculations performed for the preliminary results of review to parties within five days of the date of publication of this notice. Interested parties may submit case briefs no later than 30 days after the date of publication of the preliminary results of review.[4] Rebuttals to case briefs may be filed no later than five days after the time limit for filing case briefs.[5] All rebuttal comments must be limited to comments raised in the case briefs.[6] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[7]

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice.[8] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. Oral arguments are limited to issues raised in case briefs. 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 and time to be determined.[9] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, with limited exceptions, must be filed electronically using ACCESS.[10] An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5 p.m. Eastern Time (''ET'') on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with the APO/Dockets Unit in Room 1870 of the main Department of Commerce building and stamped with the date and time of receipt by 5 p.m. ET on the due date.[11]

The Department intends to issue the final results of this NSR, which will include the results of its analysis of issues raised in any briefs received, no later than 90 days after the date these preliminary results of review are issued pursuant to section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(1).

Assessment Rates

Upon issuing the final results of this review, the Department will determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries covered by this review.[12] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

If Meihua's weighted-average dumping margin is above *de minimis* (*i.e.,* 0.5 percent) in the final results of this review, the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those sales, in accordance with 19 CFR 351.212(b)(1).[13] Where an importer- (or customer-) specific *ad valorem* rate is greater than *de minimis,* the Department will instruct CBP to collect the appropriate duties at the time of liquidation.[14] Where either Meihua's weighted average dumping margin is zero or *de minimis,* or an importer- (or customer-) specific *ad valorem* dumping margin is zero or *de minimis,* the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[15] For entries that were not reported in the U.S. sales database submitted by Meihua, the Department will instruct CBP to liquidate such entries at the PRC-wide rate.[16]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For subject merchandise produced and exported by Meihua, the cash deposit rate will be the rate established for Meihua in the final results of the NSR (except, if the rate is zero or *de minimis,* then a zero cash deposit will be required); (2) for subject merchandise exported by Meihua, but not produced by Meihua, the cash deposit rate will be the rate for the PRC-wide entity; and (3) for subject merchandise produced by Meihua, but not exported by Meihua, the cash

[3] ACCESS is the new acronym for Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). We changed the Web site location from *http://iaaccess.trade.gov* to *http://access.trade.gov. See* 19 CFR 351.303, as amended in *Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014).

[4] *See* 19 CFR 351.309(c).

[5] *See* 19 CFR 351.309(d)(1).

[6] *See* 19 CFR 351.309(d)(2).

[7] *See* 19 CFR 351.309(c)(2) and (d)(2).

[8] *See* 19 CFR 351.310(c).

[9] *See* 19 CFR 351.310(d).

[10] *See, generally,* 19 CFR 351.303.

[11] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[12] *See* 19 CFR 351.212(b).

[13] 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).

[14] *See* 19 CFR 351.212(b)(1).

[15] *Id.*

[16] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

deposit rate will be the rate applicable to the exporter. These 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 these results in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act and 19 CFR 351.214.

Dated: December 18, 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. *Bona Fide* Sale Analysis
2. Non-Market Economy Country Status
3. Separate Rate
4. Surrogate Country
5. Date of Sale
6. Fair Value Comparisons
7. U.S. Price
8. Normal Value

[FR Doc. 2014–30660 Filed 12–30–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–938]

Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2012

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) has completed its administrative review of the countervailing duty (CVD) order on citric acid and certain citrate salts (citric acid) from the People's Republic of China (PRC) for the period of review (POR) covering January 1, 2012, through December 31, 2012. On June 25, 2014, we published the preliminary results of this review and the post-preliminary results were completed on September 5, 2014.[1]

We provided interested parties with an opportunity to comment on the *Preliminary Results* and Post-Preliminary Results. Our analysis of the comments submitted resulted in a change to the net subsidy rate for RZBC Group Shareholding Co., Ltd., RZBC Co., Ltd., RZBC Juxian Co., Ltd., and RZBC Imp. & Exp. Co., Ltd. (collectively, the RZBC Companies). The final net subsidy rate is listed below in the section entitled ''Final Results of the Review.''

DATES: *Effective Date:* December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Patricia M. Tran and Raquel Silva, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–1503 and (202) 482–6475, respectively.

SUPPLEMENTARY INFORMATION:

Background

Following the *Preliminary Results* and Post-Preliminary Results, on September 11 through 19, 2014, the Department conducted verification of the questionnaire responses submitted by the Government of the PRC (GOC) and the RZBC Companies. The verification reports for the GOC and the RZBC Companies were released on October 8, 2014.[2] We received case briefs from the GOC, the RZBC Companies, and Petitioners[3] on October 20, 2014.[4] On October 27, 2014, all parties submitted their rebuttal briefs.[5] No hearing was held in this case as none was requested.

Scope of the Order

The merchandise subject to the order is citric acid and certain citrate salts. The product is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) item numbers 2918.14.0000, 2918.15.1000, 2918.15.5000, 3824.90.9290, and 3824.90.9290. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.

A full description of the scope of the order is contained in the memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review: Citric Acid and Certain Citrate Salts; 2012'' (Final Decision Memorandum), dated concurrently with this notice, and hereby adopted by this notice.

Analysis of Comments Received

All issues raised in the case briefs are addressed in the Final Decision Memorandum. A list of the issues raised is attached to this notice as an Appendix. The Final Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[6] ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce

[1] *See Citric Acid and Certain Citrate Salts: Preliminary Results of Countervailing Duty Administrative Review; 2012,* 79 FR 36012 (June 25, 2014) (*Preliminary Results*) and Memorandum to Paul Piquado, ''Post-Preliminary Results Decision Memorandum for the Fourth Administrative Review of the Countervailing Duty Order: Citric Acid and Certain Citrate Salts from the People's Republic of China,'' dated September 5, 2014 (Post-Preliminary Results).

[2] *See* Memorandum to Eric Greynolds, Acting Office Director for AD/CVD Duty Operations, Office III, ''Administrative Review of Countervailing Duty Order on Citric and Certain Citrate Salts: Verification of the Questionnaire Responses Submitted by the RZBC Co. Ltd. and its cross-owned affiliates,'' (October 7, 2014); *see also* Memorandum to Eric Greynolds, Acting Director, AD/CVD Duty Operations, Office III, ''Administrative Review of Countervailing Duty Order on Citric and Certain Citrate Salts: Verification of the Questionnaire Responses Submitted by the Government of the People's Republic of China,'' (October 7, 2014).

[3] Petitioners are Archer Daniels Midland Company, Cargill Incorporated, and Tate & Lyle Ingredients America LLC.

[4] *See* letter from the GOC, ''GOC's POR 4 Administrative Case Brief in the Fourth Administrative Review of the Countervailing Duty Order on Citric Acid and Certain Citrate Salts From the People's Republic of China,'' (October 20, 2014); Letter from Petitioners, ''Citric Acid and Certain Citrate Salts From The People's Republic Of China/ Petitioners' Case Brief,'' (October 20, 2014); Letter from the RZBC Companies, ''Citric Acid and Citrate Salts From the People's Republic of China: Case Brief,'' (October 20, 2014).

[5] *See* letter from the GOC, ''GOC's Rebuttal Brief in the Fourth Administrative Review of the Countervailing Duty Order on Citric Acid and Certain Citrate Salts from the People's Republic of China,'' (October 27, 2014); Letter from Petitioners, ''Citric Acid and Certain Citrate Salts From The People's Republic Of China/Petitioners' Rebuttal Brief,'' (October 27, 2014); Letter from the RZBC Companies, ''Citric Acid and Citrate Salts from the People's Republic of China: Rebuttal Case Brief,'' (October 27, 2014).

[6] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (''IA ACCESS'') to AD and CVD Centralized Electronic Service System (''ACCESS''). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014).

building. In addition, a complete version of the Final Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/enforcement/.* The signed Final Decision Memorandum and the electronic versions of the Final Decision Memorandum are identical in content.

Methodology

The Department conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we determine that there is a subsidy, *i.e.,* a financial contribution from an ''authority'' that confers a benefit to the recipient, and that the subsidy is specific.[7] For a full description of the methodology underlying our conclusions, *see* the Final Decision Memorandum.

In making these findings, we relied, in part, on facts available and, because the GOC did not act to the best of its ability to respond to the Department's requests for information, we drew an adverse inference in selecting from among the facts otherwise available.[8] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Final Decision Memorandum.

Final Results of the Review

In accordance with 19 CFR 351.221(b)(5), we determine a net countervailable subsidy rate of 17.55 percent *ad valorem* for the RZBC Companies.

Assessment Rates

The Department intends to issue appropriate assessment instructions directly to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of these final results, to liquidate shipments of subject merchandise by the RZBC Companies entered, or withdrawn from warehouse, for consumption on or after January 1, 2012, through December 31, 2012.

Cash Deposit Instructions

The Department also intends to instruct CBP to collect cash deposits of estimated CVDs in the amount shown above on shipments of subject merchandise by the RZBC Companies entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed companies, we will instruct CBP to continue to collect cash deposits at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to companies covered by this order, but not examined in this review, are those established in the most recently completed segment of the proceeding for each company. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: December 22, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2014–30661 Filed 12–30–14; 8:45 am]

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[7] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[8] *See* sections 776(a) and (b) of the Act.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–014]

53-Foot Domestic Dry Containers From the People's Republic of China: Amended Preliminary Determination of Sales at Less-Than-Fair-Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is amending the preliminary determination of the less-than-fair-value investigation of 53-foot domestic dry containers from the People's Republic of China (''PRC'') to correct for certain ministerial errors, as described below, in the ''Supplementary Information'' section of this notice. The Department corrected these errors and recalculated the weighted-average dumping margins for a mandatory respondent and the PRC-Wide entity, as described below in the ''Amended Preliminary Determination'' section of this notice.

DATES: *Effective Date:* December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Brian Davis or John Drury, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution

Avenue NW., Washington, DC 20230; telephone: (202) 482–7924 or (202) 482–0195, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 2014, the Department published its affirmative preliminary determination that 53-foot domestic dry containers (''domestic dry containers'') from the PRC are being, or are likely to be, sold in the United States at less than fair value, as provided by section 733 of the Tariff Act of 1930, as amended (''the Act'').[1] On November 25, 2014, the Department disclosed to interested parties its calculations for the *Preliminary Determination.* On December 1, 2014, Hui Zhou Pacific Container Co., Ltd., Qingdao Pacific Container Co., Ltd., and Qidong Singamas Energy Equipment Co., Ltd. and their holding company Singamas Container Holdings Limited (collectively, ''Singamas''), a mandatory respondent in this investigation, submitted a timely ministerial error allegations with respect to the *Preliminary Determination.* In addition, on December 1, 2014, Stoughton Trailers LLC (''Petitioner'') submitted timely ministerial error allegations with respect to the Department's calculation of the PRC-Wide entity rate. Therefore, in accordance with 19 CFR 351.224(e), we made changes, as discussed below, to the *Preliminary Determination.*

Period of Investigation

The period of investigation (''POI'') is October 1, 2013, through March 31, 2014.

Scope of the Investigation

The merchandise subject to investigation is closed (*i.e.,* not open top) van containers exceeding 14.63 meters (48 feet) but generally measuring 16.154 meters (53 feet) in exterior length, which are designed for the intermodal transport [2] of goods other than bulk liquids within North America primarily by rail or by road vehicle, or by a combination of rail and road vehicle (domestic containers). The merchandise is known in the industry by varying terms including ''53-foot containers,'' ''53-foot dry containers,'' ''53-foot domestic dry containers,'' ''domestic dry containers'' and ''domestic containers.'' Imports of the subject merchandise are provided for under subheading 8609.00.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Imports of the subject merchandise which meet the definition of and requirements for ''instruments of international traffic'' pursuant to 19 U.S.C. 1322 and 19 CFR 10.41a may be classified under subheading 9803.00.50, HTSUS.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Significant Ministerial Errors

Ministerial errors are defined in 19 CFR 351.224(f) as ''errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the Department considers ministerial.'' [3] 19 CFR 351.224(e) provides that the Department ''will analyze any comments received and, if appropriate, correct any significant ministerial error by amending the preliminary determination . . .'' [4] A significant ministerial error is defined as a ministerial error, the correction of which, either singly or in combination with other errors, would result in (1) a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the original (erroneous) preliminary determination, or (2) a difference between a weighted-average dumping margin of zero (or *de minimis*) and a weighted-average dumping margin of greater than *de minimis* or vice versa.[5]

In accordance with 19 CFR 351.224(e) and (g)(1), the Department is amending the preliminary determination of the less-than-fair-value investigation of 53-foot domestic dry containers from the PRC to reflect the corrections of significant ministerial errors it made in the weighted-average dumping margin calculations for Singamas, a mandatory respondent in this investigation, and for PRC-Wide entity.[6]

Ministerial Error Allegations

For a complete analysis of the ministerial error allegations, *see* the Ministerial Error Memorandum.

Amended Preliminary Determination

As a result of this amended preliminary determination, we revised the preliminary estimated weighted-average dumping margin for Singamas and the PRC-Wide entity as follows:

Exporter	Producer	Weighted-average dumping margin (percent)
Hui Zhou Pacific Container Co., Ltd./Qingdao Pacific Container Co., Ltd./Qidong Singamas Energy Equipment Co., Ltd./Singamas Management Services Limited.	Hui Zhou Pacific Container Co., Ltd./Qingdao Pacific Container Co., Ltd./Qidong Singamas Energy Equipment Co., Ltd.	98.82
PRC-Wide Entity		104.59

As detailed in the Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Antidumping Duty Investigation of 53-Foot Domestic Dry Containers from the People's Republic of China: Decision Memorandum for the Preliminary Determination,'' dated November 19, 2014, China International Marine Containers (Group) Co., Ltd., China International Marine Containers (HK) Ltd., Xinhui CIMC Special Transportation Equipment Co., Ltd., Nantong CIMC-Special Transportation Equipment Manufacture Co., Ltd., and

[1] *See 53-Foot Domestic Dry Containers From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value; Preliminary Negative Determination of Critical Circumstances; and Postponement of Final Determination and Extension of Provisional Measures,* 79 FR 70501 (November 26, 2014) (''*Preliminary Determination*'').

[2] ''Intermodal transport'' refers to a movement of freight using more than one mode of transportation, most commonly on a container chassis for on-the-road transportation and on a rail car for rail transportation.

[3] *See* 19 CFR 351.224(f).

[4] *See* 19 CFR 351.224(e).

[5] *See* 19 CFR 351.224(g).

[6] *See,* Memorandum from Richard Weible, Office Director, Antidumping and Countervailing Duty Operations, Office VI, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Less-Than-Fair-Value Investigation of 53-Foot Domestic Dry Containers from the People's Republic of China: Allegations of Ministerial Errors'' (''Ministerial Error Memorandum''), which is dated concurrently hereby adopted by this notice.

Qingdao CIMC Container Manufacture Co., Ltd. (collectively, ''CIMC''), a mandatory respondent in this investigation, did not demonstrate that it is entitled to a separate rate and, therefore, we found it to be the PRC-Wide Entity.

Amended Collection of Cash Deposits and Suspension of Liquidation

The collection of cash deposits and suspension of liquidation will be revised according to the rates calculated in this amended preliminary determination. Because the amended rate for Singamas results in reduced cash deposits, the rate for Singamas will be effective retroactively to November 26, 2014, the date of publication of the *Preliminary Determination*. The rate for the PRC-wide entity will be effective upon publication of this notice. Parties will be notified of this determination, in accordance with sections 733(d) and (f) of the Act.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we notified the International Trade Commission of our amended preliminary determination.

Notification to Interested Parties

The Department intends to disclose calculations performed in connection with this amended preliminary determination within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

This amended preliminary determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.224(e).

Dated: December 22, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–30666 Filed 12–30–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Fisheries Finance Program Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA), 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 March 2, 2015.

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 Brian Summers at (301) 427–8783 or *brian.summers@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection.

The National Oceanic and Atmospheric Administration (NOAA) operates a direct loan program to assist in financing certain actions relating to commercial fishing vessels, shoreside fishery facilities, aquaculture operations, and individual fishing quotas. Application information is required to determine eligibility pursuant to 50 CFR part 253 and to determine the type and amount of assistance requested by the applicant. An annual financial statement is required from the recipients to monitor the financial status of the loan.

II. Method of Collection

Paper applications.

III. Data

OMB Control Number: 0648–0012.

Form Number(s): 88–1.

Type of Review: Regular (extension of a currently approved information collection).

Affected Public: Affected Public: Individuals or households; business or other for-profit organizations.

Estimated Number of Respondents: 456.

Estimated Time per Response: 2–10 hours.

Estimated Total Annual Burden Hours: 1,528.

Estimated Total Annual Cost to Public: $2,622 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: December 19, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–30648 Filed 12–30–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Atlantic Highly Migratory Species Vessel and Gear Marking

AGENCY: National Oceanic and Atmospheric Administration (NOAA), 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 March 2, 2015.

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 Craig Cockrell, (301) 427–8503 or *Craig.Cockrell@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a current information collection. These requirements apply to vessel owners in the Atlantic HMS Fishery.

Under current regulations at 50 CFR 635.6, fishing vessels permitted for Atlantic Highly Migratory Species must display their official vessel numbers on their vessels. Flotation devices and high-flyers attached to certain fishing gears must also be marked with the vessel's number to identify the vessel to which the gear belongs. These requirements are necessary for identification, law enforcement, and monitoring purposes.

Specifically, all vessel owners that hold a valid HMS permit under 50 CFR 635.4, other than an HMS Angling permit, are required to display their vessel identification number. Numbers must be permanently affixed to, or painted on, the port and starboard sides of the deckhouse or hull and on an appropriate weather deck, so as to be clearly visible from an enforcement vessel or aircraft. In block Arabic numerals permanently affixed to or painted on the vessel in contrasting color to the background. At least 18 inches (45.7 cm) in height for vessels over 65 ft (19.8 m) in length; at least 10 inches (25.4 cm) in height for all other vessels over 25 ft (7.6 m) in length; and at least 3 inches (7.6 cm) in height for vessels 25 ft (7.6 m) in length or less.

Furthermore, the owner or operator of a vessel for which a permit has been issued under § 635.4 and that uses handline, buoy gear, harpoon, longline, or gillnet, must display the vessel's name, registration number or Atlantic Tunas, HMS Angling, or HMS Charter/Headboat permit number on each float attached to a handline, buoy gear, or harpoon, and on the terminal floats and high-flyers (if applicable) on a longline or gillnet used by the vessel. The vessel's name or number must be at least 1 inch (2.5 cm) in height in block letters or arabic numerals in a color that contrasts with the background color of the float or high-flyer.

II. Method of Collection

There is no form or information collected under this requirement. Official vessel numbers issued to vessel operators are marked on the vessel and on flotation gear, if applicable.

III. Data

OMB Control Number: 0648–0373.

Form Number: None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Non-profit institutions; State, local, or tribal government; business or other for-profit organizations.

Estimated Number of Respondents: 8,332.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 8,332.

Estimated Total Annual Cost to Public: $333,280.

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: December 19, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–30647 Filed 12–30–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD667

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a Marine Planning and Climate Change Committee (MPCCC) meeting in Honolulu, HI and by teleconference.

DATES: The MPCCC meeting will be held on Tuesday, January 20, 2015, from 1 p.m. to 3 p.m.

ADDRESSES: The meeting will be held by teleconference and at the Council Office Conference Room, 1164 Bishop Street, Suite 1400, Honolulu, HI; telephone: (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The MPCCC will review the draft marine planning and climate change policy and implementation plan, offer an opportunity for public comment and discuss new business. The Committee may make recommendations on these topics.

Agenda

(1) Review of the draft marine planning and climate change policy
(2) Review of the draft implementation plan
(3) Public comment
(4) Committee discussion and recommendations
(5) New business

The order in which agenda items are addressed may change. The Committee will meet as late as necessary to complete scheduled business.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 23, 2014.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2014–30555 Filed 12–30–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD689

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meetings

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

ACTION: Notice of SEDAR 43 pre-workshop webinar for Gulf of Mexico Gray Triggerfish.

SUMMARY: The SEDAR assessment of the Gulf of Mexico Gray Triggerfish will consist of one in-person workshop and a series of webinars. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR pre-Workshop webinar will be held February 18, 2015, from 1 p.m. to 3 p.m. eastern time. The established time may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from, or completed prior to the time established by this notice.

ADDRESSES: *Meeting address:* The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (See **FOR FURTHER INFORMATION CONTACT** below) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; telephone: (843) 571–4366; email: *Julie.neer@safmc.net*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data/Assessment Workshop, and (2) a series of webinars. The product of the Data/Assessment Workshop is a report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses, and describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the Assessment Process webinars are as follows:

Panelists will present summary data, and discuss data needs and treatments.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 24, 2014.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2014–30654 Filed 12–30–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Ecosystem Advisory Subpanel (EAS) will hold a webinar, which is open to the public.

DATES: The EAS will hold the webinar on Wednesday, January 14, 2015, from 9:30 a.m. and will continue until business for the day is complete.

ADDRESSES: To attend the webinar, visit *http://www.gotomeeting.com/online/webinar/join-webinar*. Enter the webinar ID, which is 148–672–787, and your name and email address (required). Once you have joined the webinar, choose either your computer's audio or select ''Use Telephone.'' If you do not select ''Use Telephone'' you will be connected to audio using your computer's microphone and speakers (VolP). It is recommended that you use a computer headset, as GoToMeeting allows you to listen to the meeting using your computer headset and speakers. If you do not have a headset and speakers, you may use your telephone for the audio portion of the meeting by dialing this TOLL number 1–646–307–1719 (not a toll-free number); phone audio access code 484–528–226; audio phone pin shown after joining the webinar. System Requirements for PC-based attendees: Required: Windows® 7, Vista, or XP; for Mac®-based attendees: Required: Mac OS® X 10.5 or newer; and for mobile attendees: iPhone®, iPad®, Android™ phone or Android tablet (See the GoToMeeting Webinar Apps). You may send an email to Mr. Kris Kleinschmidt or contact him at (503) 820–2280, extension 425 for technical assistance. A listening station will also be provided at the Pacific Council office.

Council Address: Pacific Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Burner, Pacific Council; telephone: (503) 820–2414.

SUPPLEMENTARY INFORMATION: The EAS will discuss agenda items in preparation for the Council's March 2015 meeting in Vancouver, WA. The primary focus will be on the review of Fishery Ecosystem Plan (FEP) initiatives. Other topics may include the Annual State of the California Current Ecosystem Report, FEP Initiative 1: Protecting Unfished and Unmanaged Forage Fish Species and one or more of the Council's scheduled Administrative Matters. Public comments during the webinar will be received from attendees at the discretion of the EAS Chair.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during the meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other

auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2425 at least 5 days prior to the meeting date.

Dated: December 23, 2014.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2014–30553 Filed 12–30–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD665

Pacific Fishery Management Council; Public Meetings and Hearings

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

ACTION: Notice of availability of reports; public meetings, and hearings.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) has begun its annual preseason management process for the 2015 ocean salmon fisheries. This document announces the availability of Pacific Council documents as well as the dates and locations of Pacific Council meetings and public hearings comprising the Pacific Council's complete schedule of events for determining the annual proposed and final modifications to ocean salmon fishery management measures. The agendas for the March and April 2015 Pacific Council meetings will be published in subsequent **Federal Register** documents prior to the actual meetings.

DATES: Written comments on the salmon management alternatives must be received by 11:59 p.m. Pacific Time, April 2, 2015.

ADDRESSES: Documents will be available from, and written comments should be sent to, Ms. Dorothy Lowman, Chair, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384, telephone: 503–820–2280 (voice) or 503–820–2299 (fax). Comments can also be submitted via email at *PFMC.comments@noaa.gov.* or through the internet at the Federal Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments, and include the I.D. number in the subject line of the message. For specific meeting and hearing locations, see supplementary information.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Burner, telephone: (503) 820–2414.

SUPPLEMENTARY INFORMATION:

Tentative Schedule for Document Completion and Availability

February 17, 2015: ''Review of 2014 Ocean Salmon Fisheries, Stock Assessment and Fishery Evaluation Document for the Pacific Coast Salmon Fishery Management Plan'' is scheduled to be mailed to the public and posted on the Pacific Council Web site at *http://www.pcouncil.org.*

February 27, 2015: ''Preseason Report I—Stock Abundance Analysis and Environmental Assessment Part 1 for 2015 Ocean Salmon Fishery Regulations'' is scheduled to be mailed to the public and posted on the Pacific Council Web site at *http://www.pcouncil.org.*

March 20, 2015: ''Preseason Report II—Proposed Alternatives and Environmental Assessment Part 2 for 2015 Ocean Salmon Fishery Regulations'' and public hearing schedule is scheduled to be mailed to the public and posted on the Pacific Council Web site at *http://www.pcouncil.org.* The report will include a description of the adopted salmon management alternatives and a summary of their biological and economic impacts.

April 24, 2015: ''Preseason Report III—Council-Adopted Management Measures and Environmental Assessment Part 3 for 2015 Ocean Salmon Fishery Regulations'' will be mailed to the public and posted on the Pacific Council Web site at *http://www.pcouncil.org.*

May 1, 2015: Federal regulations for 2015 ocean salmon regulations will be published in the **Federal Register** and implemented.

Meetings and Hearings

January 20–23, 2015: The Salmon Technical Team (STT) will meet at the Pacific Council office in a public work session to draft ''Review of 2014 Ocean Salmon Fisheries'' and to consider any other estimation or methodology issues pertinent to the 2015 ocean salmon fisheries.

February 17–20, 2015: The STT will meet at the Pacific Council office in a public work session to draft ''Preseason Report I—Stock Abundance Analysis and Environmental Assessment Part 1 for 2015 Ocean Salmon Fishery Regulations'' and to consider any other estimation or methodology issues pertinent to the 2015 ocean salmon fisheries.

March 30–31, 2015: Public hearings will be held to receive comments on the proposed ocean salmon fishery management alternatives adopted by the Pacific Council. Written comments received at the public hearings and a summary of oral comments at the hearings will be provided to the Pacific Council at its April meeting.

All public hearings begin at 7 p.m. at the following locations:

March 30, 2015: Chateau Westport, Beach Room, 710 West Hancock, Westport, WA 98595, telephone: (360) 268–9101.

March 30, 2015: Red Lion Hotel, South Umpqua Room, 1313 North Bayshore Drive, Coos Bay, OR 97420, telephone: (541) 267–4141.

March 31, 2015: Motel 6, Convention Room, 400 South Main St, Fort Bragg, CA 95437, telephone: (707) 964–4761.

Although non-emergency issues not contained in the STT meeting agendas may come before the STT for discussion, those issues may not be the subject of formal STT action during these meetings. STT action will be restricted to those issues specifically listed in this document and to any issues arising after publication of this document requiring emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the STT's intent to take final action to address the emergency.

Special Accommodations

These public meetings and hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2280 (voice), or (503) 820–2299 (fax) at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 23, 2014.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2014–30552 Filed 12–30–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD666

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will receive an overview from the Bureau of Ocean Energy Management (BOEM) about their geological and geophysical (G&G) permitting process in the Atlantic, focusing on regulations and the permitted activities for G&G surveys.

DATES: The meeting will be held on Tuesday, January 20, 2015, from 1:30 p.m. to 3:30 p.m. EST, via Internet Webinar.

ADDRESSES: The meeting will be held via Internet Webinar. To join the Webinar, follow this link and enter the online meeting room: *http://mafmc.adobeconnect.com/januaryboem/*

Council address: Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901, telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: BOEM will give a presentation to the Council that provides an overview of the geological and geophysical (G&G) permitting process in the Atlantic, focusing on regulations and the permitted activities for G&G surveys. BOEM will outline what is included in a complete permit and discuss the coordination process. The outline will also go through the National Environmental Policy Act and internal environmental review processes and discuss the related consultation and coordination, and finally touch on mitigation and operations monitoring. BOEM staff will be available to answer any questions following the presentation.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Kathy Collins, (302) 526–5253, at least 5 days prior to the meeting date.

Dated: December 23, 2014.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2014–30554 Filed 12–30–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC228

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Operation, Maintenance, and Repair of the Northeast Gateway Liquefied Natural Gas Port and the Algonquin Pipeline Lateral Facilities in Massachusetts Bay

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

ACTION: Notice; issuance of an incidental take authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to the Northeast Gateway® Energy Bridge™, L.P. (Northeast Gateway or NEG) and Algonquin Gas Transmission, L.L.C. (Algonquin) to take, by harassment, small numbers of 14 species of marine mammals incidental to operating, maintaining, and repairing a liquefied natural gas (LNG) port and the Algonquin Pipeline Lateral (Pipeline Lateral) facilities by NEG and Algonquin, in Massachusetts Bay, between December 22, 2014, through December 21, 2015.

DATES: Effective December 22, 2014, through December 21, 2015.

ADDRESSES: A copy of the original and revised application containing a list of the references used in this document, The Maritime Administration (MARAD), U.S. Coast Guard (USCG) Final Environmental Impact Statement (Final EIS) on the Northeast Gateway Energy Bridge LNG Deepwater Port license application, and other related documents are available for viewing at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*.

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

Background

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

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

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for a one-year authorization to incidentally take small numbers of marine mammals by harassment, provided that there is no potential for serious injury or mortality to result from the activity. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

Summary of Request

On January 18, 2013, NMFS received an application from Excelerate and Tetra Tech, on behalf of Northeast Gateway and Algonquin, for an authorization to take 14 species of marine mammals by Level B harassment incidental to operations, maintenance, and repair of an LNG port and the Pipeline Lateral facilities in Massachusetts Bay. They are: North Atlantic right whale, humpback whale, fin whale, sei whale, minke whale, long-finned pilot whale, Atlantic white-sided dolphin, bottlenose dolphin, short-beaked common dolphin, killer whale, Risso's dolphin, harbor porpoise, harbor

seal, and gray seal. Since LNG Port and Pipeline Lateral operation, maintenance, and repair activities have the potential to take marine mammals, a marine mammal take authorization under the MMPA is warranted.

In response to the IHA application, NMFS published a **Federal Register** notice for the proposed IHA on November 18, 2013 (78 FR 69049), which included proposed mitigation and monitoring measures to minimize and monitor potential impacts to marine mammals that could result from the proposed LNG Port and Pipeline Lateral operation, maintenance, and repair activities. After the close of the public comment period, Northeast Gateway notified NMFS that it does not intend to use marine autonomous recording units (MARUs) for long-term passive acoustic monitoring (PAM), as was described in the November 18, 2013, proposed IHA **Federal Register** notice, the IHA application, and marine mammal monitoring plan, except under certain levels of LNG port activity, and requested NMFS to modify the monitoring measures in the proposed IHA to use alternative acoustic monitoring, with triggers for additional long-term monitoring during higher levels of LNG port activity (which would require reinstallation of MARUs).

Following discussions with NMFS' Office of Protected Resources, the NMFS Greater Atlantic Regional Fisheries Office (GARFO), and National Ocean Service's Stellwagen Bank National Marine Sanctuary, on June 20, 2014, Excelerate and Tetra Tech submitted a revised IHA application with tiered PAM measures corresponding to different levels of LNG Port and Pipeline Lateral operation, maintenance, and repair activities. On October 6, 2014, NMFS published a **Federal Register** notice (79 FR 60142) for the revised proposed IHA that include updated PAM. No changes was made for the proposed updated PAM as described in the revised proposed IHA. Please refer to **Federal Register** notices for the proposed IHA (78 FR 69049; November 18, 2013) and the revised proposed IHA (79 FR 60142; October 6, 2014) for a detailed description of the project activities and the updated PAM.

Comments and Responses

A notice of NMFS' proposal to issue an IHA to Northeast Gateway and Algonquin was published in the **Federal Register** notice on November 18, 2013 (78 FR 69049), and was revised in a second **Federal Register** notice on October 6, 2014 (79 FR 60142). These notices described, in detail, Northeast Gateway and Algonquin's activities, the marine mammal species that may be affected by the activity, the anticipated effects on marine mammals, and the proposed monitoring, mitigation, and reporting measures.

During the 30-day public comment period for the **Federal Register** notice published on November 18, 2013, NMFS received two comment letters: one from the Marine Mammal Commission (Commission) and one from the Whale and Dolphin Conservation (WDC) and the Humane Society of the United States (HSUS). During the 30-day public comment period for the **Federal Register** notice published on October 6, 2014, NMFS received only one comment letter from the Commission. In that comment letter, the Commission states that it believes that the revised acoustic monitoring measures are justified and, in combination with other previously proposed mitigation and monitoring measures, are sufficient to ensure that NMFS' previous findings and determinations are still valid. All relevant comments are addressed here.

Comment 1: The Commission recommends that NMFS issue the requested authorization, subject to inclusion of the proposed mitigation and monitoring measures.

Response: NMFS concurs with the Commission's recommendation and has included the mitigation and monitoring measures contained in the proposed authorization in the issued IHA.

Comment 2: Citing Mussoline *et al.* (2012), the WDC and HSUS state that North Atlantic right whales are detected within Massachusetts Bay year round, and therefore NEG's maintenance and repair activities between May 1 and November 30 would have ''direct impact'' to North Atlantic right whales. In addition, the WDC and HSUS point out that other endangered whale species can also be found in Massachusetts Bay during this time span but they are not mentioned in the IHA application. WDC and HSUS thus conclude that since no lethal take can be authorized, any takes would violate both the MMPA and the Endangered Species Act (ESA).

Response: NMFS does not agree with the WDC and HSUS' assessment on the potential impacts of whales in Massachusetts Bay and their conclusion in regards to lethal takes.

First, Mussoline *et al.* (2012) used marine autonomous recording units (MARUs) deployed throughout the Stellwagen Bank National Marine Sanctuary (SBNMS, Massachusetts Bay) from January 2006 to February 2007 to study the presence and absence of the North Atlantic right whales in the area by detection of the whale's up-calls. The results showed that although up-calls were detected year round, except during July and August, in the SBNMS area, calling rates were highest from January through May, peaking in April (Mussoline *et al.* 2012, Figure 2), suggesting seasonal variation. These seasonal variations in distribution of the North Atlantic right whale in the project vicinity were taken into consideration when analyzing potential human impacts from the proposed NEG and Algonquin LNG Port operations and maintenance and repair activities and fashioning mitigation such as the window for planned maintenance and repair.

Second, with regard to the issue of lethal take, it is stated clearly in the **Federal Register** notices for the proposed IHA that no mortality or injury of marine mammals from the proposed LNG Port/Pipeline operations and maintenance and repair activities (with mitigation and monitoring) is expected and none are authorized. Potential adverse effects to marine mammals, including endangered whales that might occur in the proposed LNG Port action area, were assessed and provided in the **Federal Register** notice for the proposed IHA, as well as the associated EIS. Finally, in preparation for the issuance of the IHA, NMFS Office of Protected Resources conducted a section 7 consultation under the ESA with the NMFS Greater Atlantic Region Fisheries Office. A Biological Opinion was issued on November 21, 2014, concluding that the proposed action is not likely to jeopardize the continued existence of endangered marine mammal and other species, with no mortality anticipated.

Comment 3: Citing potential vessel collision of the endangered North Atlantic right whales, WDC and HSUS recommend limiting the Energy Bridge Regasification Vessel (EBRV) speeds to 10 knots as right whales have been sighted throughout Massachusetts and Cape Cod Bays at all times of the year. The WDC and HSUS further state that monitoring measures are not effective because not all whales in an area will be seen or heard, and detection can only provide a record of where whales have been recently seen.

Response: NMFS is aware of the potential threats of vessel collision to the North Atlantic right whale from all transiting cargo ships, not just EBRVs, in the area. Therefore, a series of temporal and spatial vessel speed related measures are required for the LNG Port/Pipeline operations and maintenance and repair activities in the Massachusetts Bay. These measures are the results of careful analyses and

assessment on the seasonal and spatial distribution of the right whale, and the balance between species conservation and practicability. Although right whales are sighted in Massachusetts and Cape Cod Bays throughout the year, their presence in the summer months is extremely rare, and NMFS does not believe reducing vessel speeds from 12 knots to 10 knots would provide any additional conservation benefits to the species because vessels will have protected species observers on board. However, mitigation measures require that once a whale is acoustically detected, the vessel must slow down to 10 knots or less within 5 miles (8 km) of the last sighting area, which provides for a fairly large buffer to avoid any potential collision with North Atlantic right whales. We determined that this measure was protective and would reduce the likelihood of collision further.

Comment 4: Citing the NEG IHA application that maintenance and repair activities will result in ''increased levels of turbidity which can interfere with the ability of whales to forage effectively by obscuring visual detection of or dispersing potential prey,'' WDC and HSUS state that the proposed LNG Port maintenance and repair activities may result in reduced fitness of marine mammal species.

Response: NMFS disagrees with the cited statement in the IHA application, as well as the conclusion from WDC and HSUS based on the incorrect statement. NMFS is aware that turbidity is a potential effect from Algonquin Pipeline Lateral maintenance and repair activities. However, the area that may be affected by these activities is expected to be of very small scale, on the order of tens of meters. Because the disturbance would occur on such a small scale relative to the size of Massachusetts Bay and available foraging area, we determined that the maintenance and repair activities would not appreciably affect the visual detection of prey by marine mammals. In addition, the turbidity by soil disturbance from the proposed maintenance and repair activities is expected to be brief in duration. Suspended sediments from the ocean bottom are expected to resettle within hours after any disturbance.

Comment 5: The WDC and HSUS are concerned about the dramatic increase in water withdrawal that has been requested. The WDC and HSUS states that these withdrawals would increase from 2.6 billion gallons of sea water per year to 11 billion gallons per year. The WDC and HSUS question the assessment performed by the applicant on abundance of planktonic species due to their patchy distribution (citing Baumgartner *et al.* 2003). Further, without providing any scientific evidence, the WDC and HSUS state that an increase of 400% or more in water uptake is bound to have significant effects on localized plankton aggregations.

Response: NMFS does not agree with WDC and HSUS' statement that the increase of water intake would have significant effects on localized plankton aggregations. The **Federal Register** notice for the proposed IHA provided detailed analyses on the extra water intake by the proposed LNG Port operations and maintenance and repair activities. Under the requested water-use scenario, Tech Tech (2011) conducted an environmental impact assessment (EIA) titled ''*Environmental Assessment: Northeast Gateway Deepwater Port''* on the potential impacts to marine mammals and their prey. To evaluate impacts to phytoplankton under the increased water usage, the biomass of phytoplankton lost from the Massachusetts Bay ecosystem was estimated based on the same method presented in the final Environmental Impact Statement/Environmental Impact Report (EIS/EIR). Phytoplankton densities of 65,000 to 390,000 cells/gallon were multiplied by the annual planned activities withdrawal rate of 11 billion gallons to estimate a loss of 7.15×10^{14} to 4.29×10^{15} cells per year. Assuming a dry-weight biomass of 10^{-10} to 10^{-11} gram per cell (g/cell), an estimated 7.2 kg to 429 kg of biomass would be lost annually from Massachusetts Bay under the proposed activity, up to approximately 4.2 times greater than that estimated in the EIS/EIR for the permitted operational scenario. An order of magnitude estimate of the effect of this annual biomass loss on the regional food web can be calculated assuming a 10 percent transfer of biomass from one trophic level to the next (Sumich 1988) following the method used in the final EIS/EIR. This suggests that the loss of 7.2 kg to 429 kg of phytoplankton will result in the loss of about 0.7 kg to 42.9 kg of zooplankton, less than 0.1 kg to 4.3 kg of small planktivorous fish, and up to 0.4 kg of large piscivorous fish (approximately equivalent to a single 1-pound striped bass). Relative to the biomass of these trophic levels in the project area, this biomass loss is minor and consistent with the findings in the final EIS/EIR. NMFS' analysis relied on the analysis in the EIA for its own analysis, and the comment does not provide support for a contradictory conclusion.

In addition, the density of zooplankton determined by the sampling conducted by the Massachusetts Water Resource Authority (MWRA) to characterize the area is approximately of 34.9×10^3 organisms per m^3. Applying this density, the water withdrawal volume under the proposed activity would result in the entrainment of 2.2×10^{10} zooplankton individuals per trip or 1.5×10^{12} individuals per year. Assuming an average biomass of 0.63×10^{-6} g per individual, this would result in the loss of 14.1 kg of zooplankton per shipment or 916.5 kg of zooplankton per year for 65 shipments. As discussed for phytoplankton, biomass transfers from one trophic level to the next at a rate of about 10 percent. Therefore, this entrainment of zooplankton would result in loss of about 91.6 kg of planktivorous fish and 9.2 kg of large piscivorous fish (approximately equivalent to two 9-pound striped bass). These losses are minor relative to the total biomass of these trophic levels in Massachusetts Bay.

Finally, ichthyoplankton (fish eggs and larvae) losses and equivalent age one juvenile fish estimates under the proposed activity were made based on actual monthly ichthyoplankton data collected in the port area from October 2005 through December 2009 and the proposed activity withdrawal volume of 11 billion gallons per year evenly distributed among months (0.92 billion gallons per month) as a worst-case scenario, representing the maximum number of Port deliveries during any given month. Similarly, the lower, upper, and mean annual entrainment estimates are based on the lower and upper 95 percent confidence limits, of the monthly mean ichthyoplankton densities, and the monthly mean estimates multiplied by the monthly withdrawal rate of 0.92 billion gallons per month. At this withdrawal rate, approximately 106 million eggs and 67 million larvae are estimated to be lost. Nevertheless, the demand for natural gas and corresponding Port activities will likely be greatest during the winter heating season (November through March) when impacts from entrainment will likely be lower.

These estimated losses are not significant given the very high natural mortality of ichthyoplankton. This comparison was done in the final EIS/EIR where ichthyoplankton losses based on historic regional ichthyoplankton densities and a withdrawal rate of approximately 2.6 billion gallons per year were represented by the equivalent

number of age one fish. Under the final EIS/EIR withdrawal scenario, equivalent age one losses due to entrainment ranged from 1 haddock to 43,431 sand lance (Tetra Tech 2010). Equivalent age one losses when no NEG Port operations occurred were recalculated using Northeast Gateway monitoring data in order to facilitate comparisons between the permitted scenario and no action scenario. Using Northeast Gateway monitoring data, withdrawal of 2.6 billion gallons per year would result in equivalent age one losses ranging from less than 1 haddock to 5,602 American sand lance. By comparison, equivalent age one losses under the proposed activity withdrawal rate of 11 billion gallons per year ranged from less than 1 haddock to 23,701 sand lance and were generally similar to or less than those in the final EIS/EIR.

Although no reliable annual food consumption rates of baleen whales are available for comparison, based on the calculated quantities of phytoplankton, zooplankton, and ichthyoplankton removal analyzed above, we believe it is reasonable to conclude that baleen whale predation rates would dwarf any reasonable estimates of prey removals by NEG Port operations.

In conducting this analysis, NMFS is aware of the prey patchiness in the natural environment. However, for a large scale and long-term environmental assessment, random and uniform plankton distribution is a valid assumption to make. Therefore, NMFS determined that the prey removals by NEG Port operations resulting from water usage will have inconsequential impacts on plankton aggregation.

Comment 6: The WDC and HSUS are concerned about the increased discharge of warm water during off-loading. The WDC and HSUS state that there are likely to be adverse impacts to zooplankton in the area and, consequently, the forage base for several endangered whale species. The WDC and HSUS further state that in particular, this warmer water could affect right whale prey distribution and prey availability, as their primary prey, *Calanus finmarchicus,* tends to be concentrated in discrete thermal layers (Baumgartner and Mate, 2005). In addition, WDC and HSUS point out that research by Keller *et al.* (2002) has indicated that presence or absence of right whales was dependent on water temperature differences of as little as 2 °C.

Response: NMFS is aware of the increased discharge of warm water during NEG LNG Port operation off-loading process. In 2011, NMFS requested that NEG conduct an analysis of its warm water discharge from the cooling systems. The analysis used a refined software system, CORnell MIxing Zone Expert System (CORMIX), to estimate behavior of the thermal plumes (Dill and Hamilton 2011).

Initial data indicate the actual temperature difference (ΔT) associated with the discharge water can approach 12 °C, which is greater than originally anticipated (2.6 °C). Using the newer version of the modeling software (CORMIX 6.0–GT) to simulate the originally estimated discharge characteristics as a point of comparison, and to simulate a range of conditions, including variable plume discharge ΔT levels from the main condenser cooling system of 4 to 12 °C, and variable receiving water conditions in winter and summer, the results showed the following:

- Summer conditions: Results showed for summer (when the water column in Massachusetts Bay is stratified) that the plume generally is expected to surface when ΔT is 6 °C or greater. The plume is unstable in the near-field, and may surface immediately adjacent to the hull. Lower temperature differences (*e.g.,* ΔT of 4 °C) can mix at depth within the cooler lower layer of Massachusetts Bay. The distance at which a ΔT of 0.8 °C is achieved ranges from 13 to 65 m from the ship. At 500 m from the ship, the surface ΔT is 0.34 °C or less.
- Winter conditions: Results showed for winter (when the water column is well-mixed) that the plume surfaces within 37 m (discharge ΔT of 12 °C) to 78 m (discharge ΔT of 4 °C) from the ship. The distance at which ΔT of 0.8 °C is achieved ranges from 19 to 37 m from the ship, which is a submerged position within the plume. Maximum surface ΔT is less than 1 °C. At 500 m from the ship, the surface ΔT is 0.31 °C or less.

In summary, the temperature difference is expected to drop to non-significant over the distance of tens of meters from the vessel. Therefore, NMFS determined that the warm water discharge from the LNG Port operations is expected to have no effects on the marine environment, zooplankton in the area, and marine mammal prey distribution.

Comment 7: The WDC and HSUS state that the applicant does not appear concerned that underwater sound resulting from maintenance and operation of the port is likely to result in harassment to marine mammals, except noise from a DP dive vessel. The WDC and HSUS further states that sound propagation calculations the applicant performed were based on outdated data that may no longer be applicable, as environmental factors such as seabed composition are likely to have changed in the past twenty years, and the applicant acknowledges that the maximum radius of the Zone of Influence (ZOI) is inherently variable.

Response: NMFS does not agree. The initial **Federal Register** notice (FR 69049; November 18, 2013) for the proposed IHA described noise from the proposed maintenance and repair activities, and the analysis discussed more than just sound from a DP dive vessel, including models used to assess vessel noises such as turning screws, engine noise, noise of operating machinery, and thruster use. In addition, to confirm these modeled results and better understand the noise footprint associated with the initial construction activities at the LNG Port, field measurements were taken of various construction activities during the 2007 NEG Port and Algonquin Pipeline Lateral Construction period. Measurements were taken to establish the ''loudest'' potential construction measurement event. The location at the LNG Port was used to determine site-specific distances to the 120/180 dB re 1 μPa isopleths for NEG Port maintenance and repair activities.

As described for NEG Port operations, sound propagation calculations were performed to determine the noise footprint of the construction activity. The calculations took into consideration aspects of water depth, sea state, bathymetry, and seabed composition, and specifically evaluated sound energy in the range that encompasses the auditory frequencies of marine mammals and sound propagation beyond the immediate vicinity of the source. These results were then summed across frequencies to provide the broadband received levels at receptor locations. The resulting distance to the 120 dB isopleth (180 dB re 1 μPa does not exist) was estimated to determine the maximum distance at which Level B harassment may occur.

NMFS used the most recent and best data available regarding sound measurements from the Port, which were collected during maintenance and repair activities in 2009. We note, however, that this IHA requires the applicant to conduct passive acoustic monitoring (PAM) for the noise environment in Massachusetts Bay during operations and maintenance and repair activities. The acoustic data collected by the PAM will measure and document the sound ''budget'' of Massachusetts Bay so as to eventually assist in determining whether or not an overall increase in noise in the Bay associated with the Project might be having a potentially negative impact on marine mammals. These acoustic data will provide additional new insight on the noise levels from NEG's proposed

LNG Port operations and maintenance and repair activities.

Comment 8: The WDC and HSUS state that the applicant does not take into account the fact that GDF SUEZ-Neptune LNG is also operating in Massachusetts Bay, and because the ports are ''very similar in their potential need and type or maintenance and repair'', the cumulative impacts of noise from both ports should be considered but have not been discussed by the applicant.

Response: The potential cumulative impacts from the nearby Neptune LNG Port were analyzed in the EIS/EIR for the NEG LNG project. However, on July 5, 2013, the Maritime Administration granted the request of Neptune LNG to suspend operations of their LNG Port facility for a period of 5 years, which began on June 26, 2013. Therefore, Neptune LNG will not be conducting any operations until at least June 26, 2018.

Comment 9: The WDC and HSUS are concerned by the estimated number of takes of marine mammals, particularly the North Atlantic right whale. The applicant estimates takes for this species as high as 29 per year due to port operations and maintenance and repair activities of the NEG Port and the Algonquin Pipeline Lateral.

Response: As analyzed and discussed in detail in the **Federal Register** notices for the proposed IHA, the estimated take of up to 29 North Atlantic right whale by Level B behavioral harassment represent 6.59% of the population. Since it is likely that individual animals could be ''taken'' by harassment multiple times, the percentage is the upper boundary of the numbers of animals in the population that could be affected. The Level B behavioral harassment of these animals is expected to consist of brief exposure of anthropogenic underwater noise levels above 120 dB re 1 µPa, and animals exposed to that level may exhibit brief alert or avoidance activities during the exposure. In addition, no mortality or injury is expected to occur, and due to the nature, degree, and context of the Level B harassment anticipated, the activity is not expected to impact rates of recruitment or survival.

Comment 10: The WDC and HSUS point out an inconsistency in the IHA application regarding historical marine mammal take numbers. The WDC and HSUS state that in the IHA application, the applicant stated that ''to date, based on both ERBV vessel observations and MARU data, no take by harassment has been recorded during NEG Port operations,'' while later in the application it stated that ''[t]o date, these mitigation and monitoring activities have successfully safeguarded marine mammals and sea turtles, resulting in a total of only 1 take by acoustic harassment over the past 3 years of operation.''

Response: NMFS contacted NEG for clarification of these two statements. After review of the original marine mammal monitoring records, NEG's contractor Tetra Tech states that the only observed take of a marine mammal was on February 5, 2009, when an unidentified small marine mammal (either a seal or a dolphin) was briefly spotted within the 120 dB re 1 µPa zone of influence at a distance between 1 and 1.2 miles from the EBRV Explorer while DP thrusters were engaged.

Description of Marine Mammals in the Area of the Specified Activities

The **Federal Register** notice (78 FR 69049; November 18, 2013) for the proposed IHA and Northeast Gateway's IHA application identified 14 marine mammal species under NMFS jurisdiction likely to occur in the construction area:

North Atlantic right whale (*Eubalaena glacialis*),
humpback whale (*Megaptera novaeangliae*),
fin whale (*Balaenoptera physalus*),
minke whale (*B. acutorostrata*),
long-finned pilot whale (*Globicephala melas*),
Atlantic white-sided dolphin (*Lagenorhynchus acutus*),
bottlenose dolphin (*Tursiops truncatus*),
common dolphin (*Delphinus delphis*),
killer whale (*Orcinus orca*),
Risso's dolphin (*Grampus griseus*),
harbor porpoise (*Phocoena phocoena*),
harbor seal (*Phoca vitulina*), and
gray seal (*Halichoerus grypus*).

Information on those species that may be affected by this activity is discussed in detail in the USCG Final EIS on the Northeast Gateway LNG proposal. Please refer to that document for more information on these species and potential impacts from operation of this LNG facility. In addition, general information on these marine mammal species can also be found in Würsig *et al.* (2000) and in the NMFS Stock Assessment Reports (Waring *et al.,* 2014). This latter document is available at: *http://www.nmfs.noaa.gov/pr/sars/pdf/ao2013_tm228.pdf.* That information has not changed and is therefore not repeated here.

Potential Effects of the Specified Activity on Marine Mammals

The proposed NEG LNG port/pipeline operations and maintenance and repair activities could affect marine mammal species and stocks by exposing them to elevated noise levels in the vicinity of the activity area. As described in detail in the **Federal Register** notice of proposed IHA (78 FR 69049, November 18, 2013), potential impacts from port operations and maintenance and repair activities could result in behavioral disturbances, masking, habituation, and although highly unlikely temporary hearing threshold shift. That information has not changed and is therefore not repeated here.

Northeast Gateway contracted with Tetra Tech EC, Inc. (Tetra Tech) to perform field investigations to document various underwater noise levels emitted during the construction of the NEG Port and Algonquin Pipeline Lateral and during the operation of NEG Port facilities (namely the operation of EBRVs). Tetra Tech conducted five offshore hydroacoustic field programs: One in 2005 and one in 2006 at the Gulf Gateway Deepwater Port located approximately 116 miles off the coast of Louisiana in the Gulf of Mexico; and three in 2007 at the NEG Port and Algonquin Pipeline Lateral Project area. The 2005 measurements were completed to determine underwater noise levels during EBRV onboard regasification and vessel movements. The data from the 2005 field program was used to support the modeling and analysis of potential acoustic effects of EBRV operations in Massachusetts Bay during the NEG Port permitting and licensing process. The data collected in 2006 was also associated with EBRV operation activities and were collected for the purpose of verifying the measurement completed in 2005 as well as to further document sound levels during additional operational and EBRV activities such as EBRV coupling and decoupling from the buoy system, transit and the use of stern and bow thrusters required for dynamic positioning. The 2007 measurements were collected during NEG Port and Algonquin Pipeline Lateral construction to obtain site-specific underwater sound-level data associated with various construction activities that were previously modeled in support of permitting and licensing. These data are used here to analyze potential noise impacts to marine mammals and to provide the basis for take calculation before new measurements are made on-site (see Monitoring Measures section below).

A detailed report describing both the 2006 and 2007 operation and construction noise measurement events and associated results have been included as Appendix B of the IHA application. The **Federal Register** notice of proposed IHA provided a complete description of NEG port operations,

NEG port maintenance and repair, and Algonquin pipeline lateral operations and maintenance and unplanned repair, the activities that could result in Level B harassment from the described activities.

Potential Effects on Marine Mammal Habitat

NEG Port Operations

Operation of the NEG Port will not result in short-term effects on habitat; however, long-term effects on the marine environment, including alteration of the seafloor conditions, continued disturbance of the seafloor, regular withdrawal of sea water, and regular generation of underwater noise, will result from Port operations. Specifically, a small area (0.14 acre) along the Pipeline Lateral has been permanently altered (armored) at two cable crossings. In addition, the structures associated with the NEG Port (flowlines, mooring wire rope and chain, suction anchors, and pipeline end manifolds) occupy 4.8 acres of seafloor. An additional area of the seafloor of up to 43 acres (a worst case scenario based on severe 100-year storm with EBRVs occupying both STL buoys) will be subject to disturbance due to chain sweep while the buoys are occupied. Given the relatively small size of the NEG Port area that will be directly affected by Port operations, NMFS does not anticipate that habitat loss will be significant.

EBRVs are currently authorized to withdraw an average of 4.97 million gallons per day (mgd) and 2.6 billion gallons per year of sea water for general ship operations during it cargo delivery activities at the NEG Port. However, during the operations of the NEG Port facility, it was revealed that significantly more water usage is needed from what was originally evaluated in the final USCG Environmental Impact Statement/Environmental Impact Report (EIS/EIR). The updates for the needed water intake and discharge temperature are:

- 11 billion gallons of total annual water use at the Port;
- Maximum daily intake volume of up to 56 mgd at a rate of 0.45 feet per second when an EBRV is not able to achieve the heat recovery system (HRS: It is the capability of reducing water use during the regasification process) mode of operation; and,
- Maximum daily change in discharge temperature of 12 °C (21.6 °F) from ambient from the vessel's main condenser cooling system.

Under the requested water-use scenario, Tech Tech (2011) conducted an environmental analysis on the potential impacts to marine mammals and their prey. To evaluate impacts to phytoplankton under the increased water usage, the biomass of phytoplankton lost from the Massachusetts Bay ecosystem was estimated based on the method presented in the final EIS/EIR. Phytoplankton densities of 65,000 to 390,000 cells/gallon were multiplied by the annual planned activities of withdrawal rate of 11 billion gallons to estimate a loss of 7.15×10^{14} to 4.29×10^{15} cells per year. Assuming a dry-weight biomass of 10^{-10} to 10^{-11} gram per cell (g/cell), an estimated 7.2 kg to 429 kg of biomass would be lost from Massachusetts Bay under the proposed activity, up to approximately 4.2 times that estimated in the final EIS/EIR for the permitted operational scenario. An order of magnitude estimate of the effect of this annual biomass loss on the regional food web can be calculated assuming a 10 percent transfer of biomass from one trophic level to the next (Sumich 1988) following the method used in the final EIS/EIR. This suggests that the loss of 7.2 kg to 429 kg of phytoplankton will result in the loss of about 0.7 kg to 42.9 kg of zooplankton, less than 0.1 kg to 4.3 kg of small planktivorous fish, and up to 0.4 kg of large piscivorous fish (approximately equivalent to a single 1-pound striped bass). Relative to the biomass of these trophic levels in the project area, this biomass loss is minor and consistent with the findings in the final EIS/EIR.

In addition, zooplankton losses will also increase proportionally to the increase in water withdrawn. The final EIS/EIR used densities of zooplankton determined by the sampling conducted by the Massachusetts Water Resource Authority (MWRA) to characterize the area around its offshore outfall and assumed a mean zooplankton density of 34.9×10^3 organisms per m^3. Applying this density, the water withdrawal volume under the proposed activity would result in the entrainment of 2.2×10^{10} zooplankton individuals per trip or 1.5×10^{12} individuals per year. Assuming an average biomass of 0.63×10^{-6} g per individual, this would result in the loss of 14.1 kg of zooplankton per shipment or 916.5 kg of zooplankton per year. As discussed for phytoplankton, biomass transfers from one trophic level to the next at a rate of about 10 percent. Therefore, this entrainment of zooplankton would result in loss of about 91.6 kg of planktivorous fish and 9.2 kg of large piscivorous fish (approximately equivalent to two 9-pound striped bass). These losses are minor relative to the total biomass of these trophic levels in Massachusetts Bay.

Finally, ichthyoplankton (fish eggs and larvae) losses and equivalent age one juvenile fish estimates under the proposed activity were made based on actual monthly ichthyoplankton data collected in the port area from October 2005 through December 2009 and the proposed activity withdrawal volume of 11 billion gallons per year evenly distributed among months (0.92 billion gallons per month) as a worst-case scenario, representing the maximum number of Port deliveries during any given month. Similarly, the lower, upper, and mean annual entrainment estimates are based on the lower and upper 95 percent confidence limits, of the monthly mean ichthyoplankton densities, and the monthly mean estimates multiplied by the monthly withdrawal rate of 0.92 billion gallons per month. At this withdrawal rate approximately 106 million eggs and 67 million larvae are estimated to be lost (see Table 4.2–2 of the IHA application). The most abundant species and life stages estimated to be entrained under the proposed activity are cunner post yolk-sac larvae (33.3 million), yellowtail flounder/*Labridae* eggs (27.4 million) and hake species eggs (18.7 million). Together, these species and life stages accounted for approximately 46 percent of the total entrainment estimated. Entrainment was estimated to be highest in June through July when 97.4 million eggs and larvae (approximately 57 percent of the annual total) were estimated to be entrained. Nevertheless, the demand for natural gas and corresponding Port activities will likely be greatest during the winter heating season (November through March), when impacts from entrainment will likely be lower.

These estimated losses are not significant given the very high natural mortality of ichthyoplankton. This comparison was done in the final EIS/EIR where ichthyoplankton losses based on historic regional ichthyoplankton densities and a withdrawal rate of approximately 2.6 billion gallons per year were represented by the equivalent number of age one fish. Under the final EIS/EIR withdrawal scenario, equivalent age one losses due to entrainment ranged from 1 haddock to 43,431 sand lance (Tetra Tech 2010). Equivalent age one losses under the conditions when no NEG Port operations occur were recalculated using Northeast Gateway monitoring data in order to facilitate comparisons between the permitted scenario. Using Northeast Gateway monitoring data, withdrawal of 2.6 billion gallons per year would result in

equivalent age one losses ranging from less than 1 haddock to 5,602 American sand lance. By comparison, equivalent age one losses under the proposed activity withdrawal rate of 11 billion gallons per year ranged from less than 1 haddock to 23,701 sand lance and were generally similar to or less than those in the final EIS/EIR. Substantially more equivalent age one Atlantic herring, pollock, and butterfish were estimated to be lost under the final EIS/EIR at a withdrawal rate of 2.6 billion gallons per year, while substantially more equivalent age one Atlantic cod, silver hake and hake species, cunner, and Atlantic mackerel are estimated to be lost under the proposed activity.

Although no reliable annual food consumption rates of baleen whales are available for comparison, based on the calculated quantities of phytoplankton, zooplankton, and ichthyoplankton removal analyzed above, it is reasonable to conclude that baleen whale predation rates would dwarf any reasonable estimates of prey removals by NEG Port operations. Therefore, NMFS believes that the prey removals by NEG Port operations resulting from water usage will have negligible impacts on marine mammal habitat.

NEG Port Maintenance

As stated earlier, NEG LNG Port will require scheduled maintenance inspections using either divers or ROVs. The duration of these inspections are not anticipated to be more than two 8-hour working days. An EBRV will not be required to support these annual inspections. Water usage during the LNG Port maintenance would be limited to the standard requirements of NEG's normal support vessel. As with all vessels operating in Massachusetts Bay, sea water uptake and discharge is required to support engine cooling, typically using a once-through system. The rate of seawater uptake varies with the ship's horsepower and activity and therefore will differ between vessels and activity type. For example, the *Gateway Endeavor* is a 90-foot vessel powered with a 1,200 horsepower diesel engine with a four-pump seawater cooling system. This system requires seawater intake of about 68 gallons per minute (gpm) while idling and up to about 150 gpm at full power. Use of full power is required generally for transit. A conservatively high estimate of vessel activity for the Gateway Endeavor would be operation at idle for 75 percent of the time and full power for 25 percent of the time. During the routine activities this would equate to approximately 42,480 gallons of seawater per 8-hour work day. When compared to the engine cooling requirements of an EBRV over an 8-hour period (approximately 18 million gallons), the *Gateway Endeavour* uses about 0.2 percent of the EBRV requirement. To put this water use into context, potential effects from the waters-use scenario of 56 mgd have been concluded to be orders of magnitude less than the natural fluctuations of Massachusetts Bay and Cape Cod Bay and not detectable. Water use by support vessels during routine port activities would not materially add to the overall impacts.

Certain maintenance and repair activities may also require the presence of an EBRV at the Port. Such instances may include maintenance and repair on the STL Buoy, vessel commissioning, and any onboard equipment malfunction or failure occurring while a vessel is present for cargo delivery. Because the requested water-use scenario allows for daily water use of up to 56 mgd to support standard EBRV requirements when not operating in the HRS mode, vessels would be able to remain at the Port as necessary to support all such maintenance and repair scenarios. Therefore, NMFS considers that NEG Port maintenance and repair would have negligible impacts to marine mammal habitat in the proposed activity area.

Unanticipated Algonquin Pipeline Lateral Maintenance and Repair

Proper care and maintenance of the Algonquin Pipeline Lateral should minimize the likelihood of an unanticipated maintenance and/or repair event; however, unanticipated activities may occur from time to time if facility components become damaged or malfunction. Unanticipated repairs may range from relatively minor activities requiring minimal equipment and one or two diver/ROV support vessels to major activities requiring larger construction-type vessels similar to those used to support the construction and installation of the facility.

Major repair activities, although unlikely, may include repairing or replacement of pipeline manifolds or sections of the Pipeline Lateral. This type of work would likely require the use of large specialty construction vessels such as those used during the construction and installation of the NEG Port and Algonquin Pipeline Lateral. The duration of a major unplanned activity would depend upon the type of repair work involved and would require careful planning and coordination.

Turbidity would likely be a potential effect of Algonquin Pipeline Lateral maintenance and repair activities on listed species. In addition, the possible removal of benthic or planktonic species, resulting from relatively minor construction vessel water use requirements, as measured in comparison to EBRV water use, is unlikely to affect in a measurable way the food sources available to marine mammals. Therefore, NMFS considers that Algonquin Pipeline Lateral maintenance and repair would have negligible impacts to marine mammal habitat in the proposed activity area.

Mitigation Measures

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

NMFS is requiring the following mitigation measures to minimize the potential impacts to marine mammals in the project vicinity as a result of the LNG Port and Algonquin Pipeline Lateral operations and maintenance and repair activities. The primary purpose of these mitigation measures is to ensure that no marine mammal will be injured or killed by vessels transiting the LNG Port facility, and to minimize the intensity of noise exposure of marine mammals in the activity area.

(a) General Marine Mammal Avoidance Measures

(i) All vessels shall utilize the International Maritime Organization (IMO)-approved Boston Traffic Separation Scheme (TSS) on their approach to and departure from the NEG Port and/or the repair/maintenance area at the earliest practicable point of transit in order to avoid the risk of whale strikes.

(ii) Upon entering the TSS and areas where North Atlantic right whales are known to occur, including the Great South Channel Seasonal Management Area (GSC–SMA) and the SBNMS, the EBRV shall go into ''Heightened Awareness'' as described below.

(A) Prior to entering and navigating the modified TSS the Master of the vessel shall:

(I) Consult Navigational Telex (NAVTEX), NOAA Weather Radio, the NOAA Right Whale Sighting Advisory System (SAS) or other means to obtain current right whale sighting information as well as the most recent Cornell

acoustic monitoring buoy data for the potential presence of marine mammals;

(II) Post a look-out to visually monitor for the presence of marine mammals;

(III) Provide the US Coast Guard (USCG) required 96-hour notification of an arriving EBRV to allow the NEG Port Manager to notify Cornell of vessel arrival.

(B) The look-out shall concentrate his/her observation efforts within the 2-mile radius zone of influence (ZOI) from the maneuvering EBRV.

(C) If marine mammal detection was reported by NAVTEX, NOAA Weather Radio, SAS and/or an acoustic monitoring buoy, the look-out shall concentrate visual monitoring efforts towards the areas of the most recent detection.

(D) If the look-out (or any other member of the crew) visually detects a marine mammal within the 2-mile radius ZOI of a maneuvering EBRV, he/she will take the following actions:

(I) The Officer-of-the-Watch shall be notified immediately; who shall then relay the sighting information to the Master of the vessel to ensure action(s) can be taken to avoid physical contact with marine mammals.

(II) The sighting shall be recorded in the sighting log by the designated look-out.

(iii) In accordance with 50 CFR 224.103(c), all vessels associated with NEG Port and Pipeline Lateral activities shall not approach closer than 500 yards (460 m) to a North Atlantic right whale and 100 yards (91 m) to other whales to the extent physically feasible given navigational constraints. In addition, when approaching and departing the project area, vessels shall be operated so as to remain at least 1 km away from any visually-detected North Atlantic right whales.

(iv) In response to active right whale sightings and active acoustic detections, and taking into account exceptional circumstances, EBRVs, repair and maintenance vessels shall take appropriate actions to minimize the risk of striking whales. Specifically vessels shall:

(A) Respond to active right whale sightings and/or Dynamic Management Area (DMA) as described at 73 FR 60173, 60180 (October 10, 2008) reported on the Mandatory Ship Reporting (MSR) or SAS by concentrating monitoring efforts towards the area of most recent detection and reducing speed to 10 knots or less if the vessel is within the boundaries of a DMA or within the circular area centered on an area 8 nm in radius from a sighting location;

(B) Respond to active acoustic detections by concentrating monitoring efforts towards the area of most recent detection and reducing speed to 10 knots or less within an area 5 nm in radius centered on the detecting AB; and

(C) Respond to additional sightings made by the designated look-outs within a 2-mile radius of the vessel by slowing the vessel to 10 knots or less and concentrating monitoring efforts towards the area of most recent sighting.

(v) All vessels operated under NEG and Algonquin must follow the established specific speed restrictions when calling at the NEG Port. The specific speed restrictions required for all vessels (*i.e.,* EBRVs and vessels associated with maintenance and repair) consist of the following:

(A) Vessels shall reduce their maximum transit speed while in the TSS from 12 knots or less to 10 knots or less from March 1 to April 30 in all waters bounded by straight lines connecting the following points in the order stated below unless an emergency situation dictates for an alternate speed. This area shall hereafter be referred to as the Off Race Point Seasonal Management Area (ORP–SMA) and tracks NMFS regulations at 50 CFR 224.105:

42°30′ N 70°30′ W
42°30′ N 69°45′ W
41°40′ N 69°45′ W
42°04.8′ N 70°10′ W
41°40′ N 69°57′ W
42°12′ N 70°15′ W
42°12′ N 70°30′ W
42°30′ N 70°30′ W

(B) Vessels shall reduce their maximum transit speed while in the TSS to 10 knots or less unless an emergency situation dictates for an alternate speed from April 1 to July 31 in all waters bounded by straight lines connecting the following points in the order stated below. This area shall hereafter be referred to as the GSC–SMA and tracks NMFS regulations at 50 CFR 224.105:

42°30′ N 69°45′ W
42°30′ N 67°27′ W
42°09′ N 67°08.4′ W
41°40′ N 69°45′ W
42°30′ N 69°45′ W
41°00′ N 69°05′ W

(C) Vessels are not expected to transit the Cape Cod Bay or the Cape Cod Canal; however, in the event that transit through the Cape Cod Bay or the Cape Cod Canal is required, vessels shall reduce maximum transit speed to 10 knots or less from January 1 to May 15 in all waters in Cape Cod Bay, extending to all shorelines of Cape Cod Bay, with a northern boundary of 42°12′ N latitude and the Cape Cod Canal. This area shall hereafter be referred to as the Cape Cod Bay Seasonal Management Area (CCB–SMA).

(D) All Vessels transiting to and from the project area shall report their activities to the mandatory reporting Section of the USCG to remain apprised of North Atlantic right whale movements within the area. All vessels entering and exiting the MSRA shall report their activities to WHALESNORTH. Vessel operators shall contact the USCG by standard procedures promulgated through the Notice to Mariner system.

(E) All Vessels greater than or equal to 300 gross tons (GT) shall maintain a speed of 10 knots or less, unless an emergency situation requires speeds greater than 10 knots.

(F) All Vessels less than 300 GT traveling between the shore and the project area that are not generally restricted to 10 knots will contact the Mandatory Ship Reporting (MSR) system, the USCG, or the project site before leaving shore for reports of active DMAs and/or recent right whale sightings and, consistent with navigation safety, restrict speeds to 10 knots or less within 5 miles (8 kilometers) of any sighting location, when traveling in any of the seasonal management areas (SMAs) or when traveling in any active DMA.

(b) NEG Port-Specific Operations

(i) In addition to the general marine mammal avoidance requirements identified in (5)(a) above, vessels calling on the NEG Port must comply with the following additional requirements:

(A) EBRVs shall travel at 10 knots maximum speed when transiting to/from the TSS or to/from the NEG Port/Pipeline Lateral area. For EBRVs, at 1.86 miles (3 km) from the NEG Port, speed will be reduced to 3 knots and to less than 1 knot at 1,640 ft (500 m) from the NEG buoys, unless an emergency situation dictates the need for an alternate speed.

(B) EBRVs that are approaching or departing from the NEG Port and are within the ATBA5 surrounding the NEG Port, shall remain at least 1 km away from any visually-detected North Atlantic right whale and at least 100 yards (91 m) away from all other visually-detected whales unless an emergency situation requires that the vessel stay its course. During EBRV maneuvering, the Vessel Master shall designate at least one look-out to be exclusively and continuously monitoring for the presence of marine mammals at all times while the EBRV is

approaching or departing from the NEG Port.

(C) During NEG Port operations, in the event that a whale is visually observed within 1 km of the NEG Port or a confirmed acoustic detection is reported on either of the two ABs closest to the NEG Port (western-most in the TSS array), departing EBRVs shall delay their departure from the NEG Port, unless an emergency situation requires that departure is not delayed. This departure delay shall continue until either the observed whale has been visually (during daylight hours) confirmed as more than 1 km from the NEG Port or 30 minutes have passed without another confirmed detection either acoustically within the acoustic detection range of the two ABs closest to the NEG Port, or visually within 1 km from the NEG Port.

(ii) Vessel captains shall focus on reducing dynamic positioning (DP) thruster power to the maximum extent practicable, taking into account vessel and Port safety, during the operation activities. Vessel captains will shut down thrusters whenever they are not needed.

(c) Planned and Unplanned Maintenance and Repair Activities

(i) NEG Port

(A) The Northeast Gateway shall conduct empirical source level measurements on all noise emitting construction equipment and all vessels that are involved in maintenance/repair work.

(B) If dynamic positioning (DP) systems are employed and/or activities will emit noise with a source level of 139 dB re 1 µPa at 1 m or greater, activities shall be conducted in accordance with the requirements for DP systems listed in (b)(ii) above.

(C) Northeast Gateway shall provide the NMFS Headquarters Office of the Protected Resources, NMFS Northeast Region Ship Strike Coordinator, and SBNMS with a minimum of 30 days notice prior to any planned repair and/or maintenance activity. For any unplanned/emergency repair/maintenance activity, Northeast Gateway shall notify the agencies as soon as it determines that repair work must be conducted. Northeast Gateway shall continue to keep the agencies apprised of repair work plans as further details (*e.g.,* the time, location, and nature of the repair) become available. A final notification shall be provided to agencies 72 hours prior to crews being deployed into the field.

(ii) Pipeline Lateral

(A) Pipeline maintenance/repair vessels less than 300 GT traveling between the shore and the maintenance/repair area that are not generally restricted to 10 knots shall contact the MSR system, the USCG, or the project site before leaving shore for reports of active DMAs and/or recent right whale sightings and, consistent with navigation safety, restrict speeds to 10 knots or less within 5 miles (8 km) of any sighting location, when travelling in any of the seasonal management areas (SMAs) as defined above.

(B) Maintenance/repair vessels greater than 300 GT shall not exceed 10 knots, unless an emergency situation that requires speeds greater than 10 knots.

(C) Planned maintenance and repair activities shall be restricted to the period between May 1 and November 30.

(D) Unplanned/emergency maintenance and repair activities shall be conducted utilizing anchor-moored dive vessel whenever operationally possible.

(E) Algonquin shall also provide the NMFS Office of the Protected Resources, NMFS Northeast Region Ship Strike Coordinator, and Stellwagen Bank National Marine Sanctuary (SBNMS) with a minimum of 30-day notice prior to any planned repair and/or maintenance activity. For any unplanned/emergency repair/maintenance activity, Northeast Gateway shall notify the agencies as soon as it determines that repair work must be conducted. Algonquin shall continue to keep the agencies apprised of repair work plans as further details (*e.g.,* the time, location, and nature of the repair) become available. A final notification shall be provided to agencies 72 hours prior to crews being deployed into the field.

(F) If dynamic positioning (DP) systems are to be employed and/or activities will emit noise with a source level of 139 dB re 1 µPa at 1 m or greater, activities shall be conducted in accordance with the requirements for DP systems listed in (b)(ii) above.

(G) In the event that a whale is visually observed within 0.5 mile (0.8 kilometers) of a repair or maintenance vessel, the vessel superintendent or on-deck supervisor shall be notified immediately. The vessel's crew shall be put on a heightened state of alert and the marine mammal shall be monitored constantly to determine if it is moving toward the repair or maintenance area.

(H) Repair/maintenance vessel(s) must cease any movement and/or cease all activities that emit noises with source level of 139 dB re 1 µPa @1 m or higher when a right whale is sighted within or approaching at 500 yd (457 m) from the vessel. Repair and maintenance work may resume after the marine mammal is positively reconfirmed outside the established zones (500 yd [457 m]) or 30 minutes have passed without a redetection. Any vessels transiting the maintenance area, such as barges or tugs, must also maintain these separation distances.

(I) Repair/maintenance vessel(s) must cease any movement and/or cease all activities that emit noises with source level of 139 dB re 1 µPa @1 m or higher when a marine mammal other than a right whale is sighted within or approaching at 100 yd (91 m) from the vessel. Repair and maintenance work may resume after the marine mammal is positively reconfirmed outside the established zones (100 yd [91 m]) or 30 minutes have passed without a redetection. Any vessels transiting the maintenance area, such as barges or tugs, must also maintain these separation distances.

(J) Algonquin and associated contractors shall also comply with the following:

(I) Operations involving equipment with sound source levels exceeding 139 dB re 1µPa @1 m shall ''ramp-up'' sound sources, allowing whales a chance to leave the area before sounds reach maximum levels. In addition, Northeast Gateway, Algonquin, and other associated contractors shall maintain equipment to manufacturers' specifications, including any sound-muffling devices or engine covers in order to minimize noise effects. Noisy construction equipment shall only be used as needed and equipment shall be turned off when not in operation.

(II) Any material that has the potential to entangle marine mammals (*e.g.,* anchor lines, cables, rope or other construction debris) shall only be deployed as needed and measures shall be taken to minimize the chance of entanglement.

(III) For any material mentioned above that has the potential to entangle marine mammals, such material shall be removed from the water immediately unless such action jeopardizes the safety of the vessel and crew as determined by the Captain of the vessel.

(IV) In the event that a marine mammal becomes entangled, the marine mammal coordinator and/or PSO will notify NMFS (if outside the SBNMS), and SBNMS staff (if inside the SBNMS) immediately so that a rescue effort may be initiated.

(K) All maintenance/repair activities shall be scheduled to occur between

May 1 and November 30; however, in the event of unplanned/emergency repair work that cannot be scheduled during the preferred May through November work window, the following additional measures shall be followed for Pipeline Lateral maintenance and repair related activities between December and April:

(I) Between December 1 and April 30, if on-board PSOs do not have at least 0.5-mile visibility, they shall call for a shutdown. At the time of shutdown, the use of thrusters must be minimized. If there are potential safety problems due to the shutdown, the captain will decide what operations can safely be shut down.

(II) Prior to leaving the dock to begin transit, the barge shall contact one of the PSOs on watch to receive an update of sightings within the visual observation area. If the PSO has observed a North Atlantic right whale within 30 minutes of the transit start, the vessel shall hold for 30 minutes and again get a clearance to leave from the PSOs on board. PSOs shall assess whale activity and visual observation ability at the time of the transit request to clear the barge for release.

(III) Transit route, destination, sea conditions and any marine mammal sightings/mitigation actions during watch shall be recorded in the log book. Any whale sightings within 1,000 m of the vessel shall result in a high alert and slow speed of 4 knots or less and a sighting within 750 m shall result in idle speed and/or ceasing all movement.

(IV) The material barges and tugs used in repair and maintenance shall transit from the operations dock to the work sites during daylight hours when possible provided the safety of the vessels is not compromised. Should transit at night be required, the maximum speed of the tug shall be 5 knots.

(V) All repair vessels must maintain a speed of 10 knots or less during daylight hours. All vessels shall operate at 5 knots or less at all times within 5 km of the repair area.

(d) Acoustic Monitoring Related Activities

(i) Vessels associated with maintaining the AB network operating as part of the mitigation/monitoring protocols shall adhere to the following speed restrictions and marine mammal monitoring requirements.

(A) In accordance with 50 CFR 224.103 (c), all vessels associated with NEG Port activities shall not approach closer than 500 yards (460 meters) to a North Atlantic right whale.

(B) All vessels shall obtain the latest DMA or right whale sighting information via the NAVTEX, MSR, SAS, NOAA Weather Radio, or other available means prior to operations to determine if there are right whales present in the operational area.

(I) In the ORP–SMA between March 1 and April 30; and

(II) In the CCB–SMA between January 1 and May 15.

(C) All vessels shall obtain the latest DMA or right whale sighting information via the NAVTEX, MSR, SAS, NOAA Weather Radio, or other available means prior to operations to determine if there are right whales present in the operational area.

Mitigation Conclusions

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

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Based on our evaluation of mitigation measures, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting Measures

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

Monitoring Measures

(a) Vessel-Based Visual Monitoring

(i) Vessel-based monitoring for marine mammals shall be done by trained look-outs during NEG LNG Port and Pipeline Lateral operations and maintenance and repair activities. The observers shall monitor the occurrence of marine mammals near the vessels during LNG Port and Pipeline Lateral related activities. Lookout duties include watching for and identifying marine mammals; recording their numbers, distances, and reactions to the activities; and documenting ''take by harassment''.

(ii) The vessel look-outs assigned to visually monitor for the presence of marine mammals shall be provided with the following:

(A) Recent NAVTEX, NOAA Weather Radio, SAS and/or acoustic monitoring buoy detection data;

(B) Binoculars to support observations;

(C) Marine mammal detection guide sheets; and

(D) Sighting log.

(b) NEG LNG Port Operations

(i) All individuals onboard the EBRVs responsible for the navigation duties and any other personnel that could be assigned to monitor for marine mammals shall receive training on marine mammal sighting/reporting and vessel strike avoidance measures.

(ii) While an EBRV is navigating within the designated TSS, there shall be three people with look-out duties on or near the bridge of the ship including the Master, the Officer-of-the-Watch and the Helmsman-on-watch. In addition to the standard watch procedures, while the EBRV is transiting within the designated TSS, maneuvering within the Area to be Avoided (ATBA), and/or while actively engaging in the use of thrusters, an additional look-out shall be designated to exclusively and continuously monitor for marine mammals.

(iii) All sightings of marine mammals by the designated look-out, individuals posted to navigational look-out duties and/or any other crew member while the EBRV is transiting within the TSS, maneuvering within the ATBA and/or when actively engaging in the use of thrusters, shall be immediately reported to the Officer-of-the-Watch who shall then alert the Master. The Master or Officer-of-the-Watch shall ensure the required reporting procedures are followed and the designated marine mammal look-out records all pertinent information relevant to the sighting.

(iv) Visual sightings made by look-outs from the EBRVs shall be recorded

using a standard sighting log form. Estimated locations shall be reported for each individual and/or group of individuals categorized by species when known. This data shall be entered into a database and a summary of monthly sighting activity shall be provided to NMFS. Estimates of take and copies of these log sheets shall also be included in the reports to NMFS.

(c) Planned and Unplanned Maintenance and Repair

(i) Two (2) qualified and NMFS-approved protected species observers (PSOs) shall be assigned to each vessel that will use dynamic positioning (DP) systems during maintenance and repair related activities. PSOs shall operate individually in designated shifts to accommodate adequate rest schedules. Additional PSOs shall be assigned to additional vessels if auto-detection buoy (AB) data indicates that sound levels exceed 120 dB re 1 μPa, further then 100 meters (328 feet) from these vessels.

(ii) All PSOs shall receive NMFS-approved marine mammal observer training and be approved in advance by NMFS after review of their resume. All PSOs shall have direct field experience on marine mammal vessels and/or aerial surveys in the Atlantic Ocean/Gulf of Mexico.

(iii) PSOs (one primary and one secondary) shall be responsible for visually locating marine mammals at the ocean's surface and, to the extent possible, identifying the species. The primary PSO shall act as the identification specialist and the secondary PSO will serve as data recorder and also assist with identification. Both PSOs shall have responsibility for monitoring for the presence of marine mammals and sea turtles. Specifically PSO's shall:

(A) Monitor at all hours of the day, scanning the ocean surface by eye for a minimum of 40 minutes every hour.

(B) Monitor the area where maintenance and repair work is conducted beginning at daybreak using 25× power binoculars and/or hand-held binoculars. Night vision devices must be provided as standard equipment for monitoring during low-light hours and at night.

(C) Conduct general 360° visual monitoring during any given watch period and target scanning by the observer shall occur when alerted of a whale presence.

(D) Alert the vessel superintendent or construction crew supervisor of visual detections within 2 miles (3.31 kilometers) immediately.

(E) Record all sightings on marine mammal field sighting logs. Specifically, all data shall be entered at the time of observation, notes of activities will be kept, and a daily report prepared and attached to the daily field sighting log form. The basic reporting requirements include the following:

- Beaufort sea state;
- Wind speed;
- Wind direction;
- Temperature;
- Precipitation;
- Glare;
- Percent cloud cover;
- Number of animals;
- Species;
- Position;
- Distance;
- Behavior;
- Direction of movement; and
- Apparent reaction to construction activity.

(iv) In the event that a whale is visually observed within the 2-mile (3.31-kilometers) zone of influence (ZOI) of a DP vessel or other construction vessel that has shown to emit noise with source level in excess of 139 dB re 1 μPa @ 1 m, the PSO will notify the repair/maintenance construction crew to minimize the use of thrusters until the animal has moved away, unless there are divers in the water or an ROV is deployed.

(d) Acoustic Monitoring

(i) Northeast Gateway shall deploy 10 ABs within the Separation Zone of the TSS for the operational life of the Project.

(ii) The ABs shall be used to detect a calling North Atlantic right whale an average of 5 nm from each AB. The AB system shall be the primary detection mechanism that alerts the EBRV Master to the occurrence of right whales, heightens EBRV awareness, and triggers necessary mitigation actions as described in section (5) above.

(iii) Northeast Gateway shall conduct short-term passive acoustic monitoring to document sound levels during:

(A) The initial operational events in the 2014–2015 winter heating season;

(B) regular deliveries outside the winter heating season should such deliveries occur; and (C) scheduled and unscheduled maintenance and repair activities.

(iv) Northeast Gateway shall conduct long-term monitoring of the noise environment in Massachusetts Bay in the vicinity of the NEG Port and Pipeline Lateral using marine autonomous recording units (MARUs) when there is anticipated to be more than 5 LNG shipments in a 30-day period or over 20 shipments in a six-month period.

(v) The acoustic data collected in 6(d)(ii) shall be analyzed to document the seasonal occurrences and overall distributions of whales (primarily fin, humpback and right whales) within approximately 10 nm of the NEG Port and shall measure and document the noise ''budget'' of Massachusetts Bay so as to eventually assist in determining whether or not an overall increase in noise in the Bay associated with the Project might be having a potentially negative impact on marine mammals.

(vi) Northeast Gateway shall make all acoustic data, including data previously collected by the MARUs during prior construction, operations, and maintenance and repair activities, available to NOAA. Data storage will be the responsibility of NOAA.

(e) Acoustic Whale Detection and Response Plan

(i) NEG Port Operations

(A) Ten (10) ABs that have been deployed since 2007 shall be used to continuously screen the low-frequency acoustic environment (less than 1,000 Hertz) for right whale contact calls occurring within an approximately 5-nm radius from each buoy (the AB's detection range).

(B) Once a confirmed detection is made, the Master of any EBRVs operating in the area will be alerted immediately.

(ii) NEG Port and Pipeline Lateral Planned and Unplanned/Emergency Repair and Maintenance Activities

(A) If the repair/maintenance work is located outside of the detectible range of the 10 project area ABs, Northeast Gateway and Algonquin shall consult with NOAA (NMFS and SBNMS) to determine if the work to be conducted warrants the temporary installation of an additional AB(s) to help detect and provide early warnings for potential occurrence of right whales in the vicinity of the repair area.

(B) The number of ABs installed around the activity site shall be commensurate with the type and spatial extent of maintenance/repair work required, but must be sufficient to detect vocalizing right whales within the 120-dB impact zone.

(C) Should acoustic monitoring be deemed necessary during a planned or unplanned/emergency repair and/or maintenance event, active monitoring for right whale calls shall begin 24 hours prior to the start of activities.

(D) Revised noise level data from the acoustic recording units deployed in the NEG Port and/or Pipeline Lateral maintenance and repair area shall be provided to NMFS.

Reporting Measures

(a) Throughout NEG Port and Pipeline Lateral operations, Northeast Gateway and Algonquin shall provide a monthly Monitoring Report. The Monitoring Report shall include:

(i) Both copies of the raw visual EBRV lookout sighting information of marine mammals that occurred within 2 miles of the EBRV while the vessel transits within the TSS, maneuvers within the ATBA, and/or when actively engaging in the use of thrusters, and a summary of the data collected by the look-outs over each reporting period.

(ii) Copies of the raw PSO sightings information on marine mammals gathered during pipeline repair or maintenance activities. This visual sighting data shall then be correlated to periods of thruster activity to provide estimates of marine mammal takes (per species/species class) that took place during each reporting period.

(iii) Conclusion of any planned or unplanned/emergency repair and/or maintenance period, a report shall be submitted to NMFS summarizing the repair/maintenance activities, marine mammal sightings (both visual and acoustic), empirical source-level measurements taken during the repair work, and any mitigation measures taken.

(b) During the maintenance and repair of NEG Port and Pipeline Lateral components, weekly status reports shall be provided to NOAA (both NMFS and SBNMS) using standardized reporting forms. The weekly reports shall include data collected for each distinct marine mammal species observed in the repair/maintenance area during the period that maintenance and repair activities were taking place. The weekly reports shall include the following information:

(i) Location (in longitude and latitude coordinates), time, and the nature of the maintenance and repair activities;

(ii) Indication of whether a DP system was operated, and if so, the number of thrusters being used and the time and duration of DP operation;

(iii) Marine mammals observed in the area (number, species, age group, and initial behavior);

(iv) The distance of observed marine mammals from the maintenance and repair activities;

(v) Changes, if any, in marine mammal behaviors during the observation;

(vi) A description of any mitigation measures (power-down, shutdown, etc.) implemented;

(vii) Weather condition (Beaufort sea state, wind speed, wind direction, ambient temperature, precipitation, and percent cloud cover etc.);

(viii) Condition of the observation (visibility and glare); and

(ix) Details of passive acoustic detections and any action taken in response to those detections.

(d) Injured/Dead Protected Species Reporting

(i) In the unanticipated event that survey operations clearly cause the take of a marine mammal in a manner prohibited by the proposed IHA, such as an injury (Level A harassment), serious injury or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), NEG and/or Algonquin shall immediately cease activities and immediately report the incident to the Supervisor of the Incidental Take Program, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *Shane.Guan@noaa.gov* and the Northeast Regional Stranding Coordinators (*Mendy.Garron@noaa.gov* or *Lanni.Hall@noaa.gov*) or by phone at 978–281–9300. The report must include the following information:

(A) Time, date, and location (latitude/longitude) of the incident;

(B) the name and type of vessel involved;

(C) the vessel's speed during and leading up to the incident;

(D) description of the incident;

(E) status of all sound source use in the 24 hours preceding the incident;

(F) water depth;

(G) environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

(H) description of marine mammal observations in the 24 hours preceding the incident;

(I) species identification or description of the animal(s) involved;

(J) the fate of the animal(s); and

(K) photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with NEG and/or Algonquin to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. NEG and/or Algonquin may not resume their activities until notified by NMFS via letter, email, or telephone.

(ii) In the event that NEG and/or Algonquin discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), NEG and/or Algonquin will immediately report the incident to the Supervisor of the Incidental Take Program, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov* and *Shane.Guan@noaa.gov* and the NMFS Northeast Stranding Coordinators (*Mendy.Garron@noaa.gov* or *Lanni.Hall@noaa.gov*) or by phone at 978–281–9300, within 24 hours of the discovery. The report must include the same information identified above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with NEG and/or Algonquin to determine whether modifications in the activities are appropriate.

(iii) In the event that NEG or Algonquin discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized (if the IHA is issued) (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), NEG and/or Algonquin shall report the incident to the Supervisor of the Incidental Take Program, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov* and *Shane.Guan@noaa.gov* and the NMFS Northeast Stranding Coordinators (*Mendy.Garron@noaa.gov* or *Lanni.Hall@noaa.gov*) or by phone at 978–281–9300, within 24 hours of the discovery. NEG and/or Algonquin shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. NEG and/or Algonquin can continue its operations under such a case.

Summary of Previous Monitoring Reports

Based on monthly activity reports submitted to NMFS for the period between August 2010 and January 2014, there were no activities at the NEG Port during the period. Therefore, no take of marine mammals occurred or were reported during this period.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine

mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment]. Only take by Level B harassment is anticipated as a result of NEG's operation and maintenance and repair activities. Anticipated take of marine mammals is associated with operation of dynamic positioning during the docking of the LNG vessels and positioning of maintenance and dive vessels, and by operations of certain machinery during maintenance and repair activities. The regasification process itself is an activity that does not rise to the level of taking, as the modeled source level for this activity is 108 dB, which is below our current threshold for Level B harassment. Certain species may have a behavioral reaction to the sound emitted during the activities. Hearing impairment is not anticipated. Additionally, vessel strikes are not anticipated, especially because of the speed restriction measures that are required and were described earlier in this document.

The full suite of potential impacts to marine mammals was described in detail in the ''Potential Effects of the Specified Activity on Marine Mammals'' section in the 2013 proposed IHA notice. The potential effects of sound from the proposed open water marine survey programs might include one or more of the following: masking of natural sounds; behavioral disturbance; non-auditory physical effects; and, at least in theory, temporary or permanent hearing impairment (Richardson *et al.* 1995). As discussed earlier in this document, the most common impact will likely be from behavioral disturbance, including avoidance of the ensonified area or changes in speed, direction, and/or diving profile of the animal. For reasons discussed previously in this document, temporary or permanent hearing impairment (TTS and PTS, respectively) is highly unlikely to occur based on the proposed mitigation and monitoring measures that would preclude marine mammals from being exposed to noise levels high enough to cause hearing impairment.

For non-pulse sounds, such as those produced by operating dynamic positioning (DP) thruster during vessel docking and supporting underwater construction and repair activities and the operations of various machineries that produces non-pulse noises, NMFS uses the 120 dB (rms) re 1 µPa isopleth to indicate the onset of Level B harassment.

NEG Port and Algonquin Pipeline Lateral Activities Acoustic Footprints

I. NEG Port Operations

For the purposes of understanding the noise footprint of operations at the NEG Port, measurements taken to capture operational noise (docking, undocking, regasification, and EBRV thruster use) during the 2006 Gulf of Mexico field event were taken at the source. Measurements taken during EBRV transit were normalized to a distance of 328 feet (100 meters) to serve as a basis for modeling sound propagation at the NEG Port site in Massachusetts Bay.

Sound propagation calculations for operational activities were then completed at two positions in Massachusetts Bay to determine site-specific distances to the 120/160/180 dB isopleths:

- Operations Position 1—Port (EBRV Operations): 70°36.261′ W and 42°23.790′ N
- Operations Position 2—Boston TSS (EBRV Transit): 70°17.621′ W and 42°17.539′ N

At each of these locations sound propagation calculations were performed to determine the noise footprint of the operation activity at each of the specified locations. Calculations were performed in accordance with Marsh and Schulkin (1985) and Richardson *et al.* (1995) and took into consideration aspects of water depth, sea state, bathymetry, and seabed composition. In addition, the acoustic modeling performed specifically evaluated sound energy in 1/3-octave spectral bands covering frequencies from 12.5 Hz to 20 kHz. The resultant distances to the 120 dB isopleth are presented in Table 1.

TABLE 1—RADII OF 120-DB SPL ISOPLETHS FROM NEG LNG OPERATIONS

	Radius to 120-dB zone (m)
One EBRV docking procedure with support vessel	4,250
Two EBRV docking procedure with support vessel	5,500
EBRV regasification	<300
EBRV transiting the TSS (10 knot)	1,750

II. NEG Port Maintenance and Repair

Modeling analysis conducted for the construction of the NEG Port concluded that the only underwater noise of critical concern during NEG Port construction would be from vessel noises such as turning screws, engine noise, noise of operating machinery, and thruster use. To confirm these modeled results and better understand the noise footprint associated with construction activities at the NEG Port, field measurements were taken of various construction activities during the 2007 NEG Port and Algonquin Pipeline Lateral Construction period. Measurements were taken and normalized as described to establish the ''loudest'' potential construction measurement event. One position within Massachusetts Bay was then used to determine site-specific distances to the 120/180 dB isopleths for NEG Port maintenance and repair activities:

- Construction Position 1. Port: 70°36.261′ W and 42°23.790′ N

Sound propagation calculations were performed to determine the noise footprint of the construction activity. The calculations took into consideration aspects of water depth, sea state, bathymetry, and seabed composition, and specifically evaluated sound energy in the range that encompasses the auditory frequencies of marine mammals and at which sound propagates beyond the immediate vicinity of the source. These results were then summed across frequencies to provide the broadband received levels at receptor locations. The results showed that the estimated distance from the loudest source involved in construction activities fell to 120 dB re 1 µPa at a distance of 3,600 m.

III. Algonquin Pipeline Lateral Maintenance and Repair Activities

Modeling analysis conducted during the NEG Port and Pipeline Lateral construction concluded that the only underwater noise of critical concern during such activities would be from vessel noises such as turning screws, engine noise, noise of operating machinery, and thruster use. As with construction noise at the NEG Port, to confirm modeled results and better understand the noise footprint associated with construction activities along the Algonquin Pipeline Lateral, field measurements were taken of various construction activities during the 2007 NEG Port and Algonquin Pipeline Lateral construction period. Measurements were taken and normalized to establish the ''loudest'' potential construction measurement event. Two positions within Massachusetts Bay were then used to determine site-specific distances to the 120/160/180 dB isopleths:

- Construction Position 2. PLEM: 70°46.755′ W and 42°28.764′ N
- Construction Position 3. Mid-Pipeline: 70°40.842′ W and 42°31.328′ N

Sound propagation calculations were performed to determine the noise footprint of the construction activity. The calculations took into consideration aspects of water depth, sea state, bathymetry, and seabed composition, and specifically evaluated sound energy in the range that encompasses the auditory frequencies of marine mammals and at which sound propagates beyond the immediate vicinity of the source. These results were then summed across frequencies to provide the broadband received levels at receptor locations. The results of the distances to the 120-dB isopleths are shown in Table 2.

TABLE 2—RADII OF 120-DB SPL ISOPLETHS FROM ALGONQUIN PIPELINE LATERAL MAINTENANCE AND REPAIR

	Radius to 120-dB zone (m)
Barge/tug (pulling & pushing)/ construction vessel/barge @PLEM	3,600
Barge/tug (pulling & pushing)/ construction vessel/barge @mid-pipeline	2,831

The basis for Northeast Gateway and Algonquin's take estimate is the number of marine mammals that would be exposed to sound levels at or in excess of 120 dB, which is the threshold used by NMFS for harassment from non-pulse sounds. For the NEG LNG Port and Algonquin Pipeline Lateral operations and maintenance and repair activities, the take estimates are determined by multiplying the 120-dB ensonified area by local marine mammal density estimates, and then multiplying by the estimated number of days such activities would occur during a year-long period. For the NEG Port operations, the 120-dB ensonfied area is 56.8 km^2 for a single visit during docking when running DP system. For NEG Port and Algonquin Pipeline Lateral maintenance and repair activities, modeling based on the empirical measurements showed that the distance of the 120-dB radius is expected to be 3.6 km, making a maximum 120-dB ZOI area of approximately 40.7 km^2.

Although there have been no LNG deliveries since February 2010 at the NEG LNG Port, under full operation, NEG expects it would receive up to 65 LNG shipments per year, and would require 14 days for NEG Port maintenance and up to 40 days for planned and unplanned Algonquin Pipeline Lateral maintenance and repair.

NMFS recognizes that baleen whale species other than North Atlantic right whales have been sighted in the project area from May to November. However, the occurrence and abundance of fin, humpback, and minke whales is not well documented within the project area. Nonetheless, NMFS uses the data on cetacean distribution within Massachusetts Bay, such as those published by the National Centers for Coastal Ocean Science (NCCOS 2006), to estimate potential takes of marine mammals species in the vicinity of project area.

The NCCOS study used cetacean sightings from two sources: (1) the North Atlantic Right Whale Consortium (NARWC) sightings database held at the University of Rhode Island (Kenney, 2001); and (2) the Manomet Bird Observatory (MBO) database, held at NMFS Northeast Fisheries Science Center (NEFSC). The NARWC data contained survey efforts and sightings data from ship and aerial surveys and opportunistic sources between 1970 and 2005. The main data contributors included: Cetacean and Turtles Assessment Program (CETAP), Canadian Department of Fisheries and Oceans, PCCS, International Fund for Animal Welfare, NOAA's NEFSC, New England Aquarium, Woods Hole Oceanographic Institution, and the University of Rhode Island. A total of 653,725 km (406,293 mi) of survey track and 34,589 cetacean observations were provisionally selected for the NCCOS study in order to minimize bias from uneven allocation of survey effort in both time and space. The sightings-per-unit-effort (SPUE) was calculated for all cetacean species by month covering the southern Gulf of Maine study area, which also includes the project area (NCCOS, 2006).

The MBO's Cetacean and Seabird Assessment Program (CSAP) was contracted from 1980 to 1988 by NMFS NEFSC to provide an assessment of the relative abundance and distribution of cetaceans, seabirds, and marine turtles in the shelf waters of the northeastern United States (MBO, 1987). The CSAP program was designed to be completely compatible with NMFS NEFSC databases so that marine mammal data could be compared directly with fisheries data throughout the time series during which both types of information were gathered. A total of 5,210 km (8,383 mi) of survey distance and 636 cetacean observations from the MBO data were included in the NCCOS analysis. Combined valid survey effort for the NCCOS studies included 567,955 km (913,840 mi) of survey track for small cetaceans (dolphins and porpoises) and 658,935 km (1,060,226 mi) for large cetaceans (whales) in the southern Gulf of Maine. The NCCOS study then combined these two data sets by extracting cetacean sighting records, updating database field names to match the NARWC database, creating geometry to represent survey tracklines and applying a set of data selection criteria designed to minimize uncertainty and bias in the data used.

Owing to the comprehensiveness and total coverage of the NCCOS cetacean distribution and abundance study, NMFS calculated the estimated take number of marine mammals based on the most recent NCCOS report published in December 2006. A summary of seasonal cetacean distribution and abundance in the project area is provided above, in the ''Description of Marine Mammals in the Area of the Specified Activities'' section. For a detailed description and calculation of the cetacean abundance data and SPUE, please refer to the NCCOS study (NCCOS, 2006). These data show that the relative abundance of North Atlantic right, fin, humpback, minke, sei, and pilot whales, and Atlantic white-sided dolphins for all seasons, as calculated by SPUE in number of animals per square kilometer, is 0.0082, 0.0097, 0.0118, 0.0059, 0.0084, 0.0407, and 0.1314 n/km, respectively.

In calculating the area density of these species from these linear density data, NMFS used 0.5 mi (0.825 km) as the hypothetical strip width (W). This strip width is based on the distance of visibility used in the NARWC data that was part of the NCCOS (2006) study. However, those surveys used a strip transect instead of a line transect methodology. Therefore, in order to obtain a strip width, one must divide the visibility or transect value in half. Since the visibility value used in the NARWC data was 2.3 mi (3.7 km), it thus gives a strip width of 1.15 mi (1.85 km). The hypothetical strip width used in the analysis is less than half of that derived from the NARWC data, therefore, the analysis provided here is more protective in calculating marine mammal densities in the area. Based on this information, the area density (D) of these species in the project area can be obtained by the following formula:

$$D = SPUE/2W$$

where D is marine mammal density in the area, and W is the strip width. Based on this calculation method, the estimated take numbers per year for North Atlantic right, fin, humpback, minke, sei, and pilot whales, and

Atlantic white-sided dolphins by the NEG Port facility operations (maximum 65 visits per year), NEG Port maintenance and repair (up to 14 days per year), and Algonquin Pipeline Lateral operation and maintenance (up to 40 days per year), are 29, 35, 42, 21, 30, 145, and 469, respectively (Table 3). These numbers represent approximately 6.59%, 1%, 5.12%, 0.1%, 8.4%, 1.2%, and 1% of the populations for these species based on the latest NMFS Atlantic marine mammal stock assessment reports (Waring *et al.* 2013), respectively. Since it is very likely that individual animals could be ''taken'' by harassment multiple times, these percentages are the upper boundary of the animal population that could be affected. The actual number of individual animals being exposed or taken would likely be far less. There is no danger of injury, death, or hearing impairment from the exposure to these noise levels.

TABLE 3—ESTIMATED ANNUAL TAKES, BY LEVEL B HARASSMENT, OF MARINE MAMMALS FROM THE NEG PORT AND ALGONQUIN PIPELINE LATERAL OPERATIONS AND MAINTENANCE AND REPAIR ACTIVITIES IN MASSACHUSETTS BAY

Species	Population/stock	Number of takes
Right whale	Western Atlantic	29
Humpback whale	Gulf of Maine	42
Fin whale	Western North Atlantic	35
Sei whale	Nova Scotia	30
Minke whale	Canadian East Coast	21
Long-finned pilot whale	Western North Atlantic	145
Atlantic white-sided dolphin	Western North Atlantic	469
Bottlenose dolphin	Western North Atlantic Southern Migratory	20
Short-beaked common dolphin	Western North Atlantic	40
Risso's dolphin	Western North Atlantic	40
Killer whale	Western North Atlantic	10
Harbor porpoise	Gulf of Maine/Bay of Fundy	20
Harbor seal	Western North Atlantic	60
Gray seal	Western North Atlantic	30

In addition, bottlenose dolphins, common dolphins, killer whales, Risso's dolphins, harbor porpoises, harbor seals, and gray seals could also be taken by Level B harassment as a result of deepwater NEG Port and Algonquin Pipeline Lateral operations and maintenance and repair. Since these species are less likely to occur in the area, and there are no density estimates specific to this particular area, NMFS based the take estimates on typical group size. Therefore, NMFS estimates that up to approximately 20 bottlenose dolphins, 40 short-beaked common dolphins, 40 Risso's dolphins, 10 killer whales, 20 harbor porpoises, 60 harbor seals, and 30 gray seals could be exposed to continuous noise at or above 120 dB re 1 µPa rms incidental to operations during the one year period of the IHA, respectively. These numbers represent 0.16%, 0.06%, 0.26%, and 0.03% of the bottlenose dolphin, short-beaked common dolphin, Risso's dolphin, and harbor porpoise populations/stocks. Since no population/stock estimates for killer whale, and harbor and gray seals is available, the percentage of estimated takes for these species is unknown. Nevertheless, since Massachusetts Bay represents only a small fraction of the western North Atlantic basin where these animals occur, NMFS has determined that the takes of 10 killer whales, 60 harbor seals, and 30 gray seals represent a relatively small number of marine mammals of the affected species or populations stocks (Table 3). The take estimates presented in this section of the document do not take into consideration the mitigation and monitoring measures that are required in the IHA.

Negligible Impact and Small Numbers Analysis and Determination

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' In making a negligible impact determination, NMFS considers a variety of factors, including but not limited to: (1) The number of anticipated mortalities; (2) the number and nature of anticipated injuries; (3) the number, nature, intensity, and duration of Level B harassment; and (4) the context in which the takes occur.

No injuries or mortalities are anticipated to occur as a result of Northeast Gateway LNG Port Algonquin Pipeline Lateral operations and maintenance and repair activities, and none are authorized by NMFS. Additionally, animals in the area are not anticipated to incur any hearing impairment (*i.e.,* TTS or PTS), as the modeling of source levels indicates that none of the source received levels exceed 180 dB (rms).

While some of the species occur in the proposed project area year-round, some species only occur in the area during certain seasons. Humpback and minke whales are not expected in the project area in the winter. During the winter, a large portion of the North Atlantic right whale population occurs in the southeastern U.S. calving grounds (*i.e.,* South Carolina, Georgia, and northern Florida). The fact that certain activities will occur during times when certain species are not commonly found in the area will help reduce the amount of Level B harassment for these species.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hr cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.* 2007). Operational activities are not anticipated to occur at the Port on consecutive days. In addition, Northeast Gateway EBRVs are expected to make a maximum of 65 port calls throughout the year (and likely less), with thruster use needed for a couple of hours. Therefore, Northeast

Gateway will not be creating increased sound levels in the marine environment for prolonged periods of time.

Of the 14 marine mammal species likely to occur in the area, four are listed as endangered under the ESA: North Atlantic right, humpback, and fin whales. All of these species are also considered depleted under the MMPA. There is currently no designated critical habitat or known reproductive areas for any of these species in or near the proposed project area. However, there are several well-known North Atlantic right whale feeding grounds in the Cape Cod Bay and Great South Channel. No mortality or injury is expected to occur, and due to the nature, degree, and context of the Level B harassment anticipated, the activity is not expected to impact rates of recruitment or survival. There is no critical habitat or biologically important areas for marine mammals within the proposed project area.

The population estimates for the species that may be taken by Level B behavioral harassment contained in the most recent U.S. Atlantic Stock Assessment Reports were provided earlier in this document. From the most protective estimates of both marine mammal densities in the project area and the size of the 120-dB ZOI, the maximum calculated number of individual marine mammals for each species that could potentially be harassed annually is small relative to the overall population sizes.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS finds that the proposed Northeast Gateway LNG Port and Algonquin Pipeline Lateral operations and maintenance and repair activities would result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking from Northeast Gateway and Algonquin's proposed activities will have a negligible impact on the affected species or stocks.

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

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Our November 18, 2013, **Federal Register** notice of proposed IHA described the history and status of Endangered Species Act (ESA) compliance for the NE Gateway LNG facility. As explained in that notice, the biological opinions for construction and operation of the facility only analyzed impacts on ESA-listed species from activities under the initial construction period and during operations, and did not take into consideration potential impacts to marine mammals that could result from the subsequent LNG Port and Pipeline Lateral maintenance and repair activities. In addition, NEG also revealed that significantly more water usage and vessel operating air emissions are needed from what was originally evaluated for the LNG Port operation. NMFS PR1 initiated consultation with NMFS Greater Atlantic Region Fisheries Office under section 7 of the ESA on the proposed issuance of an IHA to NEG under section 101(a)(5)(D) of the MMPA for the proposed activities that include increased NEG Port and Algonquin Pipeline Lateral maintenance and repair and water usage for the LNG Port operations this activity. A Biological Opinion was issued on November 21, 2014, and concluded that the proposed action may adversely affect but is not likely to jeopardize the continued existence of ESA-listed right, humpback, fin, and sei whales.

National Environmental Policy Act

MARAD and the USCG released a Final EIS/Environmental Impact Report (EIR) for the proposed Northeast Gateway Port and Pipeline Lateral. A notice of availability was published by MARAD on October 26, 2006 (71 FR 62657). The Final EIS/EIR provides detailed information on the proposed project facilities, construction methods and analysis of potential impacts on marine mammals.

NMFS was a cooperating agency (as defined by the Council on Environmental Quality (40 CFR 1501.6)) in the preparation of the Draft and Final EISs. NMFS reviewed the Final EIS and adopted it on May 4, 2007. NMFS issued a separate Record of Decision for issuance of authorizations pursuant to section 101(a)(5) of the MMPA for the construction and operation of the Northeast Gateway's LNG Port Facility in Massachusetts Bay. A 2010 environmental assessment/ environmental impact assessment conducted by TetraTech analyzed the increased water usage and other operational changes. We reviewed that document to determine whether there is a need for supplemental NEPA analysis based on any substantial changes between the current proposed action and the proposed action analyzed for the FEIS/EIR or any significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. Based on our review of that analysis, we have determined that supplementation was not required.

Authorization

NMFS has issued an IHA to Northeast Gateway for conducting LNG Port facility and Pipeline Lateral operations and maintenance and repair activities in Massachusetts Bay, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: December 23, 2014.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–30539 Filed 12–30–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD644

Taking of Marine Mammals Incidental to Specified Activities; Vashon Seismic Retrofit Project

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

ACTION: Notice; proposed incidental harassment authorization; request for comments and information.

SUMMARY: NMFS has received a request from the Washington State Department of Transportation (WSDOT) Ferries Division (WSF) for an authorization to take small numbers of nine species of marine mammals, by Level B harassment, incidental to proposed construction activities for Vashon Seismic Retrofit Project in Vashon Island, Washington State. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an authorization to WDOT to incidentally take, by harassment, small numbers of marine mammals for a period of 1 year.

DATES: Comments and information must be received no later than January 30, 2015.

ADDRESSES: Comments on the application should be addressed to Jolie

Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *itp.guan@noaa.gov.* NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 25-megabyte file size.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

A copy of the application may be obtained by writing to the address specified above or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

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

SUPPLEMENTARY INFORMATION:

Background

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

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

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for a one-year authorization to incidentally take small numbers of marine mammals by harassment, provided that there is no potential for serious injury or mortality to result from the activity. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

Summary of Request

On June 20, 2014, WSDOT submitted a request to NOAA requesting an IHA for the possible harassment of small numbers of nine marine mammal species incidental to construction associated with the Vashon Seismic Retrofit Project at the Vashon Ferry Terminal in Vashon Island, Washington between August 1, 2015, and February 15, 2016. On December 15, 2014, WSDOT added a test pile drive and removal program to the Vashon Seismic Retrofit Project and submitted a revised IHA application. The information provided here is based on WSDOT's December 15, 2014, IHA application. NMFS is proposing to authorize the Level B harassment of the following marine mammal species/stocks: harbor seal, California sea lion, Steller sea lion, killer whale (transient and Southern Resident stocks), gray whale, humpback whale, minke whale, harbor porpoise, and Dall's porpoise.

Description of the Specified Activity

Overview

WSDOT proposes to conduct Vashon Seismic Retrofit Project at the WSF Terminal in Vashon Island, Washington, to ensure the safe and reliable function of the Vashon Terminal in case of a significant earthquake.

Approximately 210-linear feet of the existing trestle in the nearshore will be replaced. Existing decking, 67 13-inch diameter creosote-treated timber piles and 39 30-inch diameter concrete-jacketed creosote-treated timber piles will be removed with a vibratory hammer. Fifty-three 24-inch diameter permanent hollow steel piles will be installed with a vibratory hammer for approximately the first 40 feet, and driven with an impact hammer for (approximately) the final 10 feet. Approximately 44 13-inch diameter temporary untreated timber piles will be installed with an impact hammer to support the weight of a crane that will sit on the trestle to drive the permanent steel piles.

Seismic bracing will be installed at up to 11 locations and will consist of a maximum of 66 24-inch diameter hollow steel piles installed with an impact hammer. Seismic bracing piles will be connected with concrete caps that tie each cluster of piles together.

Approximately 52 temporary 24-inch diameter hollow steel piles will be required to support temporary false-work and work trestles necessary to install the seismic braces concrete caps. Each work trestle will consist of approximately 6 piles. These piles will be driven with a vibratory hammer and then proofed with an impact hammer to ensure they will bear the weight of the false-work and concrete caps.

In addition, one double walled, one Mandrel and one control pile (three total) will be driven to the east of the Vashon trestle during the Seismic Retrofit project in 2015 or 2016 as part of the test pile program. The goal is to test the drivability of these piles in harder soils, and to test the rate of noise attenuation.

Dates and Duration

WSDOT plans to conduct all in-water construction work activities during the period from August 1, 2015, to February 15, 2016.

The number of days it will take to complete the partial trestle replacement and install the seismic bracings depends on the difficulty in penetrating the substrate during pile installation. It is assumed that only one vibratory or impact hammer will be in operation at a time. Durations are conservative, and the actual amount of time to install and remove piles will likely be less. Duration estimates of each of the pile driving/removal elements follow:

- For the partial trestle replacement:
  - Impact driving of temporary timber piles will take approximately 30 minutes per pile, with 3 piles installed per day over 17 days.
  - Vibratory driving of each permanent 24-inch steel pile will take approximately 60 minutes, followed by approximately 30 minutes of impact driving (approximately 600 strikes per pile), with 2–5 piles installed per day over 27 days.
  - o Vibratory removal of temporary timber piles, and existing timber and concrete-jacketed timber piles will take approximately 30 minutes per pile, with 5–10 piles removed per day over 30 days.

- For the seismic braces:
  - Vibratory driving of each temporary 24-inch steel pile will take approximately 20 minutes, followed by approximately 10 minutes of impact proofing (approximately 60 strikes per pile), with 2–4 piles installed per day over 28 days.
  - Impact driving of permanent 24-inch steel piles will take approximately two hours per pile, requiring approximately 3,000 strikes per pile, with approximately 2–4 piles installed per day over 28 days.
  - Vibratory removal of temporary 24-inch steel piles will take approximately 30 minutes pile, with up to 3–10 piles removed per day over 20 days.
- For the test pile:
  - Impact driving of each 30-inch steel pile will take approximately 40 minutes, (approximately 3,000 strikes per pile), with 3 piles installed over 1–2 days.
  - Vibratory removal of each pile will take approximately 40 minutes per pile, over 1–2 days.

The maximum anticipated number of days for pile driving is 100. The maximum anticipated number of days for pile removal is 50. The worst-case time for pile installation and removal is 311 hours over 150 days.

Specified Geographic Region

The proposed activities will occur at the Vashon Ferry Terminal located in Vashon, Washington (Figure 1–2 of the IHA application). The Vashon Ferry Terminal, serving State Route 160, is located at the north end of Vashon Island, in King County, Washington. The terminal is part of what is known as the Triangle Route between West Seattle (Fauntleroy terminal), Vashon Island and the Kitsap Peninsula (Southworth terminal). The Vashon terminal is located in Section 6, Township 23 North, Range 3 East, and is adjacent to Colvos Passage to the west and south, and the East Passage to the east, both tributary to Puget Sound (Figure 1–2 of the IHA application). Land use in the area is a mix of residential, business, small scale agriculture, Blake Island State Park, and local parks.

Detailed Description of Vashon Seismic Retrofit Project

The following construction sequence is anticipated:

- For the nearshore partial trestle replacement, work will proceed in stages as the crane advances away from the shore:
  - impact drive temporary timber piles,
  - vibratory/impact drive permanent 24-inch diameter hollow steel piles,
  - advance to next section,
- Temporary timber piles, and existing timber and concrete-jacketed timber piles will either be removed with a vibratory hammer as the crane advances away from shore, or will be removed after all permanent steel piles are installed, as the crane retreats towards the shore.
- When the partial trestle replacement is complete:
  - 67 13-inch diameter existing timber piles and 39 30-inch diameter existing concrete-jacketed timber piles will have been removed with a vibratory hammer.
  - 44 temporary 13-inch diameter timber piles will have been installed with an impact hammer, and removed with a vibratory hammer.
  - 53 permanent 24-inch hollow steel piles will have been installed with a vibratory and impact hammer.
- The seismic braces will be installed sequentially:
  - Vibratory drive/impact proof temporary 24-inch diameter hollow steel piles,
  - impact drive permanent 24-inch diameter hollow steel piles,
  - construct temporary false-work and concrete cap,
  - remove false-work,
  - remove temporary 24-inch diameter hollow steel piles with a vibratory hammer,
  - advance to next brace location.
- When the seismic braces are complete:
  - 52 temporary 24-inch diameter hollow steel piles will have been installed using a vibratory hammer/proofed with an impact hammer and removed with a vibratory hammer.
  - 66 permanent 24-inch diameter hollow steel piles will have been installed with an impact hammer.

Detailed descriptions of these activities are provided below.

1. Vibratory Hammer Pile Driving and Removal

Vibratory hammers are commonly used in steel pile driving where sediments allow and involve the same vibratory hammer used in pile removal. The pile is placed into position using a choker and crane and then vibrated between 1,200 and 2,400 vibrations per minute. The vibrations liquefy the sediment surrounding the pile allowing it to penetrate to the required seating depth, or to be removed. The type of vibratory hammer that will be used for the project will likely be an APE 400 King Kong (or equivalent) with a drive force of 361 tons.

2. Impact Hammer Pile Installation

Impact hammers are used to install plastic/steel core, wood, concrete, or steel piles. An impact hammer is a steel device that works like a piston. Impact hammers are usually large, though small impact hammers are used to install small diameter plastic/steel core piles. Impact hammers have guides (called a lead) that hold the hammer in alignment with the pile while a heavy piston moves up and down, striking the top of the pile, and drives it into the substrate from the downward force of the hammer on the top of the pile.

To drive the pile, the pile is first moved into position and set in the proper location using a choker cable or vibratory hammer. Once the pile is set in place, pile installation with an impact hammer can take less than 15 minutes under good conditions to over an hour under poor conditions (such as glacial till and bedrock, or exceptionally loose material in which the pile repeatedly moves out of position).

Detailed Description of Test Pile Program

One double walled, one Mandrel and one control pile (three total) will be driven to the east of the Vashon trestle during the Seismic Retrofit project in 2015 or 2016. The location shown on the sheet is approximate, as construction staging may require that it be moved. All test piles are 30'' hollow steel. The control pile will use a bubble curtain for attenuation. No unattenuated strikes will be allowed. The test will take place in water –10 to –25 ft (−3 to −8 m) mean lower low water (MLLW). Piles will be driven approximately 40 ft (13 m) into the sediment. The test should be complete in one day, though two days are proposed in case of complications.

Piles will be impact driven and removed with a vibratory hammer. It is possible that some or all of the piles will not be able to be removed. In that case, the pile(s) will be cut below the mudline, and filled with sand to the natural grade.

Description of Marine Mammals in the Area of the Specified Activity

The marine mammal species under NMFS jurisdiction most likely to occur in the proposed construction area include Pacific harbor seal (*Phoca vitulina richardsi*), California sea lion (*Zalophus californianus*), Steller sea lion (*Eumetopias jubatus*), killer whale (*Orcinus orca*) (transient and Southern Resident stocks), gray whale (*Eschrichtius robustus*), humpback whale (*Megaptera novaeangliae*), minke whale (*Balaenoptera acutorostrata*), harbor porpoise (*Phocoena phocoena*), and Dall's porpoise (*P. dali*).

General information on the marine mammal species found in California waters can be found in Caretta *et al.* (2014), which is available at the following URL: *http://www.nmfs.noaa.gov/pr/sars/pdf/po2013.pdf.* Refer to that document for information on these species. Specific information concerning these species in the vicinity of the proposed action area is provided below.

Harbor Seal

Harbor seals are members of the true seal family (Phocidae). There are three distinct west coast stocks: (1) Inland waters of Washington State (including Hood Canal, Puget Sound, Georgia Basin and the Strait of Juan de Fuca out to Cape Flattery), (2) outer coast of Oregon and Washington, and (3) California (Carretta *et al.* 2007).

Pupping seasons vary by geographic region. For the southern Puget Sound region, pups are born from late June through September (WDFW 2012a). After October 1 all pups in the inland waters of Washington are weaned.

Harbor seals are the most numerous pinniped in the inland marine waters of Washington (Calambokidis and Baird 1994). Jeffries *et al.* (2003) recorded a mean count of 9,550 harbor seals in Washington's inland marine waters and estimated the total population to be approximately 14,612 animals (including the Strait of Juan de Fuca). The population across Washington increased at an average annual rate of 10 percent between 1991 and 1996 (Jeffries *et al.* 1997) and is thought to be stable (Jeffries *et al.* 2003).

The nearest documented harbor seal haulout site to the Vashon ferry terminal is 9.7 km northwest. The number of harbor seals using the haulout is less than 100 (WDFW 2000).

Harbor seals have been observed hauled-out on a boat ramp to the east of the Vashon Ferry Terminal trestle and on a beach to the west of the trestle (Stateler 2013, WSF 2009).

In 2009 WSDOT replaced several dolphin structures (structure used to reduce wave action) at the Vashon terminal. Marine mammal monitoring was implemented during this project. Over 7 days of monitoring in November of 2009, four harbor seals were observed near the terminal, three swimming and one hauled-out on the beach to the west of the trestle (WSF 2009).

According to the NMFS National Stranding Database, there were 38 confirmed harbor seal strandings in the Vashon area in 2010–2013 in the September-February work window scheduled for this project (NMFS 2014).

Harbor seals are not ''depleted'' under the MMPA or listed as ''threatened'' or ''endangered'' under the ESA. The Washington Inland Waters stock of harbor seals is not classified as a ''strategic'' stock. The stock is also considered within its Optimum Sustainable Population level (Jeffries *et al.* 2003).

Harbor seals are the most numerous marine mammal species in Puget Sound. Harbor seals are non-migratory; their local movements are associated with such factors as tides, weather, season, food availability and reproduction (Scheffer and Slipp 1948; Fisher 1952; Bigg 1969, 1981). They are not known to make extensive pelagic migrations, although some long-distance movements of tagged animals in Alaska (174 km) and along the U.S. west coast (up to 550 km) have been recorded (Pitcher and McAllister 1981; Brown and Mate 1983; Herder 1983).

Harbor seals haul out on rocks, reefs and beaches, and feed in marine, estuarine and occasionally fresh waters. Harbor seals display strong fidelity for haulout sites (Pitcher and Calkins 1979; Pitcher and McAllister 1981).

The nearest documented harbor seal haulout site to the Vashon ferry terminal is 9.7 km northwest. The level of use of this haulout during the fall and winter is unknown but is expected to be much less as air temperatures become colder than water temperatures resulting in seals in general hauling out less. Harbor seals may also use other undocumented haulout sites in the area.

Transient killer whales often forage to the east of Allen Bank for harbor seals (Sears 2013), which is within the project zone of influence (ZOI). NW Blake Island, just north of Vashon Island is a 'hot-spot' for seals that are prey for Transients (Stateler 2013).

California Sea Lion

The U.S. stock of California sea lion was estimated at 296,750 in the 2011 SAR (NMFS 2011) and may be at carrying capacity, although more data are needed to verify that determination (Carretta *et al.* 2007). Some 3,000 to 5,000 animals are estimated to move into northwest waters (both Washington and British Columbia) during the fall (September) and remain until the late spring (May) when most return to breeding rookeries in California and Mexico (Jeffries *et al.* 2000). Peak counts of over 1,000 animals have been made in Puget Sound (Jeffries *et al.* 2000).

In 2009 WSDOT replaced several dolphin structures at the Vashon terminal. Marine mammal monitoring was implemented during this project. Over 7 days of monitoring in November of 2009, four California sea lions swimming near the terminal (WSF 2009).

From November of 2012 to February of 2014, the U.S. Navy collected sightings data of California sea lions hauled-out on the Rich Passage float and buoy. In the September to February timeframe scheduled for this project, the Navy reported a total of 646 California sea lions over 14 days of observation, with a high of 110 on January 14, 2014 (U.S. Navy 2014).

According to the NMFS National Stranding Database, there were four confirmed California sea lion strandings in the Vashon area in 2010–2013, in the September-February work window scheduled for this project.

California sea lions are not listed as endangered or threatened under the ESA or as depleted under the MMPA. They are not considered a strategic stock under the MMPA, because total human-caused mortality, although unknown, is likely to be well less than the PBR (9,200) (NMFS 2011).

California sea lions breed on islands off Baja Mexico and southern California with primarily males migrating north to feed in the northern waters (Everitt *et al.* 1980). Females remain in the waters near their breeding rookeries off California and Mexico. All age classes of males are seasonally present in Washington waters (WDFW 2000).

California sea lions were unknown in Puget Sound until approximately 1979 (Steiger and Calambokidis 1986). Everitt *et al.* (1980) reported the initial occurrence of large numbers at Port Gardner, Everett (northern Puget Sound) in the spring of 1979. The number of California sea lions using the Everett haulout numbered around 1,000. This haulout remains the largest in the state for sea lions in general and for California sea lions specifically. Similar sightings and increases in numbers were documented throughout the region after the initial sighting in 1979 (Steiger and Calambokidis 1986), including urbanized areas such as Elliott Bay near Seattle and heavily used areas of central Puget Sound (Gearin *et al.* 1986). In Washington, California sea lions use haulout sites within all inland water regions (WDFW 2000). The movement of California sea lions into Puget Sound could be an expansion in range of a growing population (Steiger and Calambokidis 1986).

California sea lions do not avoid areas with heavy or frequent human activity but rather may approach certain areas to investigate. This species typically does not flush from a buoy or haulout if approached.

The nearest documented California sea lion haulout site to the Vashon ferry terminal is 7.8 km NW (WDFW 2000).

Steller Sea Lion

Steller sea lions comprise two recognized management stocks (eastern and western), separated at 144°W longitude (Loughlin 1997). Only the eastern stock is considered here because the western stock occurs outside of the geographic area of the proposed activity. Breeding rookeries for the eastern stock are located along the California, Oregon, British Columbia, and southeast Alaska coasts but not along the Washington coast or in inland Washington waters (Angliss and Outlaw 2007). Steller sea lions primarily use haulout sites on the outer coast of Washington and in the Strait of Juan de Fuca along Vancouver Island in British Columbia. Only sub-adults or non-breeding adults may be found in the inland waters of Washington (Pitcher *et al.* 2007).

The eastern stock was estimated at 52,847 individuals in the 2012 SAR, and the most recent estimate for Washington state (including the outer coast) is 516 individuals (non-pups only) (NMFS 2012a). However, there are estimates that 1,000 to 2,000 individuals enter the Strait of Juan de Fuca during the fall and winter months.

Steller sea lion numbers in Washington State decline during the summer months, which correspond to the breeding season at Oregon and British Columbia rookeries (approximately late May to early June) and peak during the fall and winter months (WDFW 2000). A few Steller sea lions can be observed year-round in Puget Sound although most of the breeding age animals return to rookeries in the spring and summer.

Steller sea lions were listed as threatened range-wide under the ESA on November 26, 1990 (55 FR 49204). After division into two stocks, the western stock was listed as endangered under the ESA on May 4, 1997 and the eastern stock remained classified as threatened (62 FR 24345). In 2006 the NMFS Steller sea lion recovery team proposed removal of the eastern stock from listing under the ESA based on its annual rate of increase of approximately 3% since the mid-1970s. The eastern stock was delisted in November 2013.

On August 27, 1993, NMFS published a final rule designating critical habitat for the Steller sea lion. No critical habitat was designated in Washington. Critical habitat is associated with breeding and haulout areas in Alaska, California, and Oregon (NMFS 1993).

Steller sea lions are listed as depleted under the MMPA. Both stocks are classified as strategic.

Adult Steller sea lions congregate at rookeries in Oregon, California, and British Columbia for pupping and breeding from late May to early June (Gisiner 1985). Rookeries are usually located on beaches of relatively remote islands, often in areas exposed to wind and waves, where access by humans and other mammalian predators is difficult (WDFW 1993).

For Washington inland waters, Steller sea lion abundances vary seasonally with a minimum estimate of 1,000 to 2,000 individuals present or passing through the Strait of Juan de Fuca in fall and winter months. The number of haulout sites has increased in recent years.

In 2009 WSDOT replaced several dolphin structures at the Vashon terminal. Marine mammal monitoring was implemented during this project. Over 7 days of monitoring in November of 2009, no Steller sea lions were observed (WSF 2009).

From November of 2012 to February of 2014, the U.S. Navy collected sightings data of Steller sea lions hauled-out on the Rich Passage float and buoy. In the September to February timeframe scheduled for this project, the Navy reported a total of 48 Steller sea lions over 14 days of observation, with a high of 9 in January 14, 2014 (U.S. Navy 2014).

According to the NMFS National Stranding Database, there were no Steller sea lion strandings in the Vashon area in 2010–13.

Killer Whale

Two sympatric ecotypes of killer whales are found within the proposed activity area: transient and resident. These types vary in diet, distribution, acoustic calls, behavior, morphology, and coloration (Baird 2000; Ford *et al.* 2000). The ranges of transient and resident killer whales overlap; however, little interaction and high reproductive isolation occurs among the two ecotypes (Barrett-Lennard 2000; Barrett-Lennard and Ellis 2001; Hoelzel *et al.* 2002. Resident killer whales are primarily piscivorous, whereas transients primarily feed on marine mammals, especially harbor seals (Baird and Dill 1996). Resident killer whales also tend to occur in larger (10 to 60 individuals), stable family groups known as pods, whereas transients occur in smaller (less than 10 individuals), less structured pods.

Two stocks of resident killer whales occur in Washington State: The Southern Resident and Northern Resident stocks. Southern Residents occur within the activity area, in the Strait of Juan de Fuca, Strait of Georgia, and in coastal waters off Washington and Vancouver Island, British Columbia. Northern Residents occur primarily in inland and coastal British Columbia and Southeast Alaska waters and rarely venture into Washington State waters. Little interaction (Ford *et al.* 2000) or gene flow (Barrett-Lennard 2000; Barrett-Lennard and Ellis 2001) is known to occur between the two resident stocks.

The Southern Residents live in three family groups known as the J, K and L pods. The entire Southern Resident population has been annually recorded since 1973 (Krahn *et al.* 2004). Individual whales are identified through photographs of unique saddle patch and dorsal fin markings. Each Southern Resident pod has a distinctive dialect of vocalizations (Ford 1989) and calls can travel 10 miles or more underwater. Southern Resident killer whale forage primarily on salmon, with Chinook salmon considered the major prey in the Puget Sound region in late spring through the fall. Other identified prey included chum salmon, other salmonids, herring, and rockfish (NMFS 2008).

Small population numbers make Southern Residents vulnerable to inbreeding depression and catastrophic events such as disease or a major oil spill. Ongoing threats to Southern Residents include declining prey resources, environmental contaminants, noise and physical disturbance (Krahn *et al.* 2004; Wiles 2004). In Washington's inland waters, high levels of noise disturbance and potential behavior disruption are due to recreational boating traffic, private and commercial whale watching boats and commercial vessel traffic (Wiles 2004). Other potential noise disturbance includes high output military sonar equipment and marine construction. Noise effects may include altered prey movements and foraging efficiency, masking of whale calls, and temporary hearing impairment (Krahn *et al.* 2004).

The Southern Resident stock was first recorded in a 1974 census, at which time the population comprised 71 whales. This population peaked at 97 animals in 1996, declined to 79 by 2001 (Center for Whale Research 2011), and then increased to 89 animals by 2006 (Carretta *et al.* 2007). As of December 2013, the population collectively numbers 80 individuals: J pod has 25 members, K pod has 19 members, and L pod has 36 members (Center for Whale Research 2013).

The Southern Resident stock has declined from 97 individuals is due to a decrease in birth rates and an increase in mortalities, especially among the L pod (Krahn *et al.* 2004). There are a limited number of reproductive-age Southern Resident males, and several females of reproductive age are not having calves. Three major threats were identified in the ESA listing: Reduced quantity and quality of prey; persistent pollutants that could cause immune or reproductive system dysfunction; and effects from vessels and sound (NMFS 2008). Other threats identified were demographics, small population size, and vulnerability to oil spills. Previously, declines in the Southern Resident population were due to shooting by fishermen, whalers, sealers and sportsmen largely due to their interference with fisheries (Wiles 2004) and the aquarium trade, which is estimated to have taken a significant number of animals from 1967 to 1973 (Ford *et al.* 1995). According to the 2012 SAR, the PBR is 0.14 animals (NMFS 2012).

The Southern Resident stock was declared depleted under the MMPA in May 2003. At that time, NMFS announced preparation of a conservation plan to restore the stock to its optimal sustainable population. On November 18, 2005, the Southern Resident killer whale stock was listed as an endangered distinct population segment (DPS) under the ESA. On November 29, 2006, NMFS published a final rule designating critical habitat for the Southern Resident killer whale DPS. Both Puget Sound and the San Juan Islands are designated as core areas of critical habitat under the ESA, excluding areas less than 20 feet deep relative to extreme high water.

In Washington State, killer whales were listed as a state candidate species in 2000. In April 2004, the state upgraded their status to a state endangered species.

Southern Residents are documented in coastal waters ranging from central California to the Queen Charlotte Islands, British Columbia (NMFS 2008). They occur in all inland marine waters within the activity area. While in the activity area, resident killer whales generally spend more time in deeper water and only occasionally enter water less than 15 feet deep (Baird 2000). Distribution is strongly associated with areas of greatest salmon abundance, with heaviest foraging activity occurring over deep open water and in areas characterized by high-relief underwater topography, such as subsurface canyons, seamounts, ridges, and steep slopes (Wiles 2004).

Records from 1976 through 2006 document Southern Residents in the inland waters of Washington during the months of March through June and October through December, with the primary area of occurrence in inland waters north of Admiralty Inlet, located in north Puget Sound (The Whale Museum 2008).

Beginning in May or June and through the summer months, all three pods (J, K and L) of Southern Residents are most often located in the protected inshore waters of Haro Strait (west of San Juan Island), in the Strait of Juan de Fuca, and Georgia Strait near the Fraser River. Historically, the J pod also occurred intermittently during this time in Puget Sound; however, records from The Whale Museum (2008) from 1997 through 2007 show that J pod did not enter Puget Sound south of the Strait of Juan de Fuca from approximately June through August.

In fall, all three Southern Resident killer whale pods occur in areas where migrating salmon are concentrated such as the mouth of the Fraser River. They may also enter areas in Puget Sound where migrating chum and Chinook salmon are concentrated (Osborne 1999). In the winter months, the K and L pods spend progressively less time in inland marine waters and depart for coastal waters in January or February. The J pod is most likely to appear year-round near the San Juan Islands, and in the fall/winter, in the lower Puget Sound and in Georgia Strait at the mouth of the Fraser River.

Southern Resident killer whales are present in the Vashon Island area in November–January, coinciding with chum salmon runs, with peak sightings in November/December. Southern Resident killer whales commonly forage for salmon on the east side of Vashon Island. They tend to pass through the Vashon area, traveling at approximately 4 mph, rather than staying in the area (Sears 2013).

Ann Stateler of the Vashon Hydrophone Project (and a Vashon Island resident) has been observing whales in the area since 1994. Her observations since 2005 show that the broad window for Southern Resident killer whale presence in the Vashon area has been from October to March, with most encounters occurring between November and January. Prey samples collected by Mark Sears and NOAA researchers in local waters indicate that the Southern Resident killer whales are targeting Chum and Chinook salmon.

Southern Resident killer whales use all of the waterways surrounding Vashon/Maury Island: East Passage, Colvos Pass, Dalco Pass, waters off the north end between Blake and Vashon Islands. Sometimes the Southern Resident killer whales circumnavigate the island. Southern Resident killer whale visits to the Vashon area have been highly variable. Typically, members of all three pods are observed over a year, with the exception of 2006 when J Pod was not present for the first time since observations have been recorded.

In 2009 WSDOT replaced several dolphin structures at the Vashon terminal. Marine mammal monitoring was implemented during this project. Over 7 days of monitoring in November of 2009, no killer whales were observed (WSF 2009).

According to the NMFS National Stranding Database, there were no killer whale strandings in the Vashon area in 2010–13 (NMFS 2014).

The West Coast Transient stock occurs in Washington State. This stock ranges from southern California to southeast Alaska and is distinguished from two other Eastern North Pacific transient stocks that occur further north, the AT1 and the ''Gulf of Alaska transient stocks. This separation was based on variations in acoustic calls and genetic distinctness (Angliss and Outlaw 2007). West Coast transients primarily forage on harbor seals (Ford and Ellis 1999), but other species such as porpoises and sea lions are also taken (NMFS 2008).

The West Coast Transient stock, which includes individuals from California to southeastern Alaska, was estimated to have a minimum number of 354 in the 2010 SAR (NMFS 2010).

Trends in abundance for the West Coast Transients were unavailable in the most recent stock assessment report (Angliss and Outlaw 2007). Human-caused mortality and serious injury are estimated to be zero animals per year and do not exceed the PBR, which is estimated at 3.5 animals (NMFS 2010).

The West Coast Transient stock is not designated as depleted under the MMPA or listed as ''threatened'' or ''endangered'' under the ESA.

Within the inland waters, Transients may frequent areas near seal rookeries when pups are weaned (Baird and Dill 1995). West Coast Transients are documented intermittently year-round in Washington inland waters.

Transient sightings have become more common since the mid-2000s. Unlike the Southern Resident killer whale pods, Transients may be present in the area for hours as they hunt pinnipeds. Transients often forage to the east of Allen Bank, which is within the project ZOI. NW Blake Island, just north of Vashon Island is a 'hot-spot' for seals

that are prey for Transients. Transients may be more present during September/October harbor seal pup weaning.

Gray Whale

The North Pacific gray whale stock is divided into two distinct geographically isolated stocks: Eastern and western ''Korean.'' Individuals in this region are part of the Eastern North Pacific stock. The majority of the Eastern North Pacific population spends summers feeding in the Bering and Chukchi Seas, but some individuals have been reported summering in waters off the coast of British Columbia, Southeast Alaska, Washington, Oregon and California (Rice *et al.* 1984; Angliss and Outlaw 2007). Gray whales migrate in the fall, south along the coast of North America to Baja California, Mexico to calve (Rice *et al.* 1981.) Gray whales are recorded in Washington waters during feeding migrations between late spring and autumn with occasional sightings during winter months (Calambokidis *et al.* 1994, 2002).

Early in the 20th century, it is believed that commercial hunting for gray whales reduced population numbers to below 2,000 individuals (Calambokidis and Baird 1994). Population surveys since the delisting estimate that the population fluctuates at or just below the carrying capacity of the species (~26,000 individuals) (Rugh *et al.* 1999; Calambokidis *et al.* 1994; Angliss and Outlaw 2007).

According to the 2013 SAR, the minimum population estimate of the Eastern North Pacific stock is 18,017 (NMFS 2011c). Within Washington waters, gray whale sightings reported to Cascadia Research and the Whale Museum between 1990 and 1993 totaled over 1,100 (Calambokidis *et al.* 1994). Abundance estimates calculated for the small regional area between Oregon and southern Vancouver Island, including the San Juan Area and Puget Sound, suggest there were 137 to 153 individual gray whales from 2001 through 2003 (Calambokidis *et al.* 2004). Forty-eight individual gray whales were observed in Puget Sound and Hood Canal in 2004 and 2005 (Calambokidis 2007).

After listing of the species under the ESA in 1970, the number of gray whales increased dramatically resulting in their delisting in 1994. In 2001 NOAA Fisheries received a petition to relist the stock under the ESA, but it was determined that there was not sufficient information to warrant the petition (Angliss and Outlaw 2007). Since delisting under the ESA, the stock has not been reclassified under the MMPA. The PBR for this stock is 360 animals per year (NMFS 2011).

Gray whales migrate within 5 to 43 km of the coast of Washington during their annual north/south migrations (Green *et al.* 1995). Gray whales migrate south to Baja California where they calve in November and December, and then migrate north to Alaska from March through May (Rice *et al.* 1984; Rugh *et al.* 2001) to summer and feed. A few gray whales are observed in Washington inland waters between the months of September and January, with peak numbers of individuals from March through May. Peak months of gray whale observations in the area of activity occur outside the proposed work window of September through February. The average tenure within Washington inland waters is 47 days and the longest stay was 112 days.

Although typically seen during their annual migrations on the outer coast, a regular group of gray whales annually comes into the inland waters at Saratoga Passage and Port Susan from March through May to feed on ghost shrimp (Weitkamp *et al.* 1992). During this time frame they are also seen in the Strait of Juan de Fuca, the San Juan Islands, and areas of Puget Sound, although the observations in Puget Sound are highly variable between years (Calambokidis *et al.* 1994).

In 2009 WSDOT replaced several dolphin structures at the Vashon terminal. Marine mammal monitoring was implemented during this project. Over 7 days of monitoring in November of 2009, no gray whales were observed (WSF 2009).

According to the NMFS National Stranding Database, there were no gray whale strandings in the Vashon area in 2010–13 (NMFS 2014).

Humpback Whale

Humpback whales are wide-ranging baleen whales that can be found virtually worldwide. Recent studies have indicated that there are three distinct stocks of humpback whale in the North Pacific: California-Oregon-Washington (formerly Eastern North Pacific), Central North Pacific and Western North Pacific (NMFS 2011).

The California-Oregon-Washington (CA–OR–WA) stock may be found near the project site. This stock calves and mates in coastal Central America and Mexico and migrates up the coast from California to southern British Columbia in the summer and fall to feed (NMFS 1991; Marine Mammal Commission 2003; Carretta *et al.* 2007). Although infrequent, interchange between the other two stocks and the CA–OR–WA stock occurs in breeding areas (Carretta *et al.* 2007). Few CA–OR–WA stock humpback whales are seen in Puget Sound, but more frequent sightings occur in the Strait of Juan de Fuca and near the San Juan Islands. Most sightings are in spring and summer. Humpback whales feed on krill, small shrimp-like crustaceans and various kinds of small fish.

According to the 2013 SAR, the 2007/2008 estimate of 2,043 humpback whales is the best estimate for abundance for this stock, though it does exclude some whales in Washington (Calambokidis *et al.* 2009).

As a result of commercial whaling, humpback whales were listed as ''endangered'' under the Endangered Species Conservation Act of 1969. This protection was transferred to the Endangered Species Act (ESA) in 1973. The species is still listed as ''endangered'', and consequently the stock is automatically considered as a ''depleted'' and ''strategic'' stock under the MMPA.

Historically, humpback whales were common in inland waters of Puget Sound and the San Juan Islands (Calambokidis *et al.* 2002). In the early part of this century, there was a productive commercial hunt for humpbacks in Georgia Strait that was probably responsible for their long disappearance from local waters (Osborne *et al.* 1988). Since the mid-1990s, sightings in Puget Sound have increased. Between 1996 and 2001, Calambokidis *et al.* (2002) recorded six individuals south of Admiralty Inlet (northern Puget Sound).

In 2009 WSDOT replaced several dolphin structures at the Vashon terminal. Marine mammal monitoring was implemented during this project. Over 7 days of monitoring in November of 2009, no humpback whales were observed (WSF 2009).

According to the NMFS National Stranding Database, there were no humpback whale strandings in the Vashon area in 2010–13 (NMFS 2014).

Minke Whales

The northern minke whale is part of the Northern Pacific stock, which is broken into three management stocks: The Alaskan, California/Oregon/Washington, and the Hawaiian stock (NMFS 2008). The California/Oregon/Washington management stock is considered a resident stock, which is unlike the other Northern Pacific stocks (NMFS 2008). This stock includes minke whales within the inland Washington waters of Puget Sound and the San Juan Islands (Dorsey *et al.* 1990; Carretta *et al.* 2007), which may be present in the project area.

Minke whales have small, dark sleek bodies and a small dorsal fin. These

whales are often recognized by surfacing snout first and a shallow but visible ''bushy'' blow. Minke whales feed by side lunging into schools of prey and gulping in large amounts of water. Food sources typically consist of krill, copepods, and small schooling fish, such as anchovies, herring, mackerel, and sand lance (NMFS 2008).

According to the 2013 SAR, the minimum population estimate of the CA/OR/WA stock is 202 and is likely no more than 600 (NE Pacific Minke Project 2014). Information on minke whale population and abundance is limited due to difficulty in detection. Conducting surveys for the minke whale is difficult because of their low profiles, indistinct blows, and tendency to occur as single individuals (Green *et al.* 1992). Over a 10-year period, 30 individuals were photographically identified in the U.S./Canada trans-boundary area around the San Juan Islands and demonstrated high site fidelity (Dorsey *et al.* 1990; Calambokidis and Baird 1994). In a single year, up to 19 individuals were photographically identified from around the San Juan Islands (Dorsey *et al.* 1990).

Minke whales are not listed under the ESA and are classified as non-depleted under the MMPA. The annual mortality due to fisheries and ship strikes is less than the potential biological removal, so they are not considered a strategic management stock under the MMPA (Carretta *et al.* 2007). The PBR for this stock is two animals per year (NMFS 2011).

Minke whales are reported in Washington inland waters year-round, although few are reported in the winter (Calambokidis and Baird 1994). Minke whales are relatively common in the San Juan Islands and Strait of Juan de Fuca (especially around several of the banks in both the central and eastern Strait), but are relatively rare in Puget Sound.

In the 1980s minke whales were found in three main areas around the San Juan Islands; west of Shaw Island (Minke Lake), the San Juan Channel and the Strait of San Juan de Fuca (Salmon Bank). However, by the 1990s the first two areas were abandoned, and minke whales were only found in the Strait of Juan de Fuca, despite continued search efforts in the other areas. This coincided with a general decline of herring in the area, possibly associated with disturbance of adjacent herring spawning grounds. A qualitative change in the number of sea birds was also noted at this time. In more recent years (2005–2011), minke whales were found foraging in all three areas again, and bird numbers were also higher. But minke whales are still predominantly found on the banks in the Strait of Juan de Fuca (NE Pacific Minke Whale Project 2014).

In 2009 WSDOT replaced several dolphin structures at the Vashon terminal. Marine mammal monitoring was implemented during this project. Over 7 days of monitoring in November of 2009, no Minke whales were observed (WSF 2009).

According to the NMFS National Stranding Database, there were no Minke whale strandings in the Vashon area in 2010–13 (NMFS 2014).

Harbor Porpoises

The Washington Inland Waters Stock of harbor porpoise may be found near the project site. The Washington Inland Waters Stock occurs in waters east of Cape Flattery (Strait of Juan de Fuca, San Juan Island Region, and Puget Sound).

According to the 2013 SAR, the Washington Inland Waters Stock mean abundance estimate based on 2002 and 2003 aerial surveys conducted in the Strait of Juan de Fuca, San Juan Islands, Gulf Islands, and Strait of Georgia is 10,682 harbor porpoises (NMFS 2011).

No harbor porpoises were observed within Puget Sound proper during comprehensive harbor porpoise surveys (Osmek *et al.* 1994) or Puget Sound Ambient Monitoring Program (PSAMP) surveys conducted in the 1990s (WDFW 2008). Declines were attributed to gill-net fishing, increased vessel activity, contaminants, and competition with Dall's porpoise.

However, populations appear to be rebounding with increased sightings in central Puget Sound (Carretta *et al.* 2007) and southern Puget Sound (WDFW 2008). Recent systematic boat surveys of the main basin indicate that at least several hundred and possibly as many as low thousands of harbor porpoise are now present. While the reasons for this recolonization are unclear, it is possible that changing conditions outside of Puget Sound, as evidenced by a tripling of the population in the adjacent waters of the Strait of Juan de Fuca and San Juan Islands since the early 1990s, and the recent higher number of harbor porpoise mortalities in coastal waters of Oregon and Washington, may have played a role in encouraging harbor porpoise to explore and shift into areas like Puget Sound (Hanson *et. al.* 2011).

The Washington Inland Waters Stock of harbor porpoise is ''non-depleted'' under MMPA and ''unlisted'' under the ESA. Because there is no current estimate of minimum abundance, a PBR cannot be calculated for this stock (NMFS 2011).

Harbor porpoises are common in the Strait of Juan de Fuca and south into Admiralty Inlet, especially during the winter, and are becoming more common south of Admiralty Inlet. Little information exists on harbor porpoise movements and stock structure near the Vashon area, although it is suspected that in some areas harbor porpoises migrate (based on seasonal shifts in distribution). Washington Department of Fish and Wildlife's (WDFW) Puget Sound Ambient Monitoring Program (PSAMP) data show peaks in Washington waters to occur during the winter.

Hall (2004) found that the frequency of sighting of harbor porpoises decreased with increasing depth beyond 150 m with the highest numbers observed at water depths ranging from 61 to 100 m. Although harbor porpoises have been spotted in deep water, they tend to remain in shallower shelf waters (<150 m) where they are most often observed in small groups of one to eight animals (Baird 2003). Water depths within the Vashon ZOIs range from 0 to 246 m, with roughly 2/3 of the area within the ZOI falling within the 61–100 m depth where the highest number of harbor porpoises may be observed.

According to Vashon Island area whale specialist Mark Sears, harbor porpoise are seen in groups of 2–3, and occasionally in groups of 6–12, and numbers in the area peak in May/June (Sears 2013).

In 2009 WSDOT replaced several dolphin structures at the Vashon terminal. Marine mammal monitoring was implemented during this project. Over 7 days of monitoring in November of 2009, one harbor porpoise was observed (WSF 2009).

According to the NMFS National Stranding Database, there was one harbor porpoise stranding in the Vashon area in 2010–13, in the September-February work window scheduled for this project (NMFS 2013).

Dall's Porpoises

The California, Oregon, and Washington Stock of Dall's porpoise may be found near the project site. The most recent estimate of Dall's porpoise stock abundance is 42,000, based on 2005 and 2008 summer/autumn vessel-based line transect surveys of California, Oregon, and Washington waters (NMFS 2011). Within the inland waters of Washington and British Columbia, this species is most abundant in the Strait of Juan de Fuca east to the San Juan Islands. The most recent Washington's inland waters estimate is 900 animals

(Calambokidis *et al.* 1997). Prior to the 1940s, Dall's porpoises were not reported in Puget Sound.

The California, Oregon, and Washington Stock of Dall's porpoise is ''non-depleted'' under the MMPA, and ''unlisted'' under the ESA. The PBR for this stock is 257 Dall's porpoises per year (NMFS 2011).

Dall's porpoises are migratory and appear to have predictable seasonal movements driven by changes in oceanographic conditions (Green *et al.* 1992, 1993) and are most abundant in Puget Sound during the winter (Nysewander *et al.* 2005; WDFW 2008). Despite their migrations, Dall's porpoises occur in all areas of inland Washington at all times of year, but with different distributions throughout Puget Sound from winter to summer. The Washington State Department of Fish and Wildlife's (WDFW) Puget Sound Ambient Monitoring Program (PSAMP) data show peaks in Washington waters to occur during the winter. The average winter group size is three animals (WDFW 2008).

In 2009 WSDOT replaced several dolphin structures at the Vashon terminal. Marine mammal monitoring was implemented during this project. Over 7 days of monitoring in November of 2009, no Dall's porpoise were observed (WSF 2009).

Dall's porpoise used to be more common that harbor porpoise in the Vashon area, though harbor porpoise is now more common. The usual observation in the Vashon area is a single Dall's porpoise, or a pair (Sears 2013).

According to the NMFS National Stranding Database, there were no Dall's porpoise strandings in the Vashon area in 2010–13 (NMFS 2013).

Potential Effects of the Specified Activity on Marine Mammals

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Based on available behavioral data, audiograms have been derived using auditory evoked potentials, anatomical modeling, and other data, Southall *et al.* (2007) designate ''functional hearing groups'' for marine mammals and estimate the lower and upper frequencies of functional hearing of the groups. The functional groups and the associated frequencies are indicated below (though animals are less sensitive to sounds at the outer edge of their functional range and most sensitive to sounds of frequencies within a smaller range somewhere in the middle of their functional hearing range):

- Low frequency cetaceans (13 species of mysticetes): functional hearing is estimated to occur between approximately 7 Hz and 22 kHz (however, a study by Au et al., (2006) of humpback whale songs indicate that the range may extend to at least 24 kHz);
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): functional hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High frequency cetaceans (eight species of true porpoises, six species of river dolphins, Kogia, the franciscana, and four species of cephalorhynchids): functional hearing is estimated to occur between approximately 200 Hz and 180 kHz; and
- Pinnipeds in Water: functional hearing is estimated to occur between approximately 75 Hz and 75 kHz, with the greatest sensitivity between approximately 700 Hz and 20 kHz.

As mentioned previously in this document, marine mammal species/stocks are likely to occur in the proposed seismic survey area. WSDOT and NMFS determined that in-water pile removal and pile driving during the Vashon Seismic Retrofit Project has the potential to result in behavioral harassment of the marine mammal species and stocks in the vicinity of the proposed activity.

Marine mammals exposed to high-intensity sound repeatedly or for prolonged periods can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Kastak *et al.* 1999; Schlundt *et al.* 2000; Finneran *et al.* 2002; 2005). TS can be permanent (PTS), in which case the loss of hearing sensitivity is unrecoverable, or temporary (TTS), in which case the animal's hearing threshold will recover over time (Southall *et al.* 2007). Since marine mammals depend on acoustic cues for vital biological functions, such as orientation, communication, finding prey, and avoiding predators, hearing impairment could result in the reduced ability of marine mammals to detect or interpret important sounds. Repeated noise exposure that causes TTS could lead to PTS.

Experiments on a bottlenose dolphin (*Tursiops truncates*) and beluga whale (*Delphinapterus leucas*) showed that exposure to a single watergun impulse at a received level of 207 kPa (or 30 psi) peak-to-peak (p-p), which is equivalent to 228 dB (p-p) re 1 μPa, resulted in a 7 and 6 dB TTS in the beluga whale at 0.4 and 30 kHz, respectively. Thresholds returned to within 2 dB of the pre-exposure level within 4 minutes of the exposure (Finneran *et al.* 2002). No TTS was observed in the bottlenose dolphin. Although the source level of one hammer strike for pile driving is expected to be much lower than the single watergun impulse cited here, animals being exposed for a prolonged period to repeated hammer strikes could receive more noise exposure in terms of sound exposure level (SEL) than from the single watergun impulse (estimated at 188 dB re 1 μPa^2-s) in the aforementioned experiment (Finneran *et al.* 2002).

Chronic exposure to excessive, though not high-intensity, noise could cause masking at particular frequencies for marine mammals that utilize sound for vital biological functions (Clark *et al.* 2009). Masking is the obscuring of sounds of interest by other sounds, often at similar frequencies. Masking generally occurs when sounds in the environment are louder than, and of a similar frequency as, auditory signals an animal is trying to receive. Masking can interfere with detection of acoustic signals, such as communication calls, echolocation sounds, and environmental sounds important to marine mammals. Therefore, under certain circumstances, marine mammals whose acoustical sensors or environment are being severely masked could also be impaired.

Masking occurs at the frequency band which the animals utilize. Since noise generated from in-water vibratory pile removal and driving is mostly concentrated at low frequency ranges, it may have little effect on high-frequency echolocation sounds by odontocetes (toothed whales), which may hunt California sea lion and harbor seal. However, the lower frequency man-made noises are more likely to affect the detection of communication calls and other potentially important natural sounds, such as surf and prey noise. The noises may also affect communication signals when those signals occur near the noise band, and thus reduce the communication space of animals (*e.g.,* Clark *et al.* 2009) and cause increased stress levels (*e.g.,* Foote *et al.* 2004; Holt *et al.* 2009).

Unlike TS, masking can potentially impact the species at community, population, or even ecosystem levels, as well as individual levels. Masking affects both senders and receivers of the signals and could have long-term chronic effects on marine mammal species and populations. Recent science suggests that low frequency ambient sound levels in the world's oceans have

increased by as much as 20 dB (more than 3 times, in terms of SPL) from pre-industrial periods, and most of these increases are from distant shipping (Hildebrand 2009). All anthropogenic noise sources, such as those from vessel traffic and pile removal and driving, contribute to the elevated ambient noise levels, thus intensifying masking.

Nevertheless, the sum of noise from WSDOT's proposed Vashon Seismic Retrofit Project construction activities is confined to a limited area by surrounding landmasses; therefore, the noise generated is not expected to contribute to increased ocean ambient noise. In addition, due to shallow water depths in the project area, underwater sound propagation of low-frequency sound (which is the major noise source from pile driving) is expected to be poor.

Finally, in addition to TS and masking, exposure of marine mammals to certain sounds could lead to behavioral disturbance (Richardson *et al.* 1995), such as: changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities, such as socializing or feeding; visible startle response or aggressive behavior, such as tail/fluke slapping or jaw clapping; avoidance of areas where noise sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haulouts or rookeries).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, or reproduction. Some of these types of significant behavioral modifications include:

Drastic change in diving/surfacing patterns (such as those thought to be causing beaked whale strandings due to exposure to military mid-frequency tactical sonar); habitat abandonment due to loss of desirable acoustic environment; and cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography), and is therefore difficult to predict (Southall *et al.* 2007).

The proposed project area is not a prime habitat for marine mammals, nor is it considered an area frequented by marine mammals. Therefore, behavioral disturbances that could result from anthropogenic noise associated with WSDOT's construction activities are expected to affect only a small number of marine mammals on an infrequent and limited basis.

Potential Effects on Marine Mammal Habitat

The primary potential impacts to marine mammal habitat are associated with elevated sound levels produced by vibratory pile removal and pile driving in the area. However, other potential impacts to the surrounding habitat from physical disturbance are also possible.

Potential Impacts on Prey Species

With regard to fish as a prey source for cetaceans and pinnipeds, fish are known to hear and react to sounds and to use sound to communicate (Tavolga *et al.* 1981) and possibly avoid predators (Wilson and Dill 2002). Experiments have shown that fish can sense both the strength and direction of sound (Hawkins 1981). Primary factors determining whether a fish can sense a sound signal, and potentially react to it, are the frequency of the signal and the strength of the signal in relation to the natural background noise level.

The level of sound at which a fish will react or alter its behavior is usually well above the detection level. Fish have been found to react to sounds when the sound level increased to about 20 dB above the detection level of 120 dB (Ona 1988); however, the response threshold can depend on the time of year and the fish's physiological condition (Engas *et al.* 1993). In general, fish react more strongly to pulses of sound rather than non-pulse signals (such as noise from vessels) (Blaxter *et al.* 1981), and a quicker alarm response is elicited when the sound signal intensity rises rapidly compared to sound rising more slowly to the same level.

Further, during the coastal construction only a small fraction of the available habitat would be ensonified at any given time. Disturbance to fish species would be short-term and fish would return to their pre-disturbance behavior once the pile driving activity ceases. Thus, the proposed construction would have little, if any, impact on the abilities of marine mammals to feed in the area where construction work is planned.

Finally, the time of the proposed construction activity would avoid the spawning season of the ESA-listed salmonid species.

Water and Sediment Quality

Short-term turbidity is a water quality effect of most in-water work, pile removal and driving. WSDOT must comply with state water quality standards during these operations by limiting the extent of turbidity to the immediate project area.

Roni and Weitkamp (1996) monitored water quality parameters during a pier replacement project in Manchester, Washington. The study measured water quality before, during and after pile removal and driving. The study found that construction activity at the site had ''little or no effect on dissolved oxygen, water temperature and salinity,'' and turbidity (measured in nephelometric turbidity units [NTU]) at all depths nearest the construction activity was typically less than 1 NTU higher than stations farther from the project area throughout construction.

Similar results were recorded during pile removal operations at two WSF ferry facilities. At the Friday Harbor terminal, localized turbidity levels (from three timber pile removal events) were generally less than 0.5 NTU higher than background levels and never exceeded 1 NTU. At the Eagle Harbor maintenance facility, local turbidity levels (from removal of timber and steel piles) did not exceed 0.2 NTU above background levels. In general, turbidity associated with pile installation is localized to about a 25-foot radius around the pile (Everitt *et al.* 1980).

Cetaceans are not expected to be close enough to the Vashon ferry terminal to experience effects of turbidity, and any pinnipeds will be transiting the terminal area and could avoid localized areas of turbidity. Therefore, the impact from increased turbidity levels is expected to be discountable to marine mammals.

Pile driving and removal at the Vashon ferry terminal will not obstruct movements of marine mammals. Pile work at Vashon will occur within 70 m/230 ft of the shoreline leaving 2 km/1.2 miles of Puget Sound for marine mammals to pass.

Potential Impacts on Availability of Affected Species or Stock for Taking for Subsistence Uses

No subsistence harvest of marine mammals occur in the proposed action area.

Proposed Mitigation Measures

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse

impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

For WSDOT's proposed Vashon Seismic Retrofit Project, WSDOT worked with NMFS and proposed the following mitigation measures to minimize the potential impacts to marine mammals in the Project vicinity. The primary purposes of these mitigation measures are to minimize sound levels from the activities, to monitor marine mammals within designated ZOI corresponding to NMFS' current Level B harassment thresholds and, if marine mammals with the ZOI appear disturbed by the work activity, to initiate immediate shutdown or power down of the piling hammer, making it very unlikely potential injury or TTS to marine mammals would occur and ensuring that Level B behavioral harassment of marine mammals would be reduced to the lowest level practicable.

Use of Noise Attenuation Devices

Noise attenuation systems (*i.e.,* bubble curtains) will be used during all impact pile driving of steel piles to dampen the acoustic pressure and reduce the impact on marine mammals. By reducing underwater sound pressure levels at the source, bubble curtains would reduce the area over which Level B harassment would occur, thereby potentially reducing the numbers of marine mammals affected. In addition, the bubble curtain system would reduce sound levels below the threshold for injury (Level A harassment) and thus eliminate the need for an exclusion zone for Level A harassment.

Time Restriction

Work would occur only during daylight hours, when visual monitoring of marine mammals can be conducted. In addition, all in-water construction will be limited to the period between August 1, 2015, and February 15, 2016.

Establishment of Exclusion Zone and Level B Harassment Zones of Influence

Before the commencement of in-water pile driving activities, WSDOT shall establish Level B behavioral harassment ZOIs where received underwater sound pressure levels (SPLs) are higher than 160 dB (rms) and 120 dB (rms) re 1 μPa for impulse noise sources (impact pile driving) and non-impulses noise sources (vibratory pile driving and mechanic dismantling), respectively.

For the test pile program, because glacial till soils will be harder to drive through, the assumed attenuation will be 8–10 dB, the same bubble-curtain attenuation used in the current consultation. Based on the 2009 Vashon Test Pile, source levels for impact driving of 30'' piles are 210 dB (peak), 181 dB (SEL), and 189 dB (rms) measured at 16 m (Pile P–8 Unmitigated) (WSDOT 2010).

The exclusion zones for Level A harassment and ZOIs for Level B harassment are modeled based on in-water measurements during the WSF Bainbridge Island Ferry Terminal and presented in Table 2 below.

TABLE 2—MODELED MAXIMUM LEVEL A AND LEVEL B HARASSMENT ZONES FOR VARIOUS PILE DRIVING ACTIVITIES

Pile driving methods	Distance to 190 dB re 1 μPa (rms) (m)	Distance to 180 dB re 1 μPa (rms) (m)	Distance to 160 dB re 1 μPa (rms) (m)	Distance to 121* dB re 1 μPa (rms) (m)
Impact pile driving	3.0	12	251	NA
Vibratory pile driving & removal (24-in steel concrete-jacketed pile)	NA	NA	NA	5,000
Vibratory pile driving & removal (13-in timber pile)	NA	NA	NA	2,000
Vibratory pile removal (30-in steel pile)	NA	NA	NA	21,500
Test pile impact pile driving (assume 8 dB reduction using attenuation devices)	4.0	19	402	NA

* Since the median ambient noise level at the Project area is 121 dB re 1 μPa (rms), this level will be used as the threshold for vibratory pile driving and removal.

Soft Start

A ''soft-start'' technique is intended to allow marine mammals to vacate the area before the pile driver reaches full power. Whenever there has been downtime of 30 minutes or more without pile driving, the contractor will initiate the driving with ramp-up procedures described below.

Soft start for vibratory hammers requires contractors to initiate hammer noise for 15 seconds at reduced energy followed by a 1-minute waiting period. The procedure will be repeated two additional times. Soft start for impact hammers requires contractors to provide an initial set of three strikes from the impact hammer at 40 percent energy, followed by a 1-minute waiting period, then two subsequent three-strike sets. Each day, WSDOT will use the soft-start technique at the beginning of pile driving or removal, or if pile driving or removal has ceased for more than one hour.

Shutdown Measures

WSDOT shall implement shutdown measures if a marine mammal is sighted approaching the Level A exclusion zone. In-water construction activities shall be suspended until the marine mammal is sighted moving away from the exclusion zone, or if the animal is not sighted for 30 minutes after the shutdown.

In addition, WSDOT shall implement shutdown measures if southern resident killer whales are sighted within the vicinity of the project area and are approaching the Level B harassment zone (zone of influence, or ZOI) during in-water construction activities.

If a killer whale approaches the ZOI during pile driving or removal, and it is unknown whether it is a Southern Resident killer whale or a transient killer whale, it shall be assumed to be a Southern Resident killer whale and WSDOT shall implement the shutdown measure.

If a Southern Resident killer whale or an unidentified killer whale enters the ZOI undetected, in-water pile driving or pile removal shall be suspended until the whale exits the ZOI to avoid further level B harassment.

Further, WSDOT shall implement shutdown measures if the number of any allotted marine mammal takes reaches the limit under the IHA, if such marine mammals are sighted within the vicinity of the project area and are approaching the Level B harassment

zone during in-water construction activities.

Mitigation Conclusions

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

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of pile driving and pile removal or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(3) A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of pile driving and pile removal, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(4) A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of pile driving, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an incidental take authorization (ITA) for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth, ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. WSDOT submitted a marine mammal monitoring plan as part of the IHA application. It can be found at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* The plan may be modified or supplemented based on comments or new information received from the public during the public comment period.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

(1) An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

(2) An increase in our understanding of how many marine mammals are likely to be exposed to levels of pile driving that we associate with specific adverse effects, such as behavioral harassment, TTS, or PTS;

(3) An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

- Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

(4) An increased knowledge of the affected species; and

(5) An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

Proposed Monitoring Measures

WSDOT shall employee NMFS-approved protected species observers (PSOs) to conduct marine mammal monitoring for its Vashon Seismic Retrofit Project. The PSOs will observe and collect data on marine mammals in and around the project area for 30 minutes before, during, and for 30 minutes after all pile removal and pile installation work. If a PSO observes a marine mammal within a ZOI that appears to be disturbed by the work activity, the PSO will notify the work crew to initiate shutdown measures.

Monitoring of marine mammals around the construction site shall be conducted using high-quality binoculars (*e.g.,* Zeiss, 10 x 42 power). Marine mammal visual monitoring will be conducted by land-based biologists at the terminal work sites, and boat-based biologist(s) travel through the monitoring area.

Data collection during marine mammal monitoring will consist of a count of all marine mammals by species, a description of behavior (if possible), location, direction of movement, type of construction that is occurring, time that pile replacement work begins and ends, any acoustic or visual disturbance, and time of the observation. Environmental conditions such as weather, visibility, temperature, tide level, current, and sea state would also be recorded.

Proposed Reporting Measures

WSDOT would be required to submit weekly monitoring reports to NMFS that summarize the monitoring results,

construction activities, and environmental conditions.

A final monitoring report would be submitted to NMFS within 90 days after completion of the construction work. This report would detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed. NMFS would have an opportunity to provide comments on the report, and if NMFS has comments, WSDOT would address the comments and submit a final report to NMFS within 30 days.

In addition, NMFS would require WSDOT to notify NMFS' Office of Protected Resources and NMFS' Stranding Network within 48 hours of sighting an injured or dead marine mammal in the vicinity of the construction site. WSDOT shall provide NMFS with the species or description of the animal(s), the condition of the animal(s) (including carcass condition, if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available).

In the event that WSDOT finds an injured or dead marine mammal that is not in the vicinity of the construction area, WSDOT would report the same information as listed above to NMFS as soon as operationally feasible.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

As discussed above, in-water pile removal and pile driving (vibratory and impact) generate loud noises that could potentially harass marine mammals in the vicinity of WSDOT's proposed Vashon Seismic Retrofit Project.

Currently, NMFS uses 120 dB re 1 μPa and 160 dB re 1 μPa at the received levels for the onset of Level B harassment from non-impulse (vibratory pile driving and removal) and impulse sources (impact pile driving) underwater, respectively. Table 3 summarizes the current NMFS marine mammal take criteria.

TABLE 3—CURRENT ACOUSTIC EXPOSURE CRITERIA FOR NON-EXPLOSIVE SOUND UNDERWATER

Criterion	Criterion definition	Threshold
Level A Harassment (Injury)	Permanent Threshold Shift (PTS) (Any level above that which is known to cause TTS).	180 dB re 1 μPa (cetaceans), 190 dB re 1 μPa (pinnipeds), root mean square (rms).
Level B Harassment	Behavioral Disruption (for impulse noises)	160 dB re 1 μPa (rms).
Level B Harassment	Behavioral Disruption (for non-impulse noise)	120 dB re 1 μPa (rms).

As explained above, ZOIs will be established that encompass the areas where received underwater sound pressure levels (SPLs) exceed the applicable thresholds for Level B harassment. There will not be a zone for Level A harassment in this case, because the bubble curtain system will keep all underwater noise below the threshold for Level A harassment.

Sound Levels From Proposed Construction Activity

As mentioned earlier, the project includes impact driving and proofing of 24-inch hollow steel piling, impact driving of 13-inch timber piling, and impact driving of 30-inch steel test piles.

Based on in-water measurements during the WSF Bainbridge Island Ferry Terminal, impact pile driving of a 24-inch steel pile generated 170 dB RMS (overall average), with the highest measured at 189 dB RMS measured at 10 meters (Laughlin 2005). A bubble curtain will be used to attenuate steel pile impact driving noise.

For the test pile program, the more conservative cetacean injury zone (19 m/62 ft) will be used to set the 30-inch steel test pile exclusion zone.

In-water measurements for impact driving of 13-inch timber piling are not available. Impact driving of 12-inch timber piling generated 170 dB RMS (WSF 2014). The source level for 13-inch timber piles shall be assumed to be the same as 12-inch timber piles. A bubble curtain will not be used during impact driving of timber piles.

Using practical spreading model to calculate sound propagation loss, Table 2 provides the estimated maximum distances for a variety of harassment zones.

As explained above, exclusion zones and ZOIs will be established that encompass the areas where received underwater SPLs exceed the applicable thresholds for Level A and Level B harassment, respectively.

Incidental take for each species is estimated by determining the likelihood of a marine mammal being present within a ZOI during pile removal and pile driving. Expected marine mammal presence is determined by past observations and general abundance near the Vashon Ferry Terminal during the construction window. Typically, potential take is estimated by multiplying the area of the ZOI by the local animal density. This provides an estimate of the number of animals that might occupy the ZOI at any given moment. However, there are no density estimates for any Puget Sound population of marine mammals. As a result, the take requests were estimated using local marine mammal data sets (*e.g.,* Orca Network, state and federal agencies), opinions from state and federal agencies, and observations from Navy biologists.

Based on the estimates, approximately 1,919 Pacific harbor seals, 1,919 California sea lions, 644 Steller sea lions, 438 harbor porpoises, 136 Dall's porpoises, 54 killer whales (50 transient, 4 Southern Resident killer whales), 71 gray whales, 36 humpback whales, and 36 minke whales could be exposed to received sound levels that could result in takes from the proposed Vashon Seismic Retrofit Project. A summary of the estimated takes is presented in Table 4.

TABLE 4—ESTIMATED NUMBERS OF MARINE MAMMALS THAT MAY BE EXPOSED TO RECEIVED PILE REMOVAL LEVELS ABOVE 121 dB RE 1 μPA (RMS)

Species	Estimated marine mammal takes	Abundance	Percentage
Pacific harbor seal	1,919	14,612	13
California sea lion	1,919	296,750	0.7
Steller sea lion	644	63,160	1.0
Harbor porpoise	438	10,682	4.0
Dall's porpoise	136	42,000	0.3
Killer whale, transient	50	521	9.6
Killer whale, Southern Resident	4	85	4.7
Gray whale	71	19,126	0.4
Humpback whale	36	1,918	1.9
Minke whale	36	478	7.5

Analysis and Preliminary Determinations

Negligible Impact

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

WSDOT's proposed Vashon Seismic Retrofit Project would involve pile removal and pile driving activities. Elevated underwater noises are expected to be generated as a result of these activities; however, these noises are expected to result in no mortality or Level A harassment and limited, if any, Level B harassment of marine mammals. WSDOT would use noise attenuation devices (*i.e.,* bubble curtains) during the impact pile driving of steel piles, thus eliminating the potential for injury (including PTS) and TTS from impact driving. For vibratory pile removal and pile driving and impact pile driving of timber piles, noise levels are not expected to reach the level that may cause TTS, injury (including PTS), or mortality to marine mammals. Therefore, NMFS does not expect that any animals would experience Level A harassment (including injury or PTS) or Level B harassment in the form of TTS from being exposed to in-water pile removal and pile driving associated with WSDOT's construction project.

In addition, WSDOT's proposed activities are localized and of short duration. The entire project area is limited to WSDOT's Vashon ferry terminal in Vashon Island. The entire project would involve the removal of 106 existing timber piles and installation of 119 steel piles. In addition, 96 temporary piles will be installed and then removed during the project. The duration for pile driving and removal lasts for about 10 to 120 minutes per pile, depending on the type and dimension of the pile. These low-intensity, localized, and short-term noise exposures may cause brief startle reactions or short-term behavioral modification by the animals. These reactions and behavioral changes are expected to subside quickly when the exposures cease. Moreover, the proposed mitigation and monitoring measures are expected to reduce potential exposures and behavioral modifications even further. Additionally, no important feeding and/or reproductive areas for marine mammals are known to be near the proposed action area. Therefore, the take resulting from the proposed Vashon Seismic Retrofit Project is not reasonably expected to, and is not reasonably likely to, adversely affect the marine mammal species or stocks through effects on annual rates of recruitment or survival.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat, as analyzed in detail in the ''Anticipated Effects on Marine Mammal Habitat'' section. The project activities would not modify existing marine mammal habitat. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from WSDOT's Vashon Seismic Retrofit Project will have a negligible impact on the affected marine mammal species or stocks.

Small Number

Based on analyses provided above, it is estimated that approximately 1,919 harbor seals, 1,919 California sea lions, 644 Steller sea lions, 438 harbor porpoises, 136 Dall's porpoises, 50 transient killer whales, 4 Southern Resident killer whales, 71 gray whales, 36 humpback whales, and 36 minke whales could be exposed to received noise levels that could cause Level B behavioral harassment from the proposed construction work at the Vashon ferry terminal in Washington State. These numbers represent approximately 0.3% to 14% of the populations of these species that could be affected by Level B behavioral harassment, respectively (see Table 2 above), which are small percentages relative to the total populations of the affected species or stocks.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures,

which are expected to reduce the number of marine mammals potentially affected by the proposed action, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no subsistence uses of marine mammals in the proposed project area; and, thus, no subsistence uses impacted by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

The humpback whale and the Southern Resident stock of killer whale are the only marine mammal species currently listed under the ESA that could occur in the vicinity of WSDOT's proposed construction projects. NMFS' Permits and Conservation Division has initiated consultation with NMFS' Protected Resources Division under section 7 of the ESA on the issuance of an IHA to WSDOT under section 101(a)(5)(D) of the MMPA for this activity. Consultation will be concluded prior to a determination on the issuance of an IHA.

National Environmental Policy Act (NEPA)

NMFS prepared a draft Environmental Assessment (EA) for the proposed issuance of an IHA, pursuant to NEPA, to determine whether or not this proposed activity may have a significant effect on the human environment. This analysis will be completed prior to the issuance or denial of this proposed IHA.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to WSDOT for conducting the Vashon Seismic Retrofit Project, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided next.

1. This Authorization is valid from August 1, 2015, through July 31, 2016.

2. This Authorization is valid only for activities associated in-water construction work at the Vashon Seismic Retrofit Project in the State of Washington.

3. (a) The species authorized for incidental harassment takings, Level B harassment only, are: Pacific harbor seal (*Phoca vitulina richardsi*), California sea lion (*Zalophus californianus*), Steller sea lion (*Eumetopias jubatus*), transient and Southern Resident killer whales (*Orcinus orca*), gray whale (*Eschrichtius robustus*), humpback whale (*Megaptera novaeangliae*), harbor porpoise (*Phocoena phocoena*), and Dall's porpoise (*Phocoena dali*).

(b) The authorization for taking by harassment is limited to the following acoustic sources and from the following activities:

- Impact and vibratory pile driving;
- Pile removal; and
- Work associated with above piling activities.

(c) The taking of any marine mammal in a manner prohibited under this Authorization must be reported within 24 hours of the taking to the West Coast Administrator (206–526–6150), National Marine Fisheries Service (NMFS) and the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at (301) 427–8401, or her designee (301–427–8418).

4. The holder of this Authorization must notify the Chief of the Permits and Conservation Division, Office of Protected Resources, at least 48 hours prior to the start of activities identified in 3(b) (unless constrained by the date of issuance of this Authorization in which case notification shall be made as soon as possible).

5. Prohibitions

(a) The taking, by incidental harassment only, is limited to the species listed under condition 3(a) above and by the numbers listed in Table 4. The taking by Level A harassment, injury or death of these species or the taking by harassment, injury or death of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this Authorization.

(b) The taking of any marine mammal is prohibited whenever the required protected species observers (PSOs), required by condition 7(a), are not present in conformance with condition 7(a) of this Authorization.

6. Mitigation

(a) Use of Noise Attenuation Devices

A pile driving energy attenuator (such as an air bubble curtain system) shall be used for all impact pile driving.

(b) Time Restriction

In-water construction work shall occur only during daylight hours, when visual monitoring of marine mammals can be conducted.

(c) Establishment of Level B Harassment Zones of Influence

(i) Before the commencement of in-water pile driving activities, WSDOT shall establish Level B behavioral harassment zones of influence (ZOIs) where received underwater sound pressure levels (SPLs) are higher than 160 dB (rms) and 120 dB (rms) re 1 μPa for impulse noise sources (impact pile driving) and non-impulses noise sources (vibratory pile driving and mechanic dismantling), respectively. The modeled isopleths for ZOIs are listed in Table 2.

(ii) Once the underwater acoustic measurements are conducted during initial test pile driving, WSDOT shall adjust the sizes of the ZOIs, and monitor these zones as described under the Proposed Monitoring section below.

(d) Monitoring of marine mammals shall take place starting 30 minutes before pile driving begins until 30 minutes after pile driving ends.

(e) Soft Start

(i) When there has been downtime of 30 minutes or more without pile driving, the contractor will initiate the driving with ramp-up procedures described below.

(ii) For vibratory hammers, the contractor shall initiate the driving for 15 seconds at reduced energy, followed by a 1 minute waiting period. This procedure shall be repeated two additional times before continuous driving is started. This procedure shall also apply to vibratory pile extraction.

(iii) For impact driving, an initial set of three strikes would be made by the hammer at 40-percent energy, followed by a 1-minute waiting period, then two subsequent three-strike sets at 40-percent energy, with 1-minute waiting periods, before initiating continuous driving.

(f) Power Down and Shutdown Measures

(i) WSDOT shall implement shutdown measures if southern resident killer whales (SRKWs) are sighted within the vicinity of the project area and are approaching the Level B harassment zone (zone of influence, or ZOI) during in-water construction activities.

(ii) If a killer whale approaches the ZOI during pile driving or removal, and it is unknown whether it is a SRKW or a transient killer whale, it shall be assumed to be a SRKW and WSDOT shall implement the shutdown measure identified in 6(f)(i).

(iii) If a SRKW enters the ZOI undetected, in-water pile driving or pile removal shall be suspended until the SRKW exits the ZOI to avoid further level B harassment.

(iv) WSDOT shall implement shutdown measures if the number of any allotted marine mammal takes

reaches the limit under the IHA, if such marine mammals are sighted within the vicinity of the project area and are approaching the Level B harassment zone during pile removal activities.

7. Monitoring

(a) Protected Species Observers

WSDOT shall employee NMFS-approved PSOs to conduct marine mammal monitoring for its construction project.

(i) Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance. Use of binoculars will be required to correctly identify the target.

(ii) Experience or training in the field identification of marine mammals (cetaceans and pinnipeds).

(iii) Sufficient training, orientation or experience with the construction operation to provide for personal safety during observations.

(iv) Ability to communicate orally, by radio or in person, with project personnel to provide real time information on marine mammals observed in the area as necessary.

(v) Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience).

(vi) Writing skills sufficient to prepare a report of observations that would include such information as the number and type of marine mammals observed; the behavior of marine mammals in the project area during construction, dates and times when observations were conducted; dates and times when in-water construction activities were conducted; and dates and times when marine mammals were present at or within the defined ZOI.

(b) Monitoring Protocols: PSOs shall be present on site at all times during pile removal and driving.

(i) A range finder or hand-held global positioning system device will be used to ensure that the 120 dB_{rms} re 1 µPa Level B behavioral harassment ZOI is monitored.

(ii) A 30-minute pre-construction marine mammal monitoring will be required before the first pile driving or pile removal of the day. A 30-minute post-construction marine mammal monitoring will be required after the last pile driving or pile removal of the day. If the constructors take a break between subsequent pile driving or pile removal for more than 30 minutes, then additional pre-construction marine mammal monitoring will be required before the next start-up of pile driving or pile removal.

(iii) Marine mammal visual monitoring will be conducted by land-based biologists at the terminal work sites, and boat-based biologist(s) travel through the monitoring area.

(iv) If marine mammals are observed, the following information will be documented:

(A) Species of observed marine mammals;

(B) Number of observed marine mammal individuals;

(C) Behavioral of observed marine mammals;

(D) Location within the ZOI; and

(E) Animals' reaction (if any) to pile-driving activities

(v) During vibratory pile removal and driving, one land-based biologist would monitor the area from the terminal work site, and one monitor will move among a number of access points along the southern Sinclair Inlet shore. Binoculars shall be used during marine mammal monitoring.

(vi) WSDOT shall contact the Orca Network and/or Center for Whale Research to find out the location of the nearest marine mammal sightings.

(vii) WSDOT shall also utilize marine mammal occurrence information collected by the Orca Network using hydrophone systems to maximize marine mammal detection in the project vicinity.

8. Reporting

(a) WSDOT shall provide NMFS with a draft monitoring report within 90 days of the conclusion of the construction work. This report shall detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed.

(b) If comments are received from the NMFS West Coast Regional Administrator or NMFS Office of Protected Resources on the draft report, a final report shall be submitted to NMFS within 30 days thereafter. If no comments are received from NMFS, the draft report will be considered to be the final report.

(c) In the unanticipated event that the construction activities clearly cause the take of a marine mammal in a manner prohibited by this Authorization (if issued), such as an injury, serious injury, or mortality, WSDOT shall immediately cease all operations and immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators. The report must include the following information:

(i) time, date, and location (latitude/longitude) of the incident;

(ii) description of the incident;

(iii) status of all sound source use in the 24 hours preceding the incident;

(iv) environmental conditions (*e.g.,* wind speed and direction, sea state, cloud cover, visibility, and water depth);

(v) description of marine mammal observations in the 24 hours preceding the incident;

(vi) species identification or description of the animal(s) involved;

(vii) the fate of the animal(s); and

(viii) photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with WSDOT to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. WSDOT may not resume their activities until notified by NMFS via letter, email, or telephone.

(E) In the event that WSDOT discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), WSDOT will immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators. The report must include the same information identified above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with WSDOT to determine whether modifications in the activities are appropriate.

(F) In the event that WSDOT discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), WSDOT shall report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinators, within 24 hours of the discovery. WSDOT shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. WSDOT can continue its operations under such a case.

9. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein or if the

authorized taking is having more than a negligible impact on the species or stock of affected marine mammals, or if there is an unmitigable adverse impact on the availability of such species or stocks for subsistence uses.

10. A copy of this Authorization and the Incidental Take Statement must be in the possession of each contractor who performs the construction work at the Bremerton Ferry Terminals.

11. WSDOT is required to comply with the Terms and Conditions of the Incidental Take Statement corresponding to NMFS' Biological Opinion.

Dated: December 23, 2014.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–30540 Filed 12–30–14; 8:45 am]

BILLING CODE 3510–22–P

THE BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB–2014–0038]

Privacy Act of 1974, as Amended

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of a Revised Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Bureau of Consumer Financial Protection, hereinto referred to as the Consumer Financial Protection Bureau (''CFPB'' or ''Bureau''), gives notice of the establishment of a revised Privacy Act System of Records.

DATES: Comments must be received no later than January 30, 2015. The new system of records will be effective February 9, 2015, unless the comments received result in a contrary determination.

ADDRESSES: You may submit comments, identified by the title and docket number (see above), by any of the following methods:

- *Electronic: privacy@cfpb.gov* or *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Claire Stapleton, Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.
- *Hand Delivery/Courier:* Claire Stapleton, Chief Privacy Officer, Consumer Financial Protection Bureau, 1275 1st St. NE., Washington, DC 20002.

Comments will be available for public inspection and copying at 1275 1st St. NE., Washington, DC 20002 on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 435–7220. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Claire Stapleton, Chief Privacy Officer, Consumer Financial Protection Bureau, 1275 1st St. NE., Washington, DC 20002, (202) 435–7220.

SUPPLEMENTARY INFORMATION: The CFPB revises its Privacy Act System of Records Notice (SORN) ''CFPB.001—CFPB Freedom of Information Act (FOIA)/Privacy Act (PA) System.'' In revising this SORN, the CFPB is adding a new routine use to add that records may be provided to the National Archives and the Records Administration, Office of Government Information Services (OGIS), for all purposes set forth in 5 U.S.C. 552(h)(2)(A–B) and (3). It also revises the Categories of Records section to indicate that the system also includes information related to requests for OGIS assistance.

The report of the revised system of records has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated November 30, 2000,[1] and the Privacy Act, 5 U.S.C. 552a(r).

The revised system of records entitled ''CFPB.001–CFPB Freedom of Information Act/Privacy Act System'' is published in its entirety below.

Date: December 23, 2014.

Claire Stapleton,

Chief Privacy Officer, Bureau of Consumer Financial Protection.

CFPB.001

SYSTEM NAME:

CFPB Freedom of Information Act/Privacy Act System.

SYSTEM LOCATION:

Consumer Financial Protection Bureau, 1275 1st St. NE., Washington, DC 20002.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system are persons who cite the Freedom of Information Act or Privacy Act to request access to records or whose information requests are treated as FOIA requests. Other individuals covered include CFPB staff assigned to process such requests, and employees who may have responsive records or are mentioned in such records. FOIA requests are subject to the PA only to the extent that they concern individuals; information pertaining to corporations and other business entities and organizations are not subject to the PA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system may contain: (1) Correspondence with the requester including initial requests and appeals; (2) documents generated or compiled during the search and processing of the request; (3) fee schedules, cost calculations, and assessed cost for disclosed FOIA records; (4) documents and memoranda supporting the decision made in response to the request, referrals, and copies of records provided or withheld; (5) CFPB staff assigned to process, consider, and respond to requests and, where a request has been referred to another agency with equities in a responsive document, information about the individual handling the request on behalf of that agency; (6) information identifying the entity that is subject to the requests or appeals; (7) requester information, including name, address, phone number, email address; FOIA tracking number, phone number, fax number, or some combination thereof; and (8) for access requests under the Privacy Act, identifying information regarding both the party who is making the written request or appeal, and the individual on whose behalf such written requests or appeals are made, including name, Social Security number (SSNs may be submitted with documentation or as proof of identification), address, phone number, email address, FOIA number, phone number, fax number, or some combination thereof. This system also consists of records related to requests for OGIS assistance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 111–203, Title X, Sections 1011, 1012, 1021, codified at 12 U.S.C. 5491, 5492, 5511; The Freedom of Information Act of 1996, as amended 5

[1] Although pursuant to Section 1017(a)(4)E, of the Consumer Financial Protection Act, Public Law 111–203, the CFPB is not required to comply with OMB-issued guidance, it voluntarily follows OMB privacy-related guidance as a best practice and to facilitate cooperation and collaboration with other agencies.

U.S.C. 552; Privacy Act of 1974, as amended 5 U.S.C. 552a.

PURPOSE(S):

The information in the system is being collected to enable the CFPB to carry out its responsibilities under the FOIA and the PA, including enabling staff to receive, track, and respond to requests. This requires maintaining documentation gathered during the consideration and disposition process, administering annual reporting requirements, managing FOIA-related fees and calculations, and delivering responsive records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed, consistent with the CFPB's Disclosure of Records and Information Rules, promulgated at 12 CFR 1070 *et seq.,* to:

(1) Appropriate agencies, entities, and persons when: (a) The CFPB suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the CFPB has determined that, as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the CFPB or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CFPB's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(2) Another federal or state agency to (a) permit a decision as to access, amendment or correction of records to be made in consultation with or by that agency, or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records;

(3) The Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf;

(4) Congressional offices in response to an inquiry made at the request of the individual to whom the record pertains;

(5) Contractors, agents, or other authorized individuals performing work on a contract, service, cooperative agreement, job, or other activity on behalf of the CFPB or Federal Government and who have a need to access the information in the performance of their duties or activities;

(6) The DOJ for its use in providing legal advice to the CFPB or in representing the CFPB in a proceeding before a court, adjudicative body, or other administrative body, where the use of such information by the DOJ is deemed by the CFPB to be relevant and necessary to the advice or proceeding, and such proceeding names as a party in interest:

(a) The CFPB;

(b) Any employee of the CFPB in his or her official capacity;

(c) Any employee of the CFPB in his or her individual capacity where DOJ has agreed to represent the employee; or

(d) The United States, where the CFPB determines that litigation is likely to affect the CFPB or any of its components;

(7) A court, magistrate, or administrative tribunal in the course of an administrative proceeding or judicial proceeding, including disclosures to opposing counsel or witnesses (including expert witnesses) in the course of discovery or other pre-hearing exchanges of information, litigation, or settlement negotiations, where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

(8) Appropriate agencies, entities, and persons, including but not limited to potential expert witnesses or witnesses in the course of investigations, to the extent necessary to secure information relevant to the investigation;

(9) Appropriate federal, state, local, foreign, tribal, or self-regulatory organizations or agencies responsible for investigating, prosecuting, enforcing, implementing, issuing, or carrying out a statute, rule, regulation, order, policy, or license if the information may be relevant to a potential violation of civil or criminal law, rule, regulation, order, policy or license; and

(10) National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures, and compliance with the Freedom of Information Act, and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Records are retrievable by a variety of fields including, but not limited to, the requester's name, the subject matter of request, requestor's organization, FOIA tracking number, and staff member assigned to process the request. Records may also be searched by the address, phone number, fax number, email address of the requesting party, and subject matter of the request, or by some combination thereof.

SAFEGUARDS:

Access to electronic records is restricted to authorized personnel who have been issued non-transferrable access codes and passwords. Other records are maintained in locked file cabinets or rooms with access limited to those personnel whose official duties require access.

RETENTION AND DISPOSAL:

Computer and paper records will be maintained in accordance with published National Archives and Records Administration Disposition Schedule, Transmittal No. 22, General Records Schedule 14, Information Service Records.

SYSTEM MANAGER(S) AND ADDRESS:

Consumer Financial Protection Bureau, Chief FOIA Officer, 1275 1st St. NE., Washington, DC 20002.

NOTIFICATION PROCEDURE:

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing in the CFPB's Disclosure of Records and Information Rules, promulgated at 12 CFR 1070 *et seq.* Address such requests to: Chief Privacy Officer, Bureau of Consumer Financial Protection, 1275 1st St. NE., Washington, DC 20002.

RECORD ACCESS PROCEDURES:

See ''Notification Procedures'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedures'' above.

RECORD SOURCE CATEGORIES:

Information in this system covers individuals about whom records are maintained; agency staff assigned to help process, consider and respond to the request, including any appeals; entities filing requests or appeals on behalf of the requestor; other governmental authorities; and entities that are the subjects of the request or appeals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2014–30720 Filed 12–30–14; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No CFPB–2014–0039]

Privacy Act of 1974, as Amended

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of a Revised Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Bureau of Consumer Financial Protection, hereinto referred to as the Consumer Financial Protection Bureau (''CFPB'' or the ''Bureau''), gives notice of the establishment of a Privacy Act System of Records.

DATES: Comments must be received no later than January 30, 2015. The new system of records will be effective February 9, 2015, unless the comments received result in a contrary determination.

ADDRESSES: You may submit comments, identified by the title and docket number (see above), by any of the following methods:

- *Electronic: privacy@cfpb.gov* or *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Claire Stapleton, Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.
- *Hand Delivery/Courier:* Claire Stapleton, Chief Privacy Officer, Consumer Financial Protection Bureau, 1275 First Street NE., Washington, DC 20002. Comments will be available for public inspection and copying at 1275 First Street NE., Washington, DC 20002 on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 435–7220. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Claire Stapleton, Chief Privacy Officer, Consumer Financial Protection Bureau, 1275 First Street NE., Washington, DC 20002, (202) 435–7220.

SUPPLEMENTARY INFORMATION: The CFPB revises its Privacy Act System of Records Notice (''SORN'') ''CFPB.021—CFPB Consumer Education and Engagement Records.'' In revising this SORN, the CFPB modifies the purpose(s) for which the records are maintained to clarify that information in the system will be used for research purposes in understanding and improving consumer awareness, understanding, and use of disclosures and communications regarding consumer financial products or services; and modifies the categories of records maintained by the system to include the following information: (1) Social Security numbers, voluntarily provided with informed consent, when needed to pull credit reports or otherwise connect data points across data sources to understand consumer financial decision-making and well-being and the effectiveness of financial education or financial capability programs, resources, tools, or interventions; (2) biographical information (*e.g.* race, ethnicity, date of birth, marital status, education level, household composition information, citizenship status, disability information, or veteran status) voluntarily provided with informed consent in order to understand the effectiveness of financial education or financial capability programs, resources, tools, or interventions, as it relates to certain populations; (3) credit report data; and (4) web analytics information that may be partially identifiable, including records of access to CFPB managed Web sites or resources including date(s) and time(s) of access, IP address of access, logs of internet activity related to use of the site or resource, the address that linked the user directly to the site or resource, in order to understand and enhance the effectiveness or usability of the site or resource. Finally, the Bureau makes several non-substantive changes as part of its annual review of this notice.

The report of the new system of records has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated November 30, 2000,[1] and the Privacy Act, 5 U.S.C. 552a(r).

[1] Although pursuant to section 1017(a)(4)(E) of the Consumer Financial Protection Act, Public Law 111–203, the CFPB is not required to comply with OMB-issued guidance, it voluntarily follows OMB privacy-related guidance as a best practice and to facilitate cooperation and collaboration with other agencies.

The revised system of records entitled ''CFPB.021—CFPB Consumer Education and Engagement Records'' is published in its entirety below.

Dated: December 23, 2014.

Claire Stapleton,

Chief Privacy Officer, Bureau of Consumer Financial Protection.

CFPB.021

SYSTEM NAME:

CFPB Consumer Education and Engagement Records

SYSTEM LOCATION:

Consumer Financial Protection Bureau, 1275 First Street NE., Washington, DC 20002.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system are those who: Participate in CFPB-sponsored or CFPB-funded financial education or financial capability programs, including financial education campaigns; utilize financial education web-tools or other financial education resources; or participate in surveys or other research conducted by the CFPB or by a third party, or by a third party on behalf of the CFPB.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system regarding the individuals described above may include: (1) Contact information (name, phone numbers, email address); (2) unique identifiers provided to government employees; (3) information related to the participant's financial status including bank account information, records of consumer financial transactions, and credit report data; (4) information on consumer characteristics collected in connection with financial education programs or the consumer's business relationship with a third party; (5) bank account information (for payment to survey participants); (6) other information collected from or about consumers in response to surveys or other research methods; (7) information relating to the effectiveness of financial education programs or resources or access to financial products or services; (8) Social Security number(s), when needed to pull credit reports or otherwise connect data points across data sources to understand consumer financial decision-making and well-being and the effectiveness of financial education or financial capability programs, resources, tools, or interventions; (9) biographic information (*e.g.* race, ethnicity, date of birth, marital status, education level, household composition information, citizenship status, disability

information, veteran status) in order to understand the effectiveness of financial education or financial capability programs, resources, tools, or interventions, as it relates to specific populations; and (10) web analytics information that may be partially identifiable, including records of access to CFPB managed Web sites or resources including date(s) and time(s) of access, IP address of access, logs of internet activity related to use of the site or resource, the address that linked the user directly to the site or resource, in order to understand and enhance the effectiveness or usability of the site or resource.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 111–203, Title X, Sections 1013 and 1022, codified at 12 U.S.C. 5493 and 5512.

PURPOSE(S):

The Act established functions within the CFPB (1) to develop and implement initiatives to educate and empower consumers to make better informed financial decisions; (2) to develop and implement a strategy to improve the financial literacy of consumers, including access to financial information, products and services; (3) to do research regarding, among other things, (a) consumer awareness, understanding, and use of disclosures and communications regarding consumer financial products or services, (b) consumer awareness and understanding of and decision-making relevant to costs, risks, and benefits of consumer financial products or services, (c) consumer behavior with respect to consumer financial products and services, (d) experiences of traditionally underserved consumers, including un-banked and under-banked consumers, and (e) best practices and effective methods, tools, technology and strategies to educate and counsel seniors about personal finance management. Consistent with these functions, the purpose of the system is to enable the CFPB to identify and conduct effective financial education programs and also to collect, research, and publish certain information relevant to understanding and improving consumer financial decision-making and well-being. Although this SORN describes the information to be collected across many CFPB projects, for each project the CFPB will collect only the information needed to accomplish the specific purpose of that project.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed, consistent with the CFPB Disclosure of Records and Information Rules, promulgated at 12 CFR 1070 *et seq.,* to:

(1) Appropriate agencies, entities, and persons when: (a) The CFPB suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the CFPB has determined that, as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the CFPB or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CFPB's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(2) Another federal or state agency to (a) permit a decision as to access, amendment or correction of records to be made in consultation with or by that agency, or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records;

(3) To the Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf;

(4) Congressional offices in response to an inquiry made at the request of the individual to whom the record pertains;

(5) Contractors, agents, or other authorized individuals performing work on a contract, service, cooperative agreement, job, or other activity on behalf of the CFPB or Federal Government and who have a need to access the information in the performance of their duties or activities;

(6) The U.S. Department of Justice (''DOJ'') for its use in providing legal advice to the CFPB or in representing the CFPB in a proceeding before a court, adjudicative body, or other administrative body, where the use of such information by the DOJ is deemed by the CFPB to be relevant and necessary to the advice or proceeding, and such proceeding names as a party in interest:

(a) The CFPB;

(b) Any employee of the CFPB in his or her official capacity;

(c) Any employee of the CFPB in his or her individual capacity where DOJ has agreed to represent the employee; or

(d) The United States, where the CFPB determines that litigation is likely to affect the CFPB or any of its components;

(7) A court, magistrate, or administrative tribunal in the course of an administrative proceeding or judicial proceeding, including disclosures to opposing counsel or witnesses (including expert witnesses) in the course of discovery or other pre-hearing exchanges of information, litigation, or settlement negotiations, where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

(8) A grand jury pursuant either to a federal or state grand jury subpoena, or to a prosecution request that such record be released for the purpose of its introduction to a grand jury, where the subpoena or request has been specifically approved by a court. In those cases where the Federal Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge;

(9) Appropriate federal, state, local, foreign, tribal, or self-regulatory organizations or agencies responsible for investigating, prosecuting, enforcing, implementing, issuing, or carrying out a statute, rule, regulation, order, policy, or license if the information may be relevant to a potential violation of civil or criminal law, rule, regulation, order, policy or license; and

(10) Appropriate federal, state, local, foreign, tribal or self-regulatory organizations or agencies or private entities that partner with the CFPB for research purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Records are retrievable by unique identifiers assigned to the records for purposes of longitudinal updating or for connecting data points across data sources, or by a variety of fields including, without limitation, the individual's name and contact information, identifying file number, or other information collected in response to surveys or other research.

SAFEGUARDS:

Access to electronic records is restricted to authorized personnel who have been issued non-transferrable access codes and passwords. Other

records are maintained in locked file cabinets or rooms with access limited to those personnel whose official duties require access.

RETENTION AND DISPOSAL:

The CFPB will manage all computer and paper files in the system as permanent records until the disposition schedule for these records is approved by the National Archives and Records Administration, at which time, the CFPB will dispose of such files in accordance with the schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Consumer Financial Protection Bureau, Associate Director, Consumer Education and Engagement, 1275 First Street NE., Washington, DC 20002.

NOTIFICATION PROCEDURE:

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing in Title 12, Chapter 10 of the CFR, ''Disclosure of Records and Information.'' Address such requests to: Chief Privacy Officer, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552.

RECORD ACCESS PROCEDURES:

See ''Notification Procedures'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedures'' above.

RECORD SOURCE CATEGORIES:

Information in this system is obtained directly from the individual who is the subject of these records, and/or from third parties, including depository or non-depository institutions, credit reporting agencies, counseling agencies or other businesses or organizations or governmental entities involved in the markets for consumer financial products or services or that provide financial education services.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2014–30655 Filed 12–30–14; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2014–0048]

Proposed Collection; Comment Request

AGENCY: Army & Air Force Exchange Service (Exchange), DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Exchange announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by March 2, 2015.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information. Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Army and Air Force Exchange Service, Office of the General Counsel, Compliance Division, Attn: Teresa Schreurs, 3911 South Walton Walker Blvd., Dallas, TX 75236–1598 or call the Exchange Compliance Division at 800–967–6067.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Exchange Retail Sales Transaction Data Surveys; ''Barber Shop Customer Survey'' (Exchange Form 6150–003), ''Laundry Dry Cleaning Customer Survey'' (Exchange Form 6150–005), ''Army & Air Force Exchange Service Optical Center Customer Survey'' (Exchange Form 6150–006), ''Army & Air Force Exchange Service Optometry Care Patient Customer Survey'' (Exchange Form 6150–009), OMB Control Number 0702–XXXX.

Needs and Uses: The information collection requirement is necessary to enable the Exchange to fulfill its mission and enhance the military community by providing a world-wide system of Exchanges with merchandise and household goods similar to commercial stores and services; for use in responding to individual patron inquiries, assessing aggregate patron satisfaction with the delivery of the Exchange benefit, and in determining the appropriate product availability meeting the Exchange customers' current/future needs and wants; to improve the efficiency and effectiveness of the Exchange's marketing programs; to determine actions required to settle customer complaints; to electronically notify potential customers, who voluntarily provide their email address, and other personal information to receive information about special events, sales, and other information about shopping at the Exchange using voluntary opt-in procedures.

Affected Public: Individuals or Households.

Annual Burden Hours: 148,992.

Number of Respondents: 595,968.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

Frequency: On Occasion.

Authorized or potentially authorized customers of the Army and Air Force Exchange Service information, who provide comments, suggestions, complaints, concerns, opinions, observations or other information pertaining to Exchange operations. The Exchange collects information electronically transmitted, or provided by customers via paper forms completed by the customer or by phone, which allows the Exchange to contact the customer for special events, sales, address customer complaints as well as provide information about shopping at the Exchange. The information provides valuable data to the Exchange, which is used to enhance operations and improve efficiencies of the Exchange marketing program, and to generally enrich the customers' experience. If the Exchange does not receive the data, the Exchange efforts to improve the shopping experience would not be as effective,

efficient or useful. Customer information is vital to the efficient and effective maintenance and improvement of Exchange operations.

Dated: December 24, 2014.

Aaron Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2014–30640 Filed 12–30–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2014–0020]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by January 30, 2015.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form And OMB Number: Personalized Recruiting for Immediate and Delayed Enlistment Modernization (PRIDE Mod); OMB Control Number 0703–XXXX.

Type Of Request: New collection

Number Of Respondents: 60,000

Responses Per Respondent: 1

Annual Responses: 60,000

Average Burden Per Response: 60 minutes

Annual Burden Hours: 60,000 hours

Needs And Uses: The information collection requirement is necessary to support the U.S. Navy's process to recruit and access persons for naval service.

Affected Public: Individuals or households

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: December 24, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–30612 Filed 12–30–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0167]

Agency Information Collection Activities; Comment Request; Consolidated State Performance Report (Part I and Part II)

AGENCY: Office of Elementary and Secondary Education (OESE), 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 an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before March 2, 2015.

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–0167 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 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Andy Brake, (202) 260–0998.

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: Consolidated State Performance Report (Part I and Part II).

OMB Control Number: 1810–0614.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 14,653.

Total Estimated Number of Annual Burden Hours: 11,793.

Abstract: The Consolidated State Performance Report (CSPR) is the required annual reporting tool for each State, Bureau of Indian Education, District of Columbia, and Puerto Rico as authorized under Section 9303 of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB). The Department uses the information

derived from the CSPR to: (1) Monitor and report its progress in meeting Strategic Plan goals; (2) assess and report individual program performance, including GPRA performance measures; (3) monitor States' implementation of No Child Left Behind and the extent to which States are meeting programs and accountability goals; (4) to identify areas for technical assistance to States and overall program improvement; and (5) to inform other reporting and program evaluation requirements specific to individual programs and including the Secretary's Annual State Report to Congress on No Child Left Behind. Specific to this submission, which requests the addition of new items to meet statutory and regulatory reporting requirements, Title I monitoring teams and other ED officials will use these data to ensure that State Educational Agencies, Local Educational Agencies, and schools implement science assessment requirements and school improvement activities in accordance with ESEA statute and regulations.

Dated: December 23, 2014.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–30575 Filed 12–30–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: Office of Electricity Delivery and Energy Reliability (OE), Department of Energy.

ACTION: Notice and Request for OMB Review and Comment.

SUMMARY: The Office of Electricity Delivery and Energy Reliability has submitted an information collection request to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a three-year extension of its Department of Energy Form OE–417, ''Emergency Electric Incident and Disturbance Report'', OMB Control Number 1901–0288. The proposed collection will be used by DOE to meet its overall national security and Department of Homeland Security's National Response Framework responsibilities. DOE will use the data from this form to obtain current information regarding emergency situations on U.S. electric energy supply systems. The data also may be used to develop legislative recommendations, reports to the Congress and as a basis for DOE investigations following severe, prolonged, or repeated electric power reliability problems.

DATES: Comments regarding this proposed information collection must be received on or before January 30, 2015. 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, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4718.

ADDRESSES: Written comments should be sent to the

DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503.

And to

OE–417 Survey Manager, Office of Electricity Delivery and Energy Reliability, OE–40, Reference: OE–417 2014 Renewal, 1000 Independence Avenue SW., Washington, DC 20585.

Comments may be sent by fax at 202–586–2623, or by email at *OE417renewal@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to The OE–417 Survey Manager, The Office of Electricity Delivery and Energy Reliability, OE–40, 1000 Independence Avenue SW., Washington, DC 20585, *OE417renewal@hq.doe.gov;* mock up forms can be accessed at: *http://www.oe.netl.doe.gov/oe417.aspx.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No. 1901–0288; (2) Information Collection Request Title: Emergency Electric Incident and Disturbance Report; (3) Three-year extension; (4) Purpose: The Federal Energy Administration Act of 1974 (Public Law 93–275, 15 U.S.C. 761 *et seq.*) and the DOE Organization Act (Public Law 95–91, 42 U.S.C. 7101 *et seq.*) requires the DOE to carry out a centralized, comprehensive, and unified energy information program. This program collects, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer-term domestic demands.

Currently, OE uses Form OE–417 to monitor major system incidents on the electric power systems, assess power generating capacity in the event of a significant disruption, and to conduct after-action non-regulatory investigations on significant interruptions of electric power. The information is used to meet DOE national-security responsibilities and requirements as set forth in the U.S. Department of Homeland Security's National Response Framework. The information may also be used in developing legislative recommendations/reports to Congress and coordinating Federal efforts regarding activities such as incidents/disturbances in critical infrastructure protection, the continuity of electric industry operations, and the continuity of operations. The information submitted may also be used by OE to analyze significant power interruptions of electric power from a non-regulatory perspective.

Based upon feedback received from the 60-Day **Federal Register** Notice, OE does not intend to proceed with protecting Schedule 2 of Form OE–417 under the Confidential Information Protection and Statistical Efficiency Act of 2002. Instead, OE proposes to maintain the current data protections of the form.

(5) Annual Estimated Number of Respondents: 2,924;

(6) Annual Estimated Number of Total Responses: 300;

(7) Annual Estimated Number of Burden Hours: 5061 hours;

(8) Annual Estimated Reporting and Recordkeeping Cost Burden: $0. There are no additional costs to respondents associated with the survey other than the costs associated with the burden hours.

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, codified at 15 U.S.C. 772(b).

Issued in Washington, DC, on December 22, 2014.

Patricia Hoffman,

Assistant Secretary, Office of Electricity Delivery and Energy Reliability, U. S. Department of Energy .

[FR Doc. 2014–30709 Filed 12–30–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Availability of Secretarial Determination and Basis for Determination for Closure of the H-Tank Farm at the Savannah River Site and the High-Level Waste Tank Closure Final Environmental Impact Statement for the Savannah River Site, Supplement Analysis

AGENCY: U.S. Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy (DOE) announces the availability of the Secretary's *Section 3116 Determination for Closure of H-Tank Farm at the Savannah River Site* and the *Basis for Section 3116 Determination for Closure of H-Tank Farm at the Savannah River Site* (HTF 3116 Basis Document) concerning closure of the H-Tank Farm (HTF) at the Savannah River Site (SRS). Under Section 3116(a) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (NDAA), the Secretary of Energy may, in consultation with the U.S. Nuclear Regulatory Commission (NRC), determine that certain waste from the reprocessing of spent nuclear fuel is not high-level waste if the provisions set forth in Section 3116(a) are satisfied, specifically that the waste: (1) Does not require permanent isolation in a deep geologic repository for spent fuel or high-level radioactive waste; (2) has had highly radioactive radionuclides removed to the maximum extent practical; and (3)(A) does not exceed concentration limits for Class C low-level waste and will be disposed of in compliance with the performance objectives in 10 CFR part 61, subpart C and pursuant to a State approved closure plan or State-issued permit; or (3)(B) exceeds concentration limits for Class C low-level waste but will be disposed of in compliance with the performance objectives of 10 CFR part 61, subpart C; pursuant to a State-approved closure plan or State-issued permit; and pursuant to plans developed by DOE in consultation with the NRC. For the reasons set forth in the HTF 3116 Basis Document, and based on consultation with the NRC, Secretary of Energy Ernest J. Moniz determined (in the *Section 3116 Determination for Closure of H-Tank Farm at the Savannah River Site*) that the stabilized residuals, tanks, and ancillary structures at closure in the HTF will meet the criteria in Section 3116(a) of the NDAA, are not high-level radioactive waste, and may be disposed of in place.

DOE has also issued the *High-Level Waste Tank Closure Final Environmental Impact Statement for the Savannah River Site, Supplement Analysis* (Supplement Analysis) which analyzes the potential environmental impacts associated with new information and changes in operations for the tank closure process as applied to the F-Area and H-Area Tank Farms at SRS. Based on this Supplement Analysis, DOE has determined that the proposed actions in the FTF and HTF and the tank closure program do not constitute substantial changes from those evaluated in the original *High-Level Waste Tank Closure Final Environmental Impact Statement for the Savannah River Site* that are relevant to environmental concerns, or significant new circumstances or information relevant to environmental concerns and bearing on the proposed action, and therefore, no further documentation is necessary under the National Environmental Policy Act.

ADDRESSES: The Secretary's *Section 3116 Determination for Closure of H-Tank Farm at the Savannah River Site,* the *Basis for Section 3116 Determination for Closure of H-Tank Farm at the Savannah River Site* and the *High-Level Waste Tank Closure Final Environmental Impact Statement for the Savannah River Site, Supplement Analysis* are available on the Internet at *http://sro.srs.gov/f_htankfarmsdocuments.htm,* and are publicly available at the following locations:

District of Columbia

U.S. Department of Energy, Freedom of Information Act, Public Reading Room, 1000 Independence Avenue SW., Room 1G–033, Washington, DC 20585, (202) 586–5955.

South Carolina

University of South Carolina–Aiken, Gregg-Graniteville Library, 471 University Parkway, Aiken, SC 29801, (803) 641–3320.

FOR FURTHER INFORMATION CONTACT: Ms. Sherri Ross, DOE SR, Building 704–S, Room 43, U.S. Department of Energy, Savannah River Operations Office, Aiken, SC 29802 (ATTN: H-Tank Farm Secretarial Determination and Basis), (803) 208–6078.

SUPPLEMENTARY INFORMATION: The HTF is a 45-acre site, located at the SRS near Aiken, South Carolina. The HTF consists of 29 underground radioactive waste storage tanks and supporting ancillary structures. The major HTF ancillary structures are 3 evaporator systems, transfer lines, 8 diversion boxes, 1 catch tank, 2 concentrate transfer systems, 10 pump pits, 9 pump tanks, and 11 valve boxes. There are four waste tank types in HTF with operating capacities ranging from 750,000 gallons (Type I tanks), to 1,030,000 gallons (Type II tanks), to 1,300,000 gallons (Type III/IIIA and Type IV tanks). The waste tanks have varying degrees of secondary containment and in-tank structural features such as cooling coils and columns. All HTF waste tanks are constructed of carbon steel. The HTF was constructed to receive waste generated by various SRS production, processing, and laboratory facilities.

DOE has initiated waste removal and cleaning of tanks and ancillary structures in the HTF using a process that includes removing bulk waste from tanks and ancillary structures and then deploying tested technologies to removing the majority of the remaining waste. After completing cleaning operations, a small amount of residual radioactive waste will remain in the tanks, ancillary equipment and piping. DOE plans to stabilize the residuals in the tanks and certain ancillary structures with grout. Tank waste storage and removal operations in the HTF are governed by a South Carolina Department of Health and Environmental Control (SCDHEC) industrial wastewater operating permit. Removal of tanks from service and stabilization of the HTF waste tanks and ancillary structures will be carried out pursuant to a State-approved closure plan, the Industrial Wastewater General Closure Plan for H-Area Waste Tank Systems. Specific Closure Modules for each tank or ancillary structure or groupings of tanks and ancillary structures will be developed and submitted to SCDHEC for approval. After grouting, the tank/system will be removed from the State's industrial wastewater permit. The HTF 3116 Basis Document applies to stabilized residuals in the waste tanks and ancillary structures, the waste tanks, and ancillary structures in the HTF at the time of closure.

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

Mark A. Gilbertson,

Deputy Assistant Secretary for Site Restoration.

[FR Doc. 2014–30707 Filed 12–30–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Proposed Agency Information Collection

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy.

ACTION: Agency information collection activities: Proposed collection; notice and request for comments.

SUMMARY: EIA invites public comment on the proposed collection of information, Form EIA–63C, *Densified Biomass Fuel Report,* which EIA is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995. 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, 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 respondents, including through the use of automated collection techniques or other forms of information technology.

When submitting comments regarding the reporting burden or costs of reporting this information, describe in detail any start-up costs you expect to incur such as new software, processes, or training. If you claim that you may incur start-up costs in reporting this requested information, describe how your current record keeping practices differ from the information to be collected on the proposed Form EIA–63C.

DATES: Comments regarding this proposed information collection must be received on or March 2, 2015. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Use email address: *EIA–63C@eia.gov* to send comments electronically and to ensure receipt of the comments by the due date. The postal mailing address for sending written comments is Attn: Rebecca Peterson, U.S. Department of Energy, U.S. Energy Information Administration, Mail Stop EI–23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Rebecca Peterson at the email address *Rebecca.Peterson@eia.gov.* Ms. Peterson may also be contacted by telephone on (202) 586–4509. The draft form and instructions are available on the EIA Web site at *http://www.eia.gov/survey/form/eia_63c/proposed/.*

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) *OMB No.:* New;

(2) *Information Collection Request Title:* Form EIA–63C, *Densified Biomass Fuel Report;*

(3) *Type of Request:* New;

(4) *Purpose:* The consumption of densified biomass fuel, a renewable energy source, is increasing in the United States, particularly in the northeast where a number of states are conducting successful incentive programs for switching from fuel oil to biomass for heating. Production of densified biomass fuel for export is also rapidly growing, particularly in the southeastern United States, driven by demand from the European community where greenhouse gas reduction initiatives are driving conversion of coal to biomass for electric power generation. The survey will gather information on pellet fuel and other densified biomass fuel production, sales, and inventory levels by operators of pellet fuel manufacturing facilities in the United States. The data collected will be used to estimate densified biomass fuel consumption in the United States as well as production, sales, and inventory at state, regional, and national levels. A summary of the data will be published on the EIA Web site and in various EIA publications, including the *Monthly Energy Review.*

(5) *Annual Estimated Number of Respondents:* We estimate the number of respondents to be approximately 150;

(6) *Annual Estimated Number of Total Responses:* 1,800 (150 respondents × 12 months);

(7) *Annual Estimated Number of Burden Hours:* 1,800 (150 respondents × 12 months × 1 hour for each response);

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* EIA estimates that there are no capital and start-up costs associated with this data collection. The information is maintained in the normal course of business. The cost of burden hours to the respondents is estimated to be $124,794 (1800 burden hours times $69.33 per hour). Therefore, other than the cost of burden hours, EIA estimates that there are no additional costs for generating, maintaining and providing the information.

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, codified as 15 U.S.C. 772(b).

Issued in Washington, DC, on December 23, 2014.

Nanda Srinivasan,

Director, Office of Survey Development and Statistical Integration, U.S. Energy Information Administration.

[FR Doc. 2014–30708 Filed 12–30–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1325–005; ER15–190–002; ER12–1958–005; ER12–1946–005; ER11–2080–005; ER10–2034–004; ER10–1335–005; ER10–1333–005.

Applicants: CinCap V LLC, Duke Energy Beckjord, LLC, Duke Energy Commercial Asset Management, Inc., Duke Energy Commercial Enterprises, Inc., Duke Energy Indiana, Inc., Duke Energy Piketon, LLC, Duke Energy Renewable Services, LLC, Duke Energy Retail Sales, LLC.

Description: Triennial Market Power Analysis Update for the Central Region of Duke Energy Corporation MBR Sellers.

Filed Date: 12/19/14.

Accession Number: 20141219–5448.

Comments Due: 5 p.m. ET 2/17/15.

Docket Numbers: ER15–282–000; ER15–314–000; ER15–308–000; ER15–306–000; ER15–305–000; ER15–304–000; ER15–293–000; ER15–292–000; ER15–289–000; ER15–288–000; ER15–287–000; ER15–286–000; ER15–285–000; ER15–284–000; ER15–283–000.

Applicants: Morgan Stanley Capital Group Inc. MS Solar Solutions Corp., Naniwa Energy LLC, Power Contract Financing II, Inc., Power Contract Financing II, L.L.C., South Eastern Electric Dev. Corp., South Eastern Generating Corp., Utility Contract Funding II, LLC, TAQA Gen X LLC, NaturEner Glacier Wind Energy 1, LLC, NaturEner Glacier Wind Energy 2, LLC, NaturEner Rim Rock Wind Energy, LLC, NaturEner Montana Wind Energy, LLC, NaturEner Power Watch, LLC, NaturEner Wind Watch, LLC.

Description: Supplement to October 31, 2014 and November 3, 2014 Morgan Stanley Capital Group Inc., et al. Notice of Change in Status and tariff filings.

Filed Date: 12/19/14.

Accession Number: 20141219–5447.

Comments Due: 5 p.m. ET 1/9/15.

Docket Numbers: ER15–693–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–12–22_SA 2693 NSP-Black Oak Wind 1st Rev GIA (G858/H071) to be effective 12/23/2014.

Filed Date: 12/22/14.

Accession Number: 20141222–5195.

Comments Due: 5 p.m. ET 1/12/15.

Docket Numbers: ER15–694–000.

Applicants: Northern Indiana Public Service Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Amendments to Market-Based Rate Tariff to be effective 12/23/2014.

Filed Date: 12/22/14.

Accession Number: 20141222–5197.

Comments Due: 5 p.m. ET 1/12/15.

Docket Numbers: ER15–695–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Revisions to Attachment AE (MPL) Section 10.3—Dispute Clarification to be effective 3/1/2014.

Filed Date: 12/22/14.

Accession Number: 20141222–5220.

Comments Due: 5 p.m. ET 1/12/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 22, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–30623 Filed 12–30–14; 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 exempt wholesale generator filings:

Docket Numbers: EG15–31–000.

Applicants: Verso Bucksport Power LLC.

Description: Notice of Self-Certification as an Exempt Wholesale Generator of Verso Bucksport Power LLC.

Filed Date: 12/22/14.

Accession Number: 20141222–5277.

Comments Due: 5 p.m. ET 1/12/15.

Docket Numbers: EG15–32–000.

Applicants: Verso Bucksport LLC.

Description: Notice of Self-Certification as an Exempt Wholesale Generator of Verso Bucksport LLC.

Filed Date: 12/22/14.

Accession Number: 20141222–5287.

Comments Due: 5 p.m. ET 1/12/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–192–000.

Applicants: Arizona Public Service Company.

Description: Report Filing: Notice of Request for Deferral to be effective N/A.

Filed Date: 12/23/14.

Accession Number: 20141223–5007.

Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: ER15–696–000.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing per 35: Compliance Filing per 11/20/14 Order under Docket No. EL15–15–000. to be effective 2/20/2015.

Filed Date: 12/22/14.

Accession Number: 20141222–5306.

Comments Due: 5 p.m. ET 1/12/15.

Docket Numbers: ER15–697–000.

Applicants: Tonopah Solar Energy, LLC.

Description: Baseline eTariff Filing per 35.1: Application for Market-Based Rate Authorization to be effective 2/21/2015.

Filed Date: 12/22/14.

Accession Number: 20141222–5307.

Comments Due: 5 p.m. ET 1/12/15.

Docket Numbers: ER15–697–001.

Applicants: Tonopah Solar Energy, LLC.

Description: Tariff Amendment per 35.17(b): Supplement to Market-Based Rate Application to be effective 2/21/2015.

Filed Date: 12/22/14.

Accession Number: 20141222–5339.

Comments Due: 5 p.m. ET 1/12/15.

Docket Numbers: ER15–698–000.

Applicants: Northern States Power Company, a Minnesota corporation, Northern States Power Company, a Wisconsin corporation.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 20141222_IA_PI_EPU to be effective 12/31/9998.

Filed Date: 12/22/14.

Accession Number: 20141222–5360.

Comments Due: 5 p.m. ET 1/12/15.

Docket Numbers: ER15–699–000.

Applicants: Southern California Edison Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): LGIA with North Rosamond Solar, LLC to be effective 12/24/2014.

Filed Date: 12/23/14.

Accession Number: 20141223–5008.

Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: ER15–700–000.

Applicants: Southern California Edison Company

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Amended & Restated District-Edison 1987 Service & Interchange Agreement with MWD to be effective 1/1/2015.

Filed Date: 12/23/14.

Accession Number: 20141223–5009.

Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: ER15–701–000.

Applicants: Nevada Power Company.

Description: Compliance filing per 35: OATT Order No. 789 Compliance Filing to be effective 11/1/2014.

Filed Date: 12/23/14

Accession Number: 20141223–5011

Comments Due: 5 p.m. ET 1/13/15

Docket Numbers: ER15–702–000.

Applicants: Pacific Gas and Electric Company.

Description: Tariff Withdrawal per 35.15: Notice of Termination of the 1987 CCSF IA—PG&E Rate Schedule FERC No. 114 to be effective 6/30/2015.

Filed Date: 12/23/14.

Accession Number: 20141223–5012.

Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: ER15–703–000.

Applicants: Pacific Gas and Electric Company.

Description: Tariff Withdrawal per 35.15: Notice of Termination of the CCSF Facilities Charge Agreement for Moscone to be effective 6/30/2015.

Filed Date: 12/23/14.

Accession Number: 20141223–5013.

Comments Due: 5 p.m. ET 1/13/15.

Docket Numbers: ER15–704–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): City and County of San Francisco WDT Replacement Agreements to be effective 7/1/2015.

Filed Date: 12/23/14.
Accession Number: 20141223–5015.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–705–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): City and County of San Francisco TO Tariff Replacement Agreements to be effective 7/1/2015.
Filed Date: 12/23/14.
Accession Number: 20141223–5016.
Comments Due: 5 p.m. ET 1/13/15.
Docket Numbers: ER15–706–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 4066; Queue No. Y1–079 to be effective 12/11/2014.
Filed Date: 12/23/14.
Accession Number: 20141223–5067.
Comments Due: 5 p.m. ET 1/13/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 23, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–30628 Filed 12–30–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–267–000.
Applicants: Cimarron River Pipeline, LLC.
Description: § 4(d) rate filing per 154.204: Fuel Tracker—Seasonal Change to be effective 1/18/2015.
Filed Date: 12/18/14.
Accession Number: 20141218–5120.
Comments Due: 5 p.m. ET 12/30/14.
Docket Numbers: RP15–234–000.
Applicants: Millennium Pipeline Company, LLC.
Description: Motion to Intervene by ConocoPhillips Company under RP15–234.
Filed Date: 12/19/14.
Accession Number: 20141219–5375.
Comments Due: 5 p.m. ET 12/31/14.
Docket Numbers: RP15–268–000.
Applicants: WBI Energy Transmission, Inc.
Description: § 4(d) rate filing per 154.204: Negotiated Rate Agreement—MDU to be effective 12/19/2014.
Filed Date: 12/19/14.
Accession Number: 20141219–5095.
Comments Due: 5 p.m. ET 12/31/14.
Docket Numbers: RP15–269–000.
Applicants: NGO Transmission, Inc.
Description: § 4(d) rate filing per 154.204: NGO Transmission, Inc.—Negotiated Rate Filing to be effective 1/1/2015.
Filed Date: 12/19/14.
Accession Number: 20141219–5149.
Comments Due: 5 p.m. ET 12/31/14.
Docket Numbers: RP15–270–000.
Applicants: Dominion Cove Point LNG, LP.
Description: § 4(d) rate filing per 154.204: DCP—December 19, 2014 Non-Conforming Service Agreement to be effective 1/20/2015.
Filed Date: 12/19/14.
Accession Number: 20141219–5204.
Comments Due: 5 p.m. ET 12/31/14.
Docket Numbers: RP15–271–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) rate filing per 154.204: Non-Conforming Service Agmt—PacSum to be effective 1/1/2015.
Filed Date: 12/19/14.
Accession Number: 20141219–5280.
Comments Due: 5 p.m. ET 12/31/14.

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 date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP14–148–002.
Applicants: Wyoming Interstate Company, L.L.C.
Description: Compliance filing per 154.203: Rate Case Settlement Third Compliance Filing in Docket No. RP13–184, to be effective 2/1/2015.
Filed Date: 12/19/14.
Accession Number: 20141219–5214.
Comments Due: 5 p.m. ET 12/31/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 22, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–30624 Filed 12–30–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP15–272–000.
Applicants: Petal Gas Storage, L.L.C.
Description: Tariff Cancellation per 154.602: Filing to Cancel Tariff and Tariff ID Number to be effective 1/1/2015.
Filed Date: 12/22/14.
Accession Number: 20141222–5061.
Comments Due: 5 p.m. ET 1/5/15.
Docket Numbers: RP15–273–000.
Applicants: Dominion Transmission, Inc.
Description: § 4(d) rate filing per 154.204: DTI—December 22, 2014 Negotiated Rate Agreements to be effective 1/1/2015.
Filed Date: 12/22/14.
Accession Number: 20141222–5067.
Comments Due: 5 p.m. ET 1/5/15.
Docket Numbers: RP15–274–000.
Applicants: ANR Pipeline Company.
Description: § 4(d) rate filing per 154.204: Revisions_Housekeeping to be effective 2/1/2015.
Filed Date: 12/22/14.
Accession Number: 20141222–5139.
Comments Due: 5 p.m. ET 1/5/15.
Docket Numbers: RP15–275–000.

Applicants: Bluewater Gas Storage, LLC.

Description: § 4(d) rate filing per 154.204: Housekeeping Tariff Filing to be effective 1/21/2015.

Filed Date: 12/22/14.

Accession Number: 20141222–5222.

Comments Due: 5 p.m. ET 1/5/15.

Docket Numbers: RP15–276–000.

Applicants: MoGas Pipeline LLC.

Description: Compliance filing per 154.203: MoGas Revised Tariff Filing to be effective 2/1/2015.

Filed Date: 12/22/14.

Accession Number: 20141222–5303.

Comments Due: 5 p.m. ET 1/5/15.

Docket Numbers: RP15–277–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) rate filing per 154.601: Non-Conforming Agreements Filing (Corona & Mountainair) to be effective 2/1/2015.

Filed Date: 12/22/14.

Accession Number: 20141222–5326.

Comments Due: 5 p.m. ET 1/5/15.

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 date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP14–822–001.

Applicants: Gulf South Pipeline Company, LP.

Description: Compliance filing per 154.203: Compliance filing in Docket No. RP14–822 to be effective 1/1/2015.

Filed Date: 12/22/14.

Accession Number: 20141222–5070.

Comments Due: 5 p.m. ET 1/5/15.

Docket Numbers: RP14–823–002.

Applicants: Gulf South Pipeline Company, LP.

Description: Compliance filing per 154.203: Compliance Filing in Docket No. RP14–823–000 to be effective 1/1/2015.

Filed Date: 12/22/14.

Accession Number: 20141222–5059.

Comments Due: 5 p.m. ET 1/5/15.

Docket Numbers: RP15–133–001.

Applicants: Wyoming Interstate Company, L.L.C.

Description: Compliance filing per 154.203: Non-Conforming Agreement Compliance (Chesapeake) to be effective 12/1/2014.

Filed Date: 12/22/14.

Accession Number: 20141222–5305.

Comments Due: 5 p.m. ET 1/5/15.

Docket Numbers: RP15–182–001.

Applicants: Gulf States Transmission LLC.

Description: Compliance filing per 154.203: Metadata Filing to be effective 12/19/2014.

Filed Date: 12/22/14.

Accession Number: 20141222–5259.

Comments Due: 5 p.m. ET 1/5/15.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 23, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–30625 Filed 12–30–14; 8:45 am]

BILLING CODE 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: EC15–55–000.

Applicants: American Transmission Company LLC.

Description: Application for Authority to Acquire Transmission Facilities under Section 203 of the FPA of American Transmission Company LLC.

Filed Date: 12/19/14.

Accession Number: 20141219–5437.

Comments Due: 5 p.m. ET 1/9/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3079–008.

Applicants: Tyr Energy, LLC.

Description: Triennial Market Power Report for the Southeast Region of Tyr Energy, LLC.

Filed Date: 12/19/14.

Accession Number: 20141219–5439.

Comments Due: 5 p.m. ET 2/17/15.

Docket Numbers: ER15–515–001.

Applicants: Great Bay Energy VII, LLC.

Description: Tariff Amendment per 35.17(b): Amendment to 1 to be effective 12/1/2014.

Filed Date: 12/19/14.

Accession Number: 20141219–5356.

Comments Due: 5 p.m. ET 1/2/15.

Docket Numbers: ER15–612–000.

Applicants: Moore Energy, LLC.

Description: Report Filing: Supplement Filing to be effective N/A.

Filed Date: 12/19/14.

Accession Number: 20141219–5361.

Comments Due: 5 p.m. ET 1/9/15.

Docket Numbers: ER15–681–000.

Applicants: PacifiCorp.

Description: Tariff Withdrawal per 35.15: Idaho Power Cancellation of Legacy Agreements to be effective 12/31/9998.

Filed Date: 12/19/14.

Accession Number: 20141219–5355.

Comments Due: 5 p.m. ET 1/9/15.

Docket Numbers: ER15–682–000.

Applicants: PacifiCorp.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Idaho Power MOU to be effective 2/17/2015.

Filed Date: 12/19/14.

Accession Number: 20141219–5357.

Comments Due: 5 p.m. ET 1/9/15.

Docket Numbers: ER15–683–000.

Applicants: Idaho Power Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Legacy Agreements Replacement Transaction to be effective 12/31/9998.

Filed Date: 12/19/14.

Accession Number: 20141219–5360.

Comments Due: 5 p.m. ET 1/9/15.

Docket Numbers: ER15–684–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–12–19 ELMP Clarification Filing to be effective 3/1/2015.

Filed Date: 12/19/14.

Accession Number: 20141219–5362.

Comments Due: 5 p.m. ET 1/9/15.

Docket Numbers: ER15–685–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–12–19 ELMP True-Up Filing to be effective 3/1/2015.

Filed Date: 12/19/14.

Accession Number: 20141219–5363.

Comments Due: 5 p.m. ET 1/9/15.

Docket Numbers: ER15–686–000.

Applicants: Idaho Power Company.

Description: Tariff Withdrawal per 35.15: Legacy Transaction Cancellations to be effective 12/31/9998.

Filed Date: 12/19/14.

Accession Number: 20141219–5364.

Comments Due: 5 p.m. ET 1/9/15.

Docket Numbers: ER15–687–000.

Applicants: Idaho Power Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Jefferson Line Memorandum of Understanding Concurrence to be effective 2/18/2015.
Filed Date: 12/22/14.
Accession Number: 20141222–5000.
Comments Due: 5 p.m. ET 1/12/15.
Docket Numbers: ER15–688–000.
Applicants: Entergy Mississippi, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Settlement and Updated Reimbursement Agreement Under ER13–769 to be effective 12/19/2013.
Filed Date: 12/22/14.
Accession Number: 20141222–5063.
Comments Due: 5 p.m. ET 1/12/15.
Docket Numbers: ER15–689–000.
Applicants: Duke Energy Florida, Inc., Duke Energy Carolinas, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): CWIP Filing December 2014 (See Docket ER15–234) to be effective 12/29/2014.
Filed Date: 12/22/14.
Accession Number: 20141222–5108.
Comments Due: 5 p.m. ET 1/12/15.
Docket Numbers: ER15–690–000.
Applicants: American Transmission Systems, Incorporated, West Penn Power Company, The Potomac Edison Company, Monongahela Power Company, Jersey Central Power & Light, Metropolitan Edison Company, PJM Interconnection, L.L.C.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): American Transmission System, Inc. et al. Filing of New Service Agreements to be effective 2/22/2015.
Filed Date: 12/22/14.
Accession Number: 20141222–5115.
Comments Due: 5 p.m. ET 1/12/15.
Docket Numbers: ER15–691–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Request for Waiver of Midcontinent Independent System Operator, Inc.
Filed Date: 12/19/14.
Accession Number: 20141219–5440.
Comments Due: 5 p.m. ET 1/9/15.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC15–2–000.
Applicants: Massif du Sud Wind Project GP Inc.
Description: Self-Certification of Massif du Sud Wind Project GP Inc.
Filed Date: 12/18/14.
Accession Number: 20141218–5359.
Comments Due: 5 p.m. ET 1/8/15.
Docket Numbers: FC15–3–000.
Applicants: Saint Robert Bellarmin Wind Project GP I.
Description: Self-Certification of Saint Robert Bellarmin Wind Project GP Inc.
Filed Date: 12/18/14.
Accession Number: 20141218–5360.
Comments Due: 5 p.m. ET 1/8/15.
Docket Numbers: FC15–4–000.
Applicants: FuelCell Energy, Ltd.
Description: Self-Certification of FuelCell Energy, Ltd.
Filed Date: 12/18/14.
Accession Number: 20141218–5361.
Comments Due: 5 p.m. ET 1/8/15.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM15–1–000.
Applicants: Virginia Electric and Power Company.
Description: Responses to November 25, 2014 Deficiency Letter of Virginia Electric and Power Company.
Filed Date: 12/19/14.
Accession Number: 20141219–5441.
Comments Due: 5 p.m. ET 1/16/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 22, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–30622 Filed 12–30–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice Concerning Submissions Made During Federal Government Closures

Take notice that the Commission is adopting the following practice with respect to submittals to the Commission during Federal government closures.

Effective December 22, 2014, the Commission will not accept submittals—either in electronic format submitted through ''FERC Online'' (including through eFiling and eTariff) or in hardcopy format—when the Commission is closed at the direction of the Office of Personnel Management or Presidential Executive Order closing Federal government offices in Washington, DC.[1]

At such time as the Commission reopens, it will again accept submittals both in electronic format through ''FERC Online'' (including through eFiling and eTariff) and in hardcopy format.

Dated: December 22, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–30583 Filed 12–30–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC14–126–000]

Wisconsin Energy Corporation; Integrys Energy Group, Inc.; Notice of Filing

Take notice that on December 19, 2014, Wisconsin Energy Corporation and Integrys Energy Group, Inc. (Merger Applicants) submitted a filing in response to the Commission's data request.[1] Merger Applicants' filing is hereby noticed as an amendment to their application for purposes of section 33.11(a) of the Commission's regulations (18 CFR 33.11(a) (2014)).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214 (2014)). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protesters parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies

[1] On December 6, 2014, President Barack Obama issued an Executive Order closing executive departments and agencies of the government on Friday, December 26, 2014. The above-described practice will be in effect that day.

[1] Letter Requesting Additional Information, Nov. 19, 2014.

of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on January 19, 2015.

Dated: December 22, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–30582 Filed 12–30–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[9920–71–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Maryland

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of Maryland's request to revise its EPA Administered Permit Programs: The National Pollutant Discharge Elimination System EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov*.

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On November 19, 2013, the Maryland Department of the Environment (MDE) submitted an application titled ''National Pollutant Discharge Elimination System (NPDES) ePermits'' for revision of its EPA-authorized authorized Part 123 program under title 40 CFR. EPA reviewed MDE's request to revise its EPA-authorized Part 123—EPA Administered Permit Programs: The National Pollutant Discharge Elimination System program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Maryland's request to revise its Part 123—EPA Administered Permit Programs: The National Pollutant Discharge Elimination System program to allow electronic reporting under 40 CFR part 122 is being published in the **Federal Register**.

MDE was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Matthew Leopard,

Acting Director, Office of Information Collection.

[FR Doc. 2014–30524 Filed 12–30–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9921–10–OSWER]

Twenty-Seventh Update of the Federal Agency Hazardous Waste Compliance Docket

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Since 1988, the Environmental Protection Agency (EPA) has maintained a Federal Agency Hazardous Waste Compliance Docket (''Docket'') under Section 120(c) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Section 120(c) requires EPA to establish a Docket that contains certain information reported to EPA by Federal facilities that manage hazardous waste or from which a reportable quantity of hazardous substances has been released. As explained further below, the Docket is used to identify Federal facilities that should be evaluated to determine if they pose a threat to public health or welfare and the environment and to provide a mechanism to make this information available to the public.

This notice identifies the Federal facilities not previously listed on the Docket and reported to EPA since the last update of the Docket on January 6, 2014. In addition to the list of additions to the Docket, this notice includes a section with revisions of the previous Docket list. Thus, the revisions in this update include 29 additions and 19 deletions to the Docket since the previous update. At the time of publication of this notice, the new total number of Federal facilities listed on the Docket is 2,392.

DATES: This list is current as of November 25, 2014.

FOR FURTHER INFORMATION CONTACT: Electronic versions of the Docket and more information on its implementation can be obtained at *http://www.epa.gov/fedfac/documents/docket.htm* by clicking on the link for *Update #27 to the Federal Agency Hazardous Waste Compliance Docket* or by contacting Ellen Treimel, Federal Agency Hazardous Waste Compliance Docket Coordinator, Federal Facilities Restoration and Reuse Office (Mail Code 5106P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Table of Contents

1.0 Introduction

Section 120(c) of CERCLA, 42 United States Code (U.S.C.) 9620(c), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), requires EPA to establish the Federal Agency Hazardous Waste Compliance Docket. The Docket contains information on Federal facilities that manage hazardous waste and such information is submitted by Federal agencies to EPA under Sections 3005, 3010, and 3016 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6925, 6930, and 6937. Additionally, the Docket contains information on Federal facilities with a reportable quantity of hazardous substances that has been released and such information is submitted by Federal agencies to EPA under Section 103 of CERCLA, 42 U.S.C. 9603. Specifically, RCRA Section 3005 establishes a permitting system for certain hazardous waste treatment, storage, and disposal (TSD) facilities; RCRA Section 3010 requires waste generators, transporters and TSD facilities to notify EPA of their hazardous waste activities; and RCRA Section 3016 requires Federal agencies to submit biennially to EPA an inventory of their Federal hazardous waste facilities. CERCLA Section 103(a) requires the owner or operator of a vessel or onshore or offshore facility to notify the National Response Center (NRC) of any spill or other release of a hazardous substance that equals or exceeds a reportable quantity (RQ), as defined by CERCLA Section 101. Additionally, CERCLA Section 103(c) requires facilities that have ''stored, treated, or disposed of'' hazardous wastes and where there is ''known, suspected, or likely releases'' of hazardous substances to report their activities to EPA.

CERCLA Section 120(d) requires EPA to take steps to assure that a Preliminary Assessment (PA) be completed for those sites identified in the Docket and that the evaluation and listing of sites with a PA be completed within a reasonable time frame. The PA is designed to provide information for EPA to consider when evaluating the site for potential response action or inclusion on the National Priorities List (NPL).

The Docket serves three major purposes: (1) To identify all Federal facilities that must be evaluated to determine whether they pose a risk to human health and the environment sufficient to warrant inclusion on the National Priorities List (NPL); (2) to compile and maintain the information submitted to EPA on such facilities under the provisions listed in Section 120(c) of CERCLA; and (3) to provide a mechanism to make the information available to the public.

The initial list of Federal facilities to be included on the Docket was published in the **Federal Register** on February 12, 1988 (53 FR 4280). Since then, updates to the Docket have been published on November 16, 1988 (53 FR 46364); December 15, 1989 (54 FR 51472); August 22, 1990 (55 FR 34492); September 27, 1991 (56 FR 49328); December 12, 1991 (56 FR 64898); July 17, 1992 (57 FR 31758); February 5, 1993 (58 FR 7298); November 10, 1993 (58 FR 59790); April 11, 1995 (60 FR 18474); June 27, 1997 (62 FR 34779); November 23, 1998 (63 FR 64806); June 12, 2000 (65 FR 36994); December 29, 2000 (65 FR 83222); October 2, 2001 (66 FR 50185); July 1, 2002 (67 FR 44200); January 2, 2003 (68 FR 107); July 11, 2003 (68 FR 41353); December 15, 2003 (68 FR 69685); July 19, 2004 (69 FR 42989); December 20, 2004 (69 FR 75951); October 25, 2005 (70 FR 61616); August 17, 2007 (72 FR 46218); November 25, 2008 (73 FR 71644); October 13, 2010 (75 FR 62810); November 6, 2012 (77 FR 66609), March 18, 2013 (78 FR 16668), and January 6, 2014 (79 FR 654). This notice constitutes the twenty-seventh update of the Docket.

This notice provides some background information on the Docket. Additional information on the Docket requirements and implementation are found in the Docket Reference Manual, Federal Agency Hazardous Waste Compliance Docket found at *http://www.epa.gov/fedfac/documents/docket.htm* or obtained by calling the Regional Docket Coordinators listed below. This notice also provides changes to the list of sites included on the Docket in three areas: (1) Additions, (2) Deletions, and (3) Corrections. Specifically, additions are newly identified Federal facilities that have been reported to EPA since the last update and now are included on the Docket; the deletions section lists Federal facilities that EPA is deleting from the Docket; and the corrections section lists changes in the information about the Federal facilities already listed on the Docket.[1] The information submitted to EPA on each Federal facility is maintained in the Docket repository located in the EPA Regional office of the Region in which the Federal facility is located; for a description of the information required under those provisions, *see* 53 FR 4280 (February 12, 1988). Each repository contains the documents submitted to EPA under the reporting provisions and correspondence relevant to the reporting provisions for each Federal facility.

In prior updates, information was also provided regarding No Further Remedial Action Planned (NFRAP) status changes. However, information on NFRAP and NPL status is no longer being provided separately in the Docket update as it is now available at: *http://www.epa.gov/fedfac/documents/docket.htm* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

2.0 Regional Docket Coordinators

Contact the following Docket Coordinators for information on Regional Docket repositories:

Martha Bosworth (HBS), US EPA Region 1, 5 Post Office Square, Suite 100, Mail Code: OSRR07–2, Boston, MA 02109–3912, (617) 918–1407.

Helen Shannon (ERRD), US EPA Region 2, 290 Broadway, New York, NY 10007–1866, (212) 637– 4260 or Alida Karas (ERRD), US EPA Region 2, 290 Broadway, New York, NY 10007– 1866, (212) 637–4276.

Joseph Vitello (3HS12), US EPA Region 3, 1650 Arch Street, Philadelphia, PA 19107, (215) 814–3354.

Dawn Taylor (4SF–SRSEB), US EPA Region 4, 61 Forsyth St. SW., Atlanta, GA 30303, (404) 562–8575.

Michael Chrystof (SR–6J), US EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–3705.

Philip Ofosu (6SF–RA), US EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–3178.

Paul Roemerman (SUPRERSP), US EPA Region 7, 11201 Renner Blvd., Lenexa, KS 66219, (913) 551–7694

Ryan Dunham (EPR–F), US EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202, (303) 312–6627.

Leslie Ramirez (SFD–6–1), US EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3978.

Monica Lindeman (ECL, ABU), US EPA Region 10, 1200 Sixth Avenue, Suite 900, ECL–112, Seattle, WA 98101, (206) 553–5113 or Ken Marcy (ECL, ABU), US EPA Region 10, 1200 Sixth Avenue, Suite 900, ECL–112, Seattle, WA 98101, (206) 890–0591.

[1] See Section 3.2 for the criteria for being deleted from the Docket.

3.0 Revisions of the Previous Docket

This section includes a discussion of the additions, deletions, and corrections to the list of Docket facilities since the previous Docket update.

3.1 Additions

In this notice, 29 Federal facilities are being added to the Docket, primarily because of new information obtained by EPA (for example, recent reporting of a facility pursuant to RCRA Sections 3005, 3010, or 3016 or CERCLA Section 103). CERCLA Section 120, as amended by the Defense Authorization Act of 1997, specifies that EPA take steps to assure that a Preliminary Assessment (PA) be completed within a reasonable time frame for those Federal facilities that are included on the Docket. Among other things, the PA is designed to provide information for EPA to consider when evaluating the site for potential response action or listing on the NPL.

3.2 Deletions

In this notice, 19 Federal facilities are being deleted from the Docket. There are no statutory or regulatory provisions that address deletion of a facility from the Docket. However, if a facility is incorrectly included on the Docket, it may be deleted from the Docket. The criteria EPA uses in deleting sites from the Docket include: A facility for which there was an incorrect report submitted for hazardous waste activity under RCRA (*e.g.,* 40 CFR 262.44); a facility that was not Federally-owned or operated at the time of the listing; a facility included more than once (*i.e.,* redundant listings); or when multiple facilities are combined under one listing. (See Docket Codes (*Categories for Deletion of Facilities*)) for a more refined list of the criteria EPA uses for deleting sites from the Docket. Facilities being deleted no longer will be subject to the requirements of CERCLA Section 120(d).

3.3 Corrections

Changes necessary to correct the previous Docket are identified by both EPA and Federal agencies. The corrections section may include changes in addresses or spelling, and corrections of the recorded name and ownership of a Federal facility. In addition, changes in the names of Federal facilities may be made to establish consistency in the Docket or between the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) and the Docket. For the Federal facility for which a correction is entered, the original entry (designated by an ''o''), as it appeared in previous Docket updates, is shown directly below the corrected entry (designated by a ''c'') for easy comparison. This notice does not include any corrections.

4.0 Process for Compiling the Updated Docket

In compiling the newly reported Federal facilities for the update being published in this notice, EPA extracted the names, addresses, and identification numbers of facilities from four EPA databases—the Emergency Response Notification System (ERNS), the Biennial Inventory of Federal Agency Hazardous Waste Activities, the Resource Conservation and Recovery Information System (RCRAInfo), and CERCLIS—that contain information about Federal facilities submitted under the four provisions listed in CERCLA Section 120(c).

EPA assures the quality of the information on the Docket by conducting extensive evaluation of the current Docket list with the information obtained from the databases identified above to determine which Federal facilities were, in fact, newly reported and qualified for inclusion on the update. EPA is also striving to correct errors for Federal facilities that were previously reported. For example, state-owned or privately-owned facilities that are not operated by the Federal government may have been included. Such problems are sometimes caused by procedures historically used to report and track Federal facilities data. Representatives of Federal agencies are asked to write to the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice if revisions of this update information are necessary.

5.0 Facilities Not Included

Certain categories of facilities may not be included on the Docket, such as: (1) Federal facilities formerly owned by a Federal agency that at the time of consideration was not Federally-owned or operated; (2) Federal facilities that are small quantity generators (SQGs) that have never generated more than 1,000 kg of hazardous waste in any month; (3) Federal facilities that are solely hazardous waste transportation facilities, as reported under RCRA Section 3010; and (4) Federal facilities that have mixed mine or mill site ownership.

An EPA policy issued in June 2003 provided guidance for a site-by-site evaluation as to whether ''mixed ownership'' mine or mill sites, typically created as a result of activities conducted pursuant to the General Mining Law of 1872 and never reported under Section 103(a), should be included on the Docket. For purposes of that policy, mixed ownership mine or mill sites are those located partially on private land and partially on public land. This policy is found at *http://www.epa.gov/fedfac/pdf/mixownrshpmine.pdf*. The policy for not including these facilities may change; facilities now not included may be added at some point if EPA determines that they should be included.

6.0 Facility NPL Status Reporting, Including NFRAP Status

EPA typically tracks the NPL status of Federal facilities listed on the Docket. An updated list of the NPL status of all Docket facilities, as well as their NFRAP status, is available at *http://www.epa.gov/fedfac/documents/docket.htm* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. In prior updates, information regarding NFRAP status changes was provided separately.

7.0 Information Contained on Docket Listing

The updated information is provided in three tables. The first table is a list of new Federal facilities that are being added to the Docket; the second table is a list of Federal facilities that are being deleted from the Docket and the third table contains corrections of information included on the Docket.

The Federal facilities listed in each table are organized by state and then grouped alphabetically within each state by the Federal agency responsible for the facility. Under each state heading is listed the name and address of the facility, the Federal agency responsible for the facility, the statutory provision(s) under which the facility was reported to EPA, and a code.[2] The code key precedes the lists.

The statutory provisions under which a Federal facility is reported are listed in a column titled ''Reporting Mechanism.'' Applicable mechanisms are listed for each Federal facility: For example, Sections 3005, 3010, 3016, 103(c), or Other. ''Other'' has been added as a reporting mechanism to indicate those Federal facilities that otherwise have been identified to have releases or threat of releases of hazardous substances. The National Contingency Plan 40 CFR 300.405 addresses discovery or notification,

[2] Each Federal facility listed in the update has been assigned a code that indicates a specific reason for the addition or deletion. The code precedes this list.

outlines what constitutes discovery of a hazardous substance release, and states that a release may be discovered in several ways, including: (1) A report submitted in accordance with Section 103(a) of CERCLA, *i.e.,* reportable quantities codified at 40 CFR part 302; (2) a report submitted to EPA in accordance with Section 103(c) of CERCLA; (3) investigation by government authorities conducted in accordance with Section 104(e) of CERCLA or other statutory authority; (4) notification of a release by a Federal or state permit holder when required by its permit; (5) inventory or survey efforts or random or incidental observation reported by government agencies or the public; (6) submission of a citizen petition to EPA or the appropriate Federal facility requesting a preliminary assessment, in accordance with Section 105(d) of CERCLA; (7) a report submitted in accordance with Section 311(b)(5) of the Clean Water Act; and (8) other sources. As a policy matter, EPA generally believes it is appropriate for Federal facilities identified through the CERCLA discovery and notification process to be included on the Docket.

The complete list of Federal facilities that now make up the Docket and the NPL and NFRAP status are available to interested parties and can be obtained at *http://www.epa.gov/fedfac/documents/docket.htm* by clicking on the link for *Federal Agency Hazardous Waste Compliance Docket Update #27* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. As of the date of this notice, the total number of Federal facilities that appear on the Docket is 2,392.

Dated: December 10, 2014.

Charlotte Bertrand,

Acting Director, Federal Facilities Restoration and Reuse Office, Office of Solid Waste and Emergency Response.

Docket Codes

Categories for Deletion of Facilities

(1) Small-Quantity Generator.

(2) Never Federally Owned and/or Operated.

(3) Formerly Federally Owned and/or Operated but not at time of listing.

(4) No Hazardous Waste Generated.

(5) (This code is no longer used.)

(6) Redundant Listing/Site on Facility.

(7) Combining Sites Into One Facility/Entries Combined.

(8) Does Not Fit Facility Definition.

Categories for Addition of Facilities

(15) Small-Quantity Generator with either a RCRA 3016 or CERCLA 103 Reporting Mechanism.

(16) One Entry Being Split Into Two (or more)/Federal Agency Responsibility Being Split.

(17) New Information Obtained Showing That Facility Should Be Included.

(18) Facility Was a Site on a Facility That Was Disbanded; Now a Separate Facility.

(19) Sites Were Combined Into One Facility.

(19A) New Currently Federally Owned and/or Operated Facility Site.

Categories for Corrections of Information About Facilities

(20) Reporting Provisions Change.

(20A) Typo Correction/Name Change/Address Change.

(21) Changing Responsible Federal Agency. (If applicable, new responsible Federal agency submits proof of previously performed PA, which is subject to approval by EPA.)

(22) Changing Responsible Federal Agency and Facility Name. (If applicable, new responsible Federal Agency submits proof of previously performed PA, which is subject to approval by EPA.)

(24) Reporting Mechanism Determined To Be Not Applicable After Review of Regional Files.

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #27—ADDITIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code
USARMY Fort Pierce Biorka Island.	15 mi SW of Sitka on Biorka Island, approx (Island Centroid): +56.851328° N −135.558078° W, +56° 51′ 4.7808″ N −135° 33′ 29.0802″ W, T58S R63E, SW of Baranof Island.	Sitka	AK	99835	U.S. Army	Other	19A
USDHS CG Fort Pierce former USNAVY Site Biorka Island.	15 mi SW of Sitka on Biorka Island, approx (Island Centroid):+56° 51′ 4.7808″ N, −135° 33′ 29.0802″ W, +56.851328 N −135.558078 W, T58S R63E, SW of Baranof Island.	Sitka	AK	99835	Dept of Homeland Security.	Other	19A
USDHS CGPort Higgins Radio Station.	14700 N Tongass Hwy, approx. 13 mi N of Ketchikan,+55° 28′ 16.6902″ N, −131.47′ 24.8886″ W; +55.471303, −131.790247; T74S R90E Sec 7, Copper River Meridian.	Ketchikan ..	AK	99901	Dept of Homeland Security.	.....	19A
USDOT FAA Sunset Cove.	Mouth of Libby Creek, S of Sunset Cove in Stephens Passage, approx. 4 mi NNE of Hobart Bay, approx. 30 mi E of Angoon, +57° 28′ 58.566″ N, −133° 31′ 28.566″ W; T51S R74E Sec 3, Copper River Meridian.	Angoon	AK	99820	Dept of Transportation	3010	19A
BIA Chinle Boarding School.	HWY 191 15 MI N of Chinle ...	Many Farms.	AZ	86538	Dept of Interior	3010	17

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #27—ADDITIONS—Continued

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code
BR—Redding	Shasta Office CVP	Redding	CA	96003	Dept of Interior	3010	17
Onizuka Air Force Station.	6594 ABS/CC	Sunnyvale	CA	94088	U.S. Air Force	3010, 103c	17
Southern California Aviation.	18438 Readiness Street	Victorville	CA	92394	U.S. Air Force	3010	19A
Space Launch Complex 4 East.	747 Nebraska Ave	Vandenberg AFB.	CA	93437	U.S. Air Force	3010	19A
US Border Patrol San Diego Firing Range.	2301 McCain Road	San Diego	CA	92101	Dept of Homeland Security.	3010	19A
US DOT Maritime Suisun Bay Reserve Fleet.	2595 Lake Herman Road	Benidia	CA	94510	Dept of Transportation	3010	19A
Herbert C. Hoover Building (AKA: Main Commerce).	1401 Constitution Ave. NW., Room 7603.	Washington	DC	20230	Dept of Commerce	3010	19A
USMC Support Facility—Blount Island.	5880 Channel View Dr	Jacksonville.	FL	32226	U.S. Navy	3010	19A
US Postal Service Bacon Station.	Stratford Dr	Bloomingdale.	IL	60117–7000	U.S. Postal Service	3010	19A
US Postal Service Vehicle Maintenance Facility.	Stratford Dr	Bloomingdale.	IL	60117–7000	U.S. Postal Service	3010	19A
Soldier Support Center	Building #28, Marion County	Fort Benjamin Harrison.	IN	46216	U.S. Army	3005, 3010, 3016, 103c.	17
Louisville Veterans Affairs Medical Center.	800 Zorn Avenue	Louisville	KY	40202	Dept of Veterans Affairs.	3010	19A
FLETC—Department of Homeland Security.	9000 Commo Road	Chelteham.	MD	20623	Dept of Homeland Security.	3010	19A
National Park SVC/DE Water Gap.	Pioneer Trail	Pahaquarry	NJ	7825	Dept of Interior	3010	19A
Catron County Shooting Range.	PO Box 170	Reserve	NM	87830	Dept of Agriculture	3010	19A
Southwest Polytechnic Institute.	9169 Coors Rd NW	Albuquerque.	NM	87196	Dept of Interior	3010	17
Glenmont Job Corps Center.	822 River Road	Glenmont	NY	12077–0993	Dept of Labor	3010, 103c	17
USACE—Portugues Dam.	PR Road 10 km 5.5	Ponce	PR	731	U.S. Army Corps of Engineers.	3010	19A
Air Force Plant No. 4	PO Box 748	Fort Worth	TX	76101	U.S. Air Force	3010	19A
Transportation Security Administration.	510 Airline Dr	Coppell	TX	75019	Transportation and Security Administration.	3010	19A
Utah Test and Training Range.	6.5 Mi SE of Wendover	Wendover	UT	84056	U.S. Air Force	3016	17
BR—Benton City Site	39307 W Kelly Rd	Benton City	WA	99320	Dept of Interior	3010	17
BR—Chandler Power & Pumping Plant.	Old Inland Empire Hwy	Benton City	WA	99320	Dept of Interior	103c	17
VA Medical Center	1540 Spring Valley Drive	Huntington	WV	25704	Dept of Veterans Affairs.	3010	19A

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #27—DELETIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code
BLM Rangely Landfill	T1N R101 W Sec 6, 6THPM	Rangely	CO	81648	Dept of Interior	103	6
Orlando Defense Property Disposal Office.	Naval Training Center	Orlando	FL	32813	U.S. Navy	3010	6
Rock Island District, Lock and Dam 12.		Hanover Township.	IL	61041	U.S. Army Corps of Engineers.	3016	8
Naval Communication Unit Washington.	Dangerfield & Commo Road	Clinton	MD	20735	U.S. Navy	103a, 103c, 3010.	6
MSNG Army Aviation (AVCRAD).	Hanger 1, Hewes Avenue	Gulfport	MS	39507	U.S. Army	3010	1
River Operations Dry Dock (CELMK–OD–R).	COE Supply Base—Vicksburg Harbor.	Vicksburg	MS	39180	U.S. Army Corps of Engineers.	3016	6
Lock Haven Area Maintenance Support Activity—112G.	RT 220 McElhattan	Lock Haven	PA	17745	U.S. Army	3010	4

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #27—DELETIONS—Continued

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code
Reading Army Maintenance Support Activity—29.	547 Philadelphia Ave	Reading	PA	19607	U.S. Army	3010	1
Beaufort Naval Hospital	SC Highway 280	Beaufort	SC	29902	U.S. Navy	3010	6
Charleston Naval Weapons Station South Annex.	1050 Remount Road	North Charleston.	SC	29408	U.S. Navy	103c, 3010	6
Chattanooga Central Laboratories.	N Access Rd at TN HWY 153	Chattanooga.	TN	37401	Tennessee Valley Authority.	3010	1
Jackson Power Stores	Airways Blvd	Jackson	TN	38301	Tennessee Valley Authority.	3010	4
Knoxville Power Stores	4124 Greenway Drive	Knoxville	TN	37902	Tennessee Valley Authority.	3010	4
Nashville Power Stores	1324 Elm Hill Pike	Nashville	TN	37210	Tennessee Valley Authority.	3010	4
Phipps Bend Substation	US HWY 11 W	Surgoinsville.	TN	37873	Tennessee Valley Authority.	3010	4
Norfolk Postal Service	600 Church St	Norfolk	VA	23501	U.S. Postal Service	3010	1
Richmond Army National Guard.	501 E Franklin St	Richmond	VA	23219	U.S. Army	3010	4
Strategic Systems Program Office.	1931 Jefferson Davis Highway, CM #3.	Arlington	VA	22202		3010	8
West Virginia Army National Guard.	RT 62 N	Point Pleasant.	WV	25550	U.S. Army	103a	2

[FR Doc. 2014–30687 Filed 12–30–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2014–0537–; FRL–9921–15–OAR]

Notice of Opportunity To Comment on the Lifecycle Greenhouse Gas Emissions for Renewable Fuels Produced From Biomass Sorghum

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In this Notice, the Environmental Protection Agency (EPA) is inviting comment on its preliminary analysis of the greenhouse gas (GHG) emissions attributable to the growth and transport of biomass sorghum feedstock for use in making biofuels such as ethanol or diesel. This notice explains EPA's analysis of the growth and transport components of the lifecycle greenhouse gas emissions from biomass sorghum, and describes how EPA may apply this analysis in the future to determine whether biofuels produced from such biomass sorghum meet the necessary GHG reductions required for qualification under the Renewable Fuels Standard (RFS) program. Based on this analysis, we anticipate that biofuels produced from biomass sorghum could qualify for cellulosic biofuel renewable identification numbers (RINs) if certain fuel production process technology conditions are met.

DATES: Comments must be received on or before January 30, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2014–0537, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov,* Attention Air and Radiation Docket ID No. EPA–HQ–OAR–2014–0537.
- *Mail:* Air and Radiation Docket, Docket No. EPA–HQ–OAR–2014–0537, Environmental Protection Agency, Mail code: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, EPA/DC, EPA WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20460, Attention Air and Radiation Docket, ID No. EPA–HQ–OAR–2014–0537. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

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FOR FURTHER INFORMATION CONTACT: Jon Monger, Office of Transportation and Air Quality, Mail Code: 6406J, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., 20460; telephone number: (202) 564–0628; fax number: (202) 564–1686; email address: *monger.jon@epa.gov.*

SUPPLEMENTARY INFORMATION:

This notice is organized as follows:

I. Introduction

As part of changes to the Renewable Fuel Standard (RFS) program regulations published on March 26, 2010 [1] (the ''March 2010 rule''), EPA specified the types of renewable fuels eligible to participate in the RFS program through approved fuel pathways. Table 1 to 40 CFR 80.1426 of the RFS regulations lists three critical components of an approved fuel pathway: (1) Fuel type; (2) feedstock; and (3) production process. Fuel produced pursuant to each specific combination of the three components, or fuel pathway, is designated in the Table as eligible for purposes of the Act's requirements for greenhouse gas reductions, to qualify as renewable fuel or one of three subsets of renewable fuel (biomass-based diesel, cellulosic biofuel or advanced biofuel). EPA may also independently approve additional fuel pathways not currently listed in Table 1 to § 80.1426 for participation in the RFS program, or a third-party may petition for EPA to evaluate a new fuel pathway in accordance with 40 CFR 80.1416.

EPA's lifecycle analyses are used to assess the overall greenhouse gas impacts of a fuel throughout each stage of its production and use. The results of these analyses, considering uncertainty and the weight of available evidence, are used to determine whether a fuel meets the necessary greenhouse gas reductions required under the Clean Air Act (CAA) for it to be considered renewable fuel or one of the subsets of renewable fuel. Lifecycle analysis includes an assessment of emissions related to the full fuel lifecycle, including feedstock production, feedstock transportation, fuel production, fuel transportation and distribution, and tailpipe emissions. Per the CAA definition of lifecycle GHG emissions, EPA's lifecycle analyses also include an assessment of significant indirect emissions such as emissions from land use changes, agricultural sector impacts, and production of co-products from biofuel production.

Pursuant to 40 CFR 80.1416, EPA received a petition from the National Sorghum Producers (NSP), submitted under a claim of confidential business information (CBI), requesting that EPA evaluate the lifecycle GHG emissions for biofuels produced using a biomass sorghum feedstock, and that EPA provide a determination of the renewable fuel categories, if any, for which such biofuels may be eligible. As an initial step in this process, EPA has conducted a preliminary evaluation of the GHG emissions associated with the growth and transport of biomass sorghum when it is used as a biofuel feedstock, and is seeking public comment on the methodology and results of this preliminary evaluation.

After considering comments received, EPA expects to revise its assessment as appropriate and then use the information to evaluate petitions received pursuant to 40 CFR 80.1416 which propose to use biomass sorghum as a feedstock for the production of biofuel, and which seek an EPA determination regarding whether such biofuels qualify as renewable fuel under the RFS program. In evaluating such petitions, EPA will consider the GHG emissions associated with petitioners' biofuel production processes, as well as emissions associated with the transport and use of the finished biofuel, in addition to the GHG emissions associated with the use and transport of biomass sorghum feedstock in determining whether petitioners' proposed biofuel production pathway satisfies CAA renewable fuel lifecycle GHG reduction requirements.

II. Analysis of Greenhouse Gas Emissions Associated With Use of Biomass Sorghum as a Biofuel Feedstock

To evaluate the lifecycle GHG emissions associated with the use of biomass sorghum feedstock to produce biofuels, we used a similar approach to that used for miscanthus in the March 2010 rule, in which GHG emissions associated with the growth and transport of miscanthus was determined by comparing feedstock-related GHG emissions to those of switchgrass. In the March 2010 rule, EPA determined that biofuel made from switchgrass using designated processes meets the GHG emissions reduction threshold for cellulosic fuels. For miscanthus, new agricultural modeling was deemed unnecessary; EPA ultimately determined that miscanthus would have similar lifecycle GHG emissions to switchgrass and therefore that biofuels made from designated processes using miscanthus as a feedstock would have similar lifecycle GHG emissions as similar biofuels made through the same processes with switchgrass. EPA also followed a similar approach in assessing GHG emissions associated with the use of energy cane, giant reed, and napier grass in rules published on March 5, 2013 (the ''March 2013 rule'') [2] and July 11, 2013 (the ''July 2013 rule'').[3]

As described in detail in the following sections of this notice, EPA believes that new agricultural sector modeling is not needed to analyze biomass sorghum. Instead, we evaluated the agricultural sector GHG emissions impacts of using biomass sorghum by reference to switchgrass. Both biomass sorghum and switchgrass are grasses with high yields and high cellulosic contents. Our preliminary assessment indicates that on a per dry ton of feedstock basis indirect land use emissions would be lower, direct emissions associated with use of farm machinery, fertilizers and pesticides would be lower, and that emissions associated with feedstock transport would be the same as for switchgrass. Therefore, we propose in responding to petitions received pursuant to 40 CFR 80.1416 to assume that on a per dry ton of feedstock basis GHG emissions associated with biomass sorghum production and use are the same as those associated with the production and use of switchgrass for biofuel production. We believe that this is a conservative approach, and we invite comment on it.

[1] See 75 FR 14670.

[2] 78 FR 14190.

[3] 78 FR 41703.

A. Feedstock Description, Production, and Distribution

Although all types of cultivated sorghum belong to the species *Sorghum bicolor* (L.) Moench, breeding for different purposes has led to significant variation within this species. Sorghum is native to Africa, but was introduced to the U.S. in the early 17th century. Historically, sorghum has been bred to be used as a grain, a source of sugar, and as animal forage. More recently, it has also been bred to increase biomass. Different types of sorghum have different characteristics and may therefore qualify as different types of renewable fuels under the RFS program, making it important to distinguish among the different types of sorghums.

Grain Sorghum. In the U.S., grain sorghum is commonly used as animal feed similar to feed corn, although in other parts of the world it is used for human consumption. Pathways for ethanol produced from grain sorghum feedstock were approved in a rule published on December 17, 2012 (the ''December 2012 RFS rule'').[4]

Sweet Sorghum. Sweet sorghum has historically been bred to maximize sugar content, and is crushed to yield a juice that is high in sugars that are easily fermentable. Processing sweet sorghum is similar to processing sugarcane, and the resulting juice can be used to produce sorghum syrup for food consumption or as a biofuel feedstock.

Forage sorghum. Varieties of forage sorghum are typically used for animal grazing. These varieties of sorghum have been bred for optimal nutrition, including high content of digestible nutrients and low lignin content.

Sorghum bred for biomass content. Recently, producers have begun breeding sorghum as a feedstock for biofuel production, beginning with forage sorghum varieties. The goal of these breeding efforts has been to maximize the total biomass yield for use as biofuel feedstock. The resultant sorghum varieties generally have greatly enhanced biomass yields (plants can grow to be over 20 feet tall), longer growing seasons, and lower nitrogen demand because digestibility is not a concern.

Differentiating the types of sorghum for purposes of the lifecycle analysis required under the RFS program is challenging because varieties bred for different purposes all belong to the same species and are often defined based on end-use, rather than based on specific physical characteristics.[5] For purposes of this Notice, EPA considers biomass sorghum to be *Sorghum bicolor* that has been selected or bred to maximize cellulosic content rather than sugar or grain content, and which therefore has at least 75% cellulosic content. EPA also considers hybrids that are crosses of *Sorghum bicolor* and sudangrass[6] to be biomass sorghum if they have 75% cellulosic content, but EPA does not consider hybrids that are crosses of *Sorghum bicolor* and Johnsongrass (*Sorghum halepense*) to be biomass sorghum, even if such hybrids have 75% or higher cellulosic content. This approach is consistent with the NSP petition, which explicitly excluded Johnsongrass due to concerns regarding its potential to behave as an invasive species. See Section II.D. for further discussion of varieties considered biomass sorghum for purposes of this Notice.

1. Crop Yields

For the purposes of analyzing the GHG emissions from biomass sorghum production, EPA examined crop yields and production inputs in relation to switchgrass to assess the relative GHG impacts. For the switchgrass lifecycle analysis, EPA assumed national average yields of approximately 4.5 to 5 dry tons per acre.[7] Based on field trials in nine states under a range of growing conditions, the 2012 average yield of sorghum grown for biomass content is approximately 11 dry tons per acre,[8] suggesting that biomass sorghum will have significantly higher yields than switchgrass.

Furthermore, EPA's analysis of switchgrass for the RFS rulemaking assumed a 2% annual increase in yield that would result in an average national yield of 6.6 dry tons per acre in 2022.[9] EPA anticipates similar yield improvements for biomass sorghum as for switchgrass since both feedstocks are energy crops in the early stages of development, and improvements in farming practices or new hybrids could increase the yield over time.[10] Given the potential for yield improvements, our analysis assumed an average biomass sorghum yield of 13 dry tons per acre in the southern United States by 2022, which was calculated using a 2% annual increase in yield.

Because of its higher yield, biomass sorghum grown in areas with suitable growing conditions would require approximately 50% less land area compared to switchgrass to produce the same amount of biomass. Even without yield growth assumptions, the current higher crop yield means the land use required for biomass sorghum should be lower than for switchgrass. Therefore less crop area would be converted and displaced through use of biomass sorghum as compared to switchgrass.

2. Land Use

Biomass sorghum is not currently grown at commercial scale in the United States for the purpose of biofuel production, although approximately 1.4 million acres of forage sorghum were planted in 2012. Biomass sorghum is currently grown in test plots as part of research to develop it as an energy crop, and currently has no other uses. Biomass sorghum can be planted as early as April and can continue growing until the fall.[11] Production is expected to be concentrated in the South Central U.S. in Texas, Oklahoma and Kansas, as well as in Missouri and Arkansas.[12]

[4] See 77 FR 74592.

[5] *E.g.* Stefaniak, T.R., J.A. Dahlberg, B.W. Bean, N. Dighe, E.J. Wolfrum, and W.L. Rooney (2012). Variation in biomass composition components among forage, biomass, sorghum-sudangrass and sweet sorghum types. *Crop Science,* 52, 1949–1954.

[6] Sudangrass (*Sorghum* x *drummondii*) is a forage grass which is commonly crossed with *Sorghum bicolor* to produce hybrids. FAO Grassland Species Profile, *http://www.fao.org/ag/agp/AGPC/doc/gbase/data/pf000494.HTM.* Accessed 15 September, 2014.

[7] Kumar, A. and S. Sokhansanj (2007). ''Switchgrass (*Panicum vigratum,* L,) delivery to a biorefinery using integrated biomass supply analysis and logistics (IBSAL) model.'' Bioresource Technology, 98:1033–1044. A more recent study compiled switchgrass yield data from 45 studies from 1991–2010, and found an average yield of 4.9 dry tons per acre: Maughan, M.W. (2011) ''Evaluation of switchgrass, *M. x giganteus,* and sorghum as biomass crops: Effects of environment and field management practices.'' Ph.D. Dissertation, University of Illinois at Urbana-Champaign.

[8] Petition, based on data from 8 sources. A study of the yield of biomass sorghum in Illinois found yields from 10.1–13.4 dry tons/acre: Maughan, M.W. (2011). ''Evaluation of switchgrass, *M. x giganteus,* and sorghum as biomass crops: Effects of environment and field management practices.'' Ph.D. Dissertation, University of Illinois at Urbana-Champaign.

[9] A recently released switchgrass cultivar, ''Liberty'' has a yield of 8.1 tons/acre in Nebraska (7.3 dry tons/acre, assuming a dry matter content of 90%). As hybrids like this become more commonly used, average national yields will increase; Vogel, K.P., R.B. Mitchell, M.D. Casler and G. Sarath (2014). ''Registration of 'Liberty' Switchgrass.'' Journal of Plant Registrations, 8:242–247.

[10] Progress is being made in developing new biomass sorghum hybrids with higher yields than the parents. Increased used of these hybrids will increase national average yields. Packer, D.J. and W.L. Rooney (2014). ''High-parent heteropsis for biomass yield in photoperiod-sensitive sorghum hybrids.'' Field Crops Research, 167:153–158.

[11] Blade Energy Crops (2010). ''Managing High-Biomass Sorghum as a Dedicated Energy Crop.'' Available at: *www.bladeenergy.com/Bladepdf/Blade_SorghumMgmtGuide2010.pdf.*

[12] According to DOE's Billion-Ton Update, ''dedicated biomass sorghums grow well throughout the eastern and central United States as far north at 40° latitude.'' Department of Energy (DOE) (2011). U.S. Billion-Ton Update: Biomass Supply for a Bioenergy and Bioproducts Industry, *http://*

Continued

These areas are similar to the acres where our agricultural sector modeling projected switchgrass would be grown in the March 2010 rule. In addition, modeling results presented in DOE's Billion-Ton Update suggest that biomass sorghum and switchgrass will be grown in similar regions.[13]

In EPA's analysis for the March 2010 rule, switchgrass plantings were projected to primarily displace soybeans and wheat, and to a lesser extent hay, rice, grain sorghum, and cotton in the South Central U.S. Because biomass sorghum is likely to be grown on similar existing agricultural land in the same regions, as explained above, and because biomass sorghum yields are higher than yields of switchgrass (so should displace fewer total acres) EPA concludes that the indirect land use GHG impact for biomass sorghum per gallon should be no greater and likely less than estimated for switchgrass.

In the switchgrass ethanol scenario done for the March 2010 rule, total cropland acres were projected to increase by 4.2 million acres, including an increase of 12.5 million acres of switchgrass and decreases of 4.3 million acres of soybeans, 1.4 million acres of wheat, and 1 million acres of hay, as well as smaller decreases in a variety of other crop acreages. This analysis took into account the economic conditions such as input costs and commodity prices when evaluating the GHG and land use change impacts of switchgrass. Given the higher yields of the biomass sorghum considered here compared to switchgrass, there should be ample land available for production without having any adverse impacts beyond those projected for switchgrass production.

The indirect land use impacts for biomass sorghum are assumed to be similar to or less than those modeled for switchgrass. The justification for this assumption is that both crops are expected to be grown in the South Central U.S. and will likely displace the same types of cropland, but because of higher biomass sorghum yields, fewer total acres will be displaced per gallon of fuel produced.[14] Furthermore, we believe biomass sorghum will have a similar impact on international markets as assumed for switchgrass. Like switchgrass, biomass sorghum is not expected to be traded internationally and its impacts on other crops are expected to be limited. Accordingly, indirect land use change GHG emissions associated with biomass sorghum would likely be smaller than such emissions for switchgrass. Thus, we believe that our proposal to assume in our lifecycle GHG emissions assessments that indirect land use change GHG emissions from biomass sorghum would be similar to switchgrass represents a conservative approach.

3. Crop Inputs and Feedstock Transport

EPA also assessed the GHG impacts associated with planting, harvesting, and transporting biomass sorghum in comparison to switchgrass. Table 1 below shows the assumed 2022 commercial-scale production inputs for switchgrass modeled for the March 2010 rule and average biomass sorghum production inputs based on U.S. Department of Agriculture (USDA) projections and industry data. Available data gathered by EPA suggest that biomass sorghum requires on average less nitrogen, phosphorous, potassium, and pesticide than switchgrass per dry ton of biomass, but more herbicide and diesel per dry ton of biomass. The inputs were given to EPA from the petitioners based on field trials, verified by the USDA, and documented in peer-reviewed journals where possible. Since biomass sorghum is an annual crop and switchgrass is a perennial, some inputs required for growing biomass sorghum, such as herbicide and diesel, are slightly higher than inputs for switchgrass (see Table 1 below). Applying the GHG emission factors used for the March 2010 rule, biomass sorghum production results in lower GHG emissions per dry ton of biomass produced relative to switchgrass production, as shown in Table 1, below. More information on biomass sorghum inputs is available in the docket.

TABLE 1—DIRECT INPUTS FOR SWITCHGRASS AND BIOMASS SORGHUM[15]

Category	Switchgrass[16]		Biomass sorghum[17]	
	Inputs (per dry ton of biomass)	Emissions (per dry ton of feedstock)	Inputs (per dry ton of biomass)	Emissions (per dry ton of feedstock)
Yield (Projected)	6.6 dry tons/acre		13 dry ton/acre	
Nitrogen Fertilizer	15.2 lbs/dry ton	25 kg CO_2eq	4.6 lbs/dry ton	8 kg CO_2eq
N_2O	N/A	136 kg CO_2eq	N/A	105 kg CO_2eq
Phosphorus Fertilizer	6.1 lbs/dry ton	3 kg CO_2eq	1.2 lbs/dry ton	0.6 kg CO_2eq
Potassium Fertilizer	6.1 lbs/dry ton	2 kg CO_2eq	0.5 lbs/dry ton	0.2 kg CO_2eq
Herbicide	0.002 lbs/dry ton	0.02 kg CO_2eq	0.4 lbs/dry ton	5 kg CO_2eq
Insecticide	0.02 lbs/dry ton	0.3 kg CO_2eq	0.003 lbs/dry ton	0.05 kg CO_2eq
Lime	0 lbs/dry ton	0 kg CO_2eq	0 lbs/dry ton	0 kg CO_2eq
Diesel	0.4 gal/dry ton	6 kg CO_2eq	0.7 gal/dry ton	9 kg CO_2eq
Electricity (irrigation)	0 kWh/dry ton	0 kg CO_2eq	0.0 kWh/dry ton	0 kg CO_2eq
Total GHG emissions		173 kg CO_2eq		128 kg CO_2eq

www1.eere.energy.gov/biomass/pdfs/billion_ton_update.pdf. DOE's Billion Ton study conducted a technical analysis of the amount of potential biomass that could be produced in the U.S. under a range of different conditions. This study showed that biomass sorghum and switchgrass have the potential to contribute enough biomass to exceed the volumes of cellulosic biofuel required by the CAA. The purpose of EPA's 2010 analysis was to estimate one potential scenario for meeting the biofuel volume requirements in the CAA, not to estimate the maximum potential volumes of biofuels that could be produced in the U.S.

[13] Department of Energy (DOE) (2011). U.S. Billion-Ton Update: Biomass Supply for a Bioenergy and Bioproducts Industry, *http://www1.eere.energy.gov/biomass/pdfs/billion_ton_update.pdf.*

[14] Department of Energy (DOE) (2011). U.S. Billion-Ton Update: Biomass Supply for a Bioenergy and Bioproducts Industry, *http://www1.eere.energy.gov/biomass/pdfs/billion_ton_update.pdf.*

The lifecycle GHG emissions associated with distributing biomass sorghum feedstock are expected to be similar to EPA's estimates for switchgrass feedstock. One major difference is that switchgrass has a longer harvest window than biomass sorghum. Biomass sorghum is typically harvested in the fall, whereas switchgrass can be harvested from July to March. This suggests that for fuel production purposes, harvested switchgrass would not need to be stored as long as biomass sorghum because it would be available directly from the field for a longer period of time.[18] However, harvesting switchgrass just once per year, in the fall, can maximize yield and minimize nutrient inputs.[19] Therefore, even though switchgrass could be harvested more often, in practice it may just be harvested once per year in the fall, like biomass sorghum. In addition, the biomass sorghum harvest window can be extended by staggering planting times, using a range of hybrids with different harvesting times, or using multiple cuttings, which would reduce storage needs.[20] When switchgrass and biomass sorghum need to be stored, both can be stored in bales.[21]

Biomass sorghum is expected to achieve higher yields and thus the feedstock distribution radius around a similar sized biofuel production plant, or biomass collection hub, could be lower for biomass sorghum than for switchgrass. Therefore, even though there can be differences in the harvest period of switchgrass and biomass sorghum, our analysis makes the simplifying assumption that both crops require similar transport, loading, unloading, and storage regimes, and have the same GHG emissions for feedstock distribution, on a per dry ton of feedstock basis. Harvesting, storage, and distribution were a small fraction of the total GHG emissions for switchgrass, so we do not believe this simplification substantially affects our lifecycle analysis.

B. Summary of Agricultural Sector Greenhouse Gas Emissions

Based on our comparison of biomass sorghum to switchgrass, EPA proposes to use, in its future evaluations of petitions proposing to use biomass sorghum as feedstock for biofuel production, an estimate of the GHG emissions associated with the cultivation and transport of biomass sorghum that is the same as that which we have used for switchgrass, on a per dry ton of feedstock basis. EPA solicits comment on this proposed approach.

C. Fuel Production and Distribution

Biomass sorghum is suitable for the same conversion processes as approved cellulosic feedstocks such as switchgrass and corn stover. After reviewing comments received in response to this Notice, we will combine our evaluation of agricultural sector GHG emissions associated with the use of biomass sorghum feedstock with our evaluation of the GHG emissions associated with individual producers' production processes and finished fuels to determine whether the proposed pathways satisfy CAA lifecycle GHG emissions reduction requirements for RFS-qualifying renewable fuels. Based on our evaluation of the lifecycle GHG emissions attributable to the growth and transport of biomass sorghum feedstock, EPA anticipates that fuel produced from biomass sorghum feedstock through the same biochemical or thermochemical process technologies that EPA evaluated for the March 2010 RFS rule for biofuel derived from switchgrass feedstock would qualify for cellulosic biofuel (D-code 3) renewable identification numbers (RINs) or cellulosic diesel (D-code 7) RINs depending on the type of fuel produced.[22] However, EPA will evaluate petitions for fuel produced from biomass sorghum feedstock on a case-by-case basis.[23]

D. Cellulosic Content of Biomass Sorghum

For biomass sorghum-derived biofuels to qualify as cellulosic biofuel under the RFS program, the fuel must achieve a 60% lifecycle GHG reduction as compared to the 2005 baseline fuels, and must also be derived from cellulose, hemicellulose and lignin. This section of the Notice discusses our preliminary analysis of the extent to which fuel made from biomass sorghum may qualify as derived from cellulose, hemicellulose and lignin. For simplicity, these three chemicals are hereafter referred to as ''cellulose,'' and their presence in feedstock as the feedstock's ''cellulosic content.''

In the rule published on July 18, 2014 (the ''July 2014 rule''),[24] EPA determined that fuel generated from feedstocks with an average adjusted cellulosic content [25] of 75% or more is eligible to generate cellulosic biofuel RINs for the entire fuel volume. EPA examined the biochemical composition of different feedstocks commonly understood to be ''cellulosic,'' including corn stover and other crop residues, switchgrass, miscanthus, energy cane, giant reed, napier grass, and various woods and tree branches. Based on this work, EPA found that roughly 75–90% of the organic biomass of these feedstocks was cellulosic, and the balance was comprised of other constituents, such as starches and sugars.[26] EPA considered in the July 2014 rule the extent to which fuel made from these and other feedstocks with some amount of cellulosic content

[15] The IPCC equations for N_2O emissions were updated since our earlier analysis of switchgrass. We use the updated equations here.

[16] Beach, R.H. and B.A. McCarl (2010). U.S. Agricultural and Forestry Impacts of the Energy Independence and Security Act: FASOM Results and Model Description. Docket EPA–HQ–OAR–2005–0161–3178.

[17] Input data are from petitioners, peer-reviewed literature, and USDA. Details on the sources of input data can be found in the docket. Emissions are calculated based on the input data and emission factors.

[18] Haque, M. and F. M. Epplin (2012). ''Cost to produce switchgrass and cost to produce ethanol from switchgrass for several levels of biorefinery investment cost and biomass to ethanol conversion rates.'' Biomass and Bioenergy, 46:517–530.

[19] Mitchell, R. B., and M. R. Schmer (2012). ''Switchgrass harvest and storage.'' *Switchgrass.* A. Monti (ed.), London: Springer-Verlag, 113–127; Garland, C. D., et al. (2008). ''Growing and harvesting switchgrass for ethanol production in Tennessee.'' University of Tennessee Agricultural Extension Service.

[20] Turhollow, A. F. E. G. Webb, and M. E. Downing (2010). ''Review of sorghum production practices: Applications for Bioenergy.'' Oak Ridge National Laboratory, Oakridge, TN. Available at: *http://info.ornl.gov/sites/publications/files/Pub22854.pdf;* Blade Energy Crops (2010). ''Managing high-biomass sorghum as a dedicated energy crop.'' Available at: *http://www.bladeenergy.com/Bladepdf/Blade_SorghumMgmtGuide2010.pdf.*

[21] Blade Energy Crops (2010). ''Managing high-biomass sorghum as a dedicated energy crop.'' Available at: *http://www.bladeenergy.com/Bladepdf/Blade_SorghumMgmtGuide2010.pdf;* Sanderson, M. A., R. P. Egg, and A. E. Wiselogel (1997). ''Biomass losses during harvest and storage of switchgrass.'' Biomass and Bioenergy, 12(2):107–114.

[22] The biochemical and thermochemical processes that EPA evaluated for the March 2010 RFS rule for biofuel derived from switchgrass feedstock are described in section 2.4.7.4 (Cellulosic Biofuel) of the Regulatory Impact Analysis for the March 2010 RFS rule (EPA–420–R–10–006).

[23] Similarly, EPA anticipates that naphtha produced from biomass sorghum feedstock through any of the gasification and upgrading processes that EPA evaluated in the March 2010 RFS rule (78 FR 14190) for biofuel derived from switchgrass feedstock would likely qualify for cellulosic biofuel (D-code 3) RINs, but EPA intends to evaluate petitions for naphtha produced from biomass sorghum feedstock on a case-by-case basis.

[24] ''Regulation of Fuels and Fuel Additives: RFS Pathways II, and Technical Amendments to the RFS Standards and E15 Misfueling Mitigation Requirements.'' 79 FR 42128.

[25] Adjusted cellulosic content is the percent of organic material that is cellulose, hemicellulose, and lignin.

[26] See ''Cellulosic Content of Various Feedstocks—2014 Update.'' Docket EPA–HQ–OAR–2012–0401.

should be considered ''cellulosic biofuel,'' and determined in the rule that the entire volume of fuel derived from feedstocks with at least 75% adjusted cellulosic content should be considered cellulosic biofuel. Fuel made from feedstocks having less cellulosic content could qualify for the generation of cellulosic biofuel RINs for a portion of the finished fuel.

In the July 2014 rule, EPA described in more detail why we believed that setting the threshold at 75% percent appropriately implements the statutory requirements while not imposing excessive administrative burden on industry. In that rulemaking, EPA also explained that we would apply the 75% threshold to feedstocks that we evaluated in the future, and finalized a definition of energy cane, which can have a wide range of cellulosic contents. Consistent with that rulemaking, we have evaluated the cellulosic content of biomass sorghum. The results of chemical analyses of biomass sorghum and other types of sorghum are shown in Table 2 below and derive from two scientific studies and industry data. One study found that sorghum selected or bred for enhanced biomass content was composed of 61–72% cellulosic materials, with an average of 67% cellulosic material, whereas the other found an average composition of 59% cellulosic material. When these values are adjusted to remove the ash content (which will not yield biofuel),[27] the adjusted cellulosic contents are 75% and 63%, respectively, from the two studies (Table 2). Compared to traditional forage sorghums, one study found sorghums selected or bred for biomass content had greater cellulosic content, whereas the other found they had lower cellulosic content. These differences likely reflect both the natural heterogeneity within crops and the fact that breeders are still experimenting with sorghum to find which varieties are best for biofuel usage, and thus have not yet settled on any particular sets of ''ideal'' properties or compositions for this crop. Breeding of sorghum to enhance biomass content is in the early stages, and it is likely that in the future, these feedstocks may be bred to contain greater proportions of cellulose, hemicellulose and lignin. Data submitted by NexSteppe and available in the docket indicate that newer hybrids of sorghum do have higher percentages of cellulose, hemicellulose, and lignin, in the range of 75–81%, with a range of 77–89% for the adjusted cellulosic content. Some of the sorghum samples also contained significant proportions of sugar (0.3–19%) and starch (0–12%), as shown in Table 2.

TABLE 2—CHEMICAL COMPOSITION OF DIFFERENT TYPES OF SORGHUM SAMPLES, AS DETERMINED BY TWO RESEARCH STUDIES AND FROM INDUSTRY DATA

[The adjusted cellulosic composition was calculated by adjusting the reported content of cellulose, hemicellulose and lignin for the ash content and for the total yields]

Source	Chemical composition (%)							NexSteppe [30]
Sorghum variety	Dahlberg et al. (2011) * [28]			Stefaniak et al. (2012) † [29]				
	High-yield	Sudan/sorghum	Forage	Biomass ^	Sudan/sorghum	Forage	Sweet	Biomass ^
Number of samples	5	4	15	51	6	41	54	7
Sucrose (sugar):								
Average	2.9	2.7	1.0	9.0	2.4	1.1	9.8	4.5
Range	1.6–4.6	0.4–3.5	0.2–1.7	0.3–19	0.4–4.6	0.2–3.0	0.2–23.9	1.2–8.5
Starch:								
Average	0.8	5.6	18.1	5.6	1.1	1.8	7.3	3.4
Range	0–4	0–15	0–25.2	0–12.0	0–4.0	0–8.9	0–16.6	0.3–8.1
Cellulosic Components:								
Average	66.7	62.0	54.9	59.2	63.9	66.4	58.3	77.5
Range	61.3–72.3	53.8–67.5	46.8–73.6	.....	.....	.....	.....	75.3–80.5
Adjusted Cellulosic Composition:								
Average	75.4	70.0	60.5	63.2	72.5	70.1	61.8	83.7
Range	68.9–82.8	61.2–75.8	50.5–84.4	.....	.....	.....	.....	77.4–88.6

* This paper analyzed 22 samples of forage sorghum, including some high-yield varieties that could be used for biomass purposes. The four sudan/sorghum varieties include two samples that were also counted in the high-yield category. The remaining varieties fall into the forage sorghum category.

† This study separated 152 samples of sorghum into groups based on end use, with samples being harvested at different growth stages and containing various tissue types depending on how the material would ultimately be used. See the original source for more information about the different classes of sorghum.

^ These sources refer to certain hybrids as ''biomass'' sorghum. However, this does not necessarily mean that these varieties meet EPA's 75% adjusted cellulosic content threshold.

In the July 2014 rule, EPA considered the cellulosic content of energy cane. Like biomass sorghum, cane can be bred for a wide range of cellulosic and sugar contents. In that rule, EPA defined ''energy cane'' as cultivars containing at least 75% adjusted cellulosic content. EPA also indicated that in the future, feedstocks that could be bred for a wide range of uses and fiber content would have registration requirements similar to energy cane, in order to demonstrate that the adjusted cellulosic content of varieties used is at least 75%. Therefore, for the purposes of the cellulosic content issue, EPA intends to treat biomass sorghum similar to energy cane. For purposes of this Notice, we consider biomass sorghum to include varieties containing at least 75% adjusted cellulosic content. If, as a result of a complete lifecycle assessment in response to individual producer petitions EPA determines that a given fuel product made from biomass sorghum satisfies the 60% lifecycle GHG reduction requirement for cellulosic biofuel, 100% of the fuel in question would qualify for cellulosic biofuel RINs, provided the producer can

[27] Adjustments are also made to account for percent recoveries less than 100%. If all chemical components of a feedstock are analyzed, the total recovery should equal 100%. However, recoveries may be lower than 100% because of losses during sample processing. For recoveries less than 100%, the percent concentration of each component was adjusted so that the total percent recovery equaled 100%. For more information, see ''Cellulosic Content of Various Feedstocks—2014 Update.'' Docket EPA–HQ–OAR–2012–0401.

[28] Dahlberg, J., E. Wolfrum, B. Bean, and W.L. Rooney (2011). Compositional and agronomic evaluation of sorghum biomass as a potential feedstock for renewable fuels. *Journal of Biobased Materials and Bioenergy.* 5, 1–7. Values include additional data provided by J. Dahlberg on October 22, 2013.

[29] Stefaniak, T.R., J.A. Dahlberg, B.W. Bean, N. Dighe, E.J. Wolfrum, and W.L. Rooney (2012). Variation in biomass composition components among forage, biomass, sorghum-sudangrass and sweet sorghum types. *Crop Science,* 52, 1949–1954.

[30] For more information, see ''14–10–09 NexSteppe EPA submission.pdf.'' Docket EPA–HQ–OAR–2014–0537.

demonstrate that the varieties they use as a feedstock contain at least 75% adjusted cellulosic content and satisfy all other applicable definitional, registration, recordkeeping, and reporting requirements. We would consider any cultivars with an adjusted cellulosic content less than 75% to be forage sorghum, which we are not addressing in this Notice. See the discussion regarding energy cane in the July 2014 rule and accompanying memo to the docket [31] for a description of the methodologies and data EPA considers suitable for demonstrating that the average adjusted cellulosic content is at least 75%. We expect that any approved petition for cellulosic biofuel made from biomass sorghum would contain registration requirements comparable to those set forth at 40 CFR 80.1450(b)(1)(xiv).

III. Summary

EPA invites public comment on its preliminary analysis of GHG emissions associated with the cultivation and transport of biomass sorghum as a feedstock for biofuel production. EPA expects to revise its analysis as appropriate in light of public comments received, and to thereafter use the analysis as part of its evaluation of the lifecycle GHG emissions of biofuel production pathways described in petitions received pursuant to 40 CFR 80.1416 which use biomass sorghum as a feedstock.

Dated: December 17, 2014.

Christopher Grundler,

Director, Office of Transportation and Air Quality.

[FR Doc. 2014–30712 Filed 12–30–14; 8:45 am]

BILLING CODE 6560–50–P

[31] 79 FR 42128; ''Cellulosic Content of Various Feedstocks—2014 Update.'' Docket EPA–HQ–OAR–2012–0401.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2014–0882; FRL–9920–92–ORD]

Human Studies Review Board; Notification of a Public Meeting

AGENCY: 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 January 14, 2015, from approximately 10:00 a.m. to approximately 5:00 p.m. Eastern Time. Comments may be submitted on or before noon (Eastern Time) on Wednesday, January 7, 2015.

ADDRESSES: The meeting will be conducted entirely on the Internet using Adobe Connect. Registration is required to attend this meeting. Please visit the HSRB Web site: *http://www.epa.gov/hsrb* to register.

Comments: Submit your written comments, identified by Docket ID No. EPA–HQ–ORD–2014–0882, 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: Access to this Internet meeting is open to all at the information provided above.

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.

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 early January 2015. 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–2014–0882 in the subject line on the first page of your request.

1. *Oral comments.* Requests to present oral comments during the conference call will be accepted up to Noon Eastern Time on Wednesday, January 7, 2015. 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 during the call. 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, listed under **FOR FURTHER INFORMATION CONTACT** no later than noon, Eastern Time, Wednesday, January 7, 2015, 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 on or before noon (Eastern Time) on Wednesday, January 7, 2015. 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 Wednesday, January 14, 2015, EPA's Human Studies Review Board will consider scientific and ethical issues surrounding three topics:

a. A published report: Repeated Nitrogen Dioxide Exposures and Eosinophilic Airway Inflammation in Asthmatics: A Randomized Crossover Study

b. A published report: Tissue response of gastric mucosa after ingestion of fluoride

c. A published report: The Effect of Flouride and Calcium on Spinal Bone Mineral Content: A Controlled, Prospective (three year) Study

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: December 16, 2014.

Robert Kavlock,

Interim Agency Science Advisor.

[FR Doc. 2014–30408 Filed 12–30–14; 8:45 am]

BILLING CODE 6560–50–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: December 23, 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
10509	Northern Star Bank	Mankato	MN	12/19/2014

[FR Doc. 2014–30529 Filed 12–30–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 008493–030.

Title: Trans-Pacific American Flag Berth Operators Agreement.

Parties: American President Lines, Ltd., and A.P. Moller-Maersk A/S.

Filing Party: Howard A. Levy, Esq.; 120 Wall Street, Suite 2020; New York, NY 10005–4001.

Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S.

Agreement No.: 010050–021.

Title: U.S. Flag Discussion Agreement.

Parties: American President Lines, Ltd.; APL Co. PTE Ltd.; A.P. Moller-Maersk A/S; Hapag-Lloyd USA, LLC; and Hapag-Lloyd AG.

Filing Party: Wayne Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S and correct the address of APL Co. Pte Ltd.

Agreement No.: 010051–039.

Title: Mediterranean Space Charter Agreement.

Parties: Hapag-Lloyd USA LLC; A.P. Moller-Maersk A/S; Mediterranean Shipping Company, S.A.; Hapag-Lloyd AG; and Zim Integrated Shipping Services, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S.

Agreement No.: 010714–046.

Title: Trans-Atlantic American Flag Liner Operators Agreement.

Parties: A.P. Moller Maersk A/S; American President Lines, Ltd.; American Roll-On Roll-Off Carrier, LLC; Hapag-Lloyd USA, LLC.; and Maersk Line Limited.

Filing Party: Howard A. Levy, Esq.; 80 Wall Street, Suite 1117; New York, NY 10005.

Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S.

Agreement No.: 011223–051.

Title: Transpacific Stabilization Agreement.

Parties: American President Lines, Ltd. and APL Co. PTE Ltd.; (operating as a single carrier); A.P. Moller-Maersk A/S trading as Maersk Line; China Shipping Container Lines (Hong Kong) Company Limited and China Shipping Container Lines Company Limited (operating as a single carrier); CMA CGM, S.A.; COSCO Container Lines Company Ltd; Evergreen Line Joint Service Agreement; Hanjin Shipping Co., Ltd.; Hapag-Lloyd AG; Hyundai Merchant Marine Co., Ltd.; Kawasaki Kisen Kaisha Ltd.; Mediterranean Shipping Company; Nippon Yusen Kaisha; Orient Overseas Container Line Limited; Yangming Marine Transport Corp.; and Zim Integrated Shipping Services, Ltd.

Filing Party: David F. Smith, Esq.; Cozen O'Connor; 6271 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The Amendment would make several changes to Appendix A of the Agreement updating the names or corporate addresses of several parties.

Agreement No.: 011275–036.

Title: Australia and New Zealand-United States Discussion Agreement.

Parties: A.P. Moller-Maersk AS, trading under the name Maersk Line; CMA CGM, S.A./ANL Singapore Pte Ltd. (acting as a single party); Hamburg-Süd KG; Hapag-Lloyd AG; and Mediterranean Shipping Company S.A.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor LLP; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S.

Agreement No.: 011284–073.
Title: Ocean Carrier Equipment Management Association Agreement.
Parties: Alianca Navegacao e Logistica Ltda.; APL Co. Pte Ltd.; American President Lines, Ltd.; A.P. Moller-Maersk A/S; CMA CGM, S.A.; Atlantic Container Line; China Shipping Container Lines Co., Ltd; China Shipping Container Lines (Hong Kong) Co., Ltd.; Companhia Libra de Navegacao; Compania Libra de Navegacion Uruguay S.A.; Compania Sud Americana de Vapores, S.A.; COSCO Container Lines Company Limited; Evergreen Line Joint Service Agreement; Hamburg-Süd; Hapag-Lloyd AG; Hapag-Lloyd USA LLC; Hanjin Shipping Co., Ltd.; Hyundai Merchant Marine Co. Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mediterranean Shipping Company, S.A.; Mitsui O.S.K. Lines Ltd.; Nippon Yusen Kaisha Line; Norasia Container Lines Limited; Orient Overseas Container Line Limited; Yang Ming Marine Transport Corp.; and Zim Integrated Shipping Services, Ltd.
Filing Party: Wayne R. Rohde, Esq. and Donald J. Kassilke, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.
Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S, make changes to Article 6.3, and update the address of APL Co. Pte Ltd.

Agreement No.: 011290–040.
Title: International Vessel Operators Dangerous Goods Association Agreement.
Parties: Aliança Navegacao e Logistica Ltda.; APL Co. PTE Ltd.; A.P. Moller-Maersk A/S; Atlantic Container Line AB; Bermuda Container Line; China Shipping Container Lines Co., Ltd.; COSCO Container Lines Company Limited; Crowley Maritime Corporation; Evergreen Marine Corp. (Taiwan) Ltd.; Hamburg-Südamerikanische Dampfschifffahrts-Gesellschaft KG; Hanjin Shipping Co., Ltd.; Hapag-Lloyd AG; Horizon Lines, LLC; Hyundai Merchant Marine Co., Ltd.; Independent Container Line Ltd.; Kawasaki Kisen Kaisha Ltd.; Marine Transport Management, Inc.; Maruba SCA; Matson Navigation Company; Mitsui O.S.K. Lines, Ltd.; National Shipping Co. of Saudi Arabia; Nippon Yusen Kaisha Line; Orient Overseas Container Line Limited; Safmarine Container Lines; Seaboard Marine Ltd.; Senator Lines GmbH; Tropical Shipping & Construction Co., Ltd.; Yang Ming Marine Transport Corp.; and Zim Integrated Shipping Services, Ltd.
Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.
Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S, delete Safmarine Container Lines as a party, and revise the addresses of three other parties.

Agreement No.: 011346–024.
Title: Israel Carrier Association.
Parties: A.P. Moller-Maersk A/S trading under the name Maersk Line; American President Lines, Ltd.; and Zim Integrated Shipping Services, Ltd.
Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.
Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S.

Agreement No.: 011405–023.
Title: Ocean Carrier Working Group Agreement.
Parties: Israel Trade Conference; Transpacific Stabilization Agreement; United States Australasia Discussion Agreement; Westbound Transpacific Stabilization Agreement; Middle East Indian Subcontinent Discussion Agreement; A.P. Moller-Maersk A/S; Evergreen Joint Service Agreement; King Ocean Service de Venezuela, S.A.; Star Shipping A/S; Tropical Shipping & Construction Company, Limited; Wallenius Wilhelmsen Logistics AS; Zim Integrated Shipping Services, Ltd.; and Hapag-Lloyd AG.
Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.
Synopsis: The Amendment would update the membership of the Agreement and the membership of its constituent agreements.

Agreement No.: 011733–035.
Title: Common Ocean Carrier Platform Agreement.
Parties: A.P. Moller-Maersk A/S; CMA CGM; Hamburg-Süd; Hapag-Lloyd AG; Mediterranean Shipping Company S.A.; and United Arab Shipping Company (S.A.G.) as shareholder parties, and American President Lines, Ltd., APL Co., Pte Ltd.; Alianca Navegacao e Logistica Ltda.; China Shipping Container Lines Company Limited; Compania Chilena de Navegacion Interoceanica S.A.; Compania Sud Americana de Vapores, S.A.; Companhia Libra de Navegacao; COSCO Container Lines Co., Ltd.; Emirates Shipping Lines; Evergreen Line Joint Service Agreement; Gold Star Line, Ltd.; Hanjin Shipping Co., Ltd.; Hyundai Merchant Marine Co. Ltd; Industrial Maritime Carriers, LLC; Kawasaki Kisen Kaisha, Ltd.; MISC Berhad; Mitsui O.S.K. lines Ltd.; Nippon Yusen Kaisha; Norasia Container Lines Limited; Safmarine MPV N.V.; Tasman Orient Line C.V.; U.S. Ocean, LLC; Yang Ming Marine Transport Corporation and Zim Integrated Shipping Services, Ltd. as non-shareholder parties.
Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.
Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S.

Agreement No.: 011928–008.
Title: Maersk Line/HLAG Slot Charter Agreement.
Parties: A.P. Moller-Maersk A/S and Hapag-Lloyd AG.
Filing Party: Wayne Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.
Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S.

Agreement No.: 011961–018.
Title: The Maritime Credit Agreement.
Parties: A.P. Moller-Maersk A/S trading under the name of Maersk Line; China Shipping Container Lines Co., Ltd.; Companhia Libra de Navegacao; Compania Libra de Navegacion Uruguay S.A.; Compania Sud Americana de Vapores, S.A.; COSCO Container Lines Company Limited; Dole Ocean Cargo Express; Hanjin Shipping Co., Ltd.; Independent Container Line Ltd.; Kawasaki Kisen Kaisha, Ltd.; Norasia Container Lines Limited; United Arab Shipping Company (S.A.G.); Wallenius Wilhelmsen Logistics AS; Zim Integrated Shipping Services, Ltd.
Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.
Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S.

Agreement No.: 011962–012.
Title: Consolidated Chassis Management Pool Agreement.
Parties: The Ocean Carrier Equipment Management Association and its member lines; the Association's subsidiary Consolidated Chassis Management LLC and its affiliates; CCM Holdings LLC; CCM Pools LLC and its subsidiaries; Matson Navigation Co.; and Westwood Shipping Lines.
Filing Party: Wayne Rohde, Esq.; Cozen O'Connor; 627 I Street NW., Suite 1100; Washington, DC 20006.
Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S and correct the address of APL Co. Pte Ltd.

Agreement No.: 012027–001.
Title: The Hoegh/Maersk Ancillary Agreement.
Parties: Aequitas Holdings A/S; A.P. Moller-Maersk A/S; and Hoegh Autoliners A/S.

Filing Party: Wayne Rohde, Esq.; Cozen O'Connor; 627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S.

Agreement No.: 012034–006.

Title: Hamburg Sud/Maersk Line Vessel Sharing Agreement.

Parties: Hamburg-Sud and A.P. Moeller-Maersk A/S.

Filing Party: Wayne Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S.

Agreement No.: 012108–004.

Title: The World Liner Data Agreement.

Parties: ANL Container Line Pty Ltd.; A.P. Moller-Maersk A/S; CMA CGM S.A.; Compania Chilena de Navegacion Interoceanica S.A.; Compania Sud Americana de Vapores S.A.; Evergreen Line Joint Service Agreement; Hamburg-Sud; Hapag-Lloyd AG; Hanjin Shipping Company, Ltd; Hyundai Merchant Marine Co., Ltd.; Independent Container Line Ltd.; Mediterranean Shipping Company S.A.; Orient Overseas Container Line Ltd.; Turkon Konteyner Tasimacilik ve Denizcilik A.S.; United Arab Shipping Company S.A.G.; and ZIM Integrated Shipping Services Limited.

Filing Party: Wayne Rohde, Esq.; Cozen O'Connor; 627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S.

Agreement No.: 012128–003

Title: Southern Africa Agreement

Parties: A.P. Moller-Maersk A/S trading under the name Maersk Line, and MSC Mediterranean Shipping Company S.A.

Filing Party: Wayne R. Rohde, Esquire; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S.

Agreement No.: 012136–001.

Title: HSDG/ML/MSC Space Charter Agreement.

Parties: Hamburg-Sud, A.P. Moller-Maersk A/S, and MSC Mediterranean Shipping Company S.A.

Filing Parties: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S and update MSC's address.

Agreement No.: 012172–002.

Title: Maersk Line/MSC Caribbean Space Charter Agreement.

Parties: A.P. Moller-Maersk A/S trading under the name Maersk Line and Mediterranean Shipping Company S.A.

Filing Party: Wayne R. Rohde, Esquire; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006–4007.

Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S and update the contact information for MSC.

Agreement No.: 012242–001.

Title: Maersk Line/CMA CGM OC–1 PAD2 Space Charter Agreement.

Parties: A.P. Moller-Maersk A/S trading under the name of Maersk Line and CMA CGM S.A.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S.

Agreement No.: 012267–001.

Title: COSCON/CSCL Vessel Sharing and Slot Exchange Agreement.

Parties: China Shipping Container Lines Co., Ltd. and China Shipping Container Lines (Hong Kong) Co. Ltd. (collectively CSCL); COSCO Container Lines Company Limited.

Filing Party: Brett M. Esber, Esq.; Blank Rome, LLP; Watergate, 600 New Hampshire Avenue NW., Washington, DC 20037.

Synopsis: The Amendment clarifies the authority of the parties to exchange and charter slots between themselves on vessels operated by a party (including the vessels operated in the service established pursuant to the Agreement), or from space controlled by a party on vessels operated by third parties, in the trade covered by the Agreement.

Agreement No.: 012291–001.

Title: Maersk Line/MSC WCCA Space Charter Agreement.

Parties: A.P. Moller-Maersk A/S trading under the name of Maersk Line; and MSC Mediterranean Shipping Company S.A.

Filing Party: Wayne Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S and update MSC's address.

Agreement No.: 012293–003.

Title: Maersk/MSC Vessel Sharing Agreement.

Parties: A.P. Moller-Maersk A/S trading under the name of Maersk Line; and MSC Mediterranean Shipping Company S.A.

Filing Party: Wayne Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The Amendment would replace A.P. Moller-Maersk A/S with Maersk Line A/S.

By Order of the Federal Maritime Commission.

Dated: December 24, 2014.

Karen V. Gregory,

Secretary.

[FR Doc. 2014–30605 Filed 12–30–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 23, 2015.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *MidWestOne Financial Group, Inc.,* Iowa City, Iowa; to acquire up to 100 percent of the voting shares of Central Bancshares, Inc., Golden Valley, Minnesota, and thereby indirectly acquire Central Bank, Golden Valley, Minnesota.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *CSB Bancshares, Inc. Amended Employee Stock Ownership Plan and Trust,* Ellsworth, Kansas; to acquire additional shares of and retain 30.94 percent of the outstanding voting shares of CSB Bancshares, Inc., Ellsworth, Kansas.

In connection with this application; CSB Bancshares, Inc. Amended Employee Stock Ownership Plan and Trust, Ellsworth, Kansas, to acquire indirectly, and CSB Bancshares, Inc. Ellsworth, Kansas, to acquire 100 percent of the voting shares of State Bank of Delphos, Delphos, Kansas.

2. *First York Ban Corp.,* York, Nebraska; to acquire 100 percent of the voting shares of Loup Valley Bancshares, North Loup, Nebraska, and thereby indirectly acquire North Loup Valley Bank, North Loup, Nebraska.

Board of Governors of the Federal Reserve System, December 24, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–30634 Filed 12–30–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 141 0088]

Professional Lighting and Sign Management Company of America, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 22, 2015.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/plasmaconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Professional Lighting and Sign Management Companies of America, Inc.—Consent Agreement; File No. 1410088'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/plasmaconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''Professional Lighting and Sign Management Companies of America, Inc.—Consent Agreement; File No. 1410088'' on your comment and on the envelope, and mail it 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: Barbara Blank, Bureau of Competition, (202–326–2523), 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 23, 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 January 22, 2015. Write ''Professional Lighting and Sign Management Companies of America, Inc.—Consent Agreement; File No. 1410088'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/plasmaconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Professional Lighting and Sign Management Companies of America, Inc.—Consent Agreement; File No. 1410088'' 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.

[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).

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before January 22, 2015. 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 (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Consent Agreement'') from the Professional Lighting and Sign Management Companies of America, Inc. (''PLASMA''). The Commission's complaint (''Complaint'') alleges that PLASMA, acting as a combination of its members and in agreement with at least some of its members, restrained competition among its members and others in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by adopting and maintaining provisions in its Bylaws and Standard Operating Procedures that restrict members from competing in the territory of another member, that restrict price competition, and that restrict members from soliciting the customers of another member upon termination of membership in the association.

Under the terms of the proposed Consent Agreement, PLASMA is required to cease and desist from allocating territories, restraining price competition among its members, and restraining its members from soliciting customers. It is also required to maintain an antitrust compliance program and take other steps to further the remedial objectives of the proposed order.

The Commission anticipates that the competitive issues described in the Complaint will be resolved by accepting the proposed order, subject to final approval, contained in the Consent Agreement. The proposed Consent Agreement has been placed on the public record for 30 days for receipt of comments from interested members of the public. Comments received during this period will become part of the public record. After 30 days, the Commission will review the Consent Agreement again and the comments received, and will decide whether it should withdraw from the Consent Agreement or make final the accompanying Decision and Order (''the Proposed Order'').

The purpose of this Analysis to Aid Public Comment is to invite and facilitate public comment. It is not intended to constitute an official interpretation of the proposed Consent Agreement and the accompanying Proposed Order or in any way to modify their terms.

The Consent Agreement is for settlement purposes only and does not constitute an admission by PLASMA that the law has been violated as alleged in the Complaint or that the facts alleged in the Complaint, other than jurisdictional facts, are true.

I. The Complaint

The Complaint makes the following allegations.

A. The Respondent

PLASMA is a non-profit corporation consisting of licensed electricians, with approximately 25 member firms across the country. PLASMA's members specialize in commercial lighting and electrical sign installation and maintenance.

B. The Anticompetitive Conduct

PLASMA maintains a set of Member Bylaws and Standard Operating Procedures (''Bylaws'') applicable to the commercial activities of its members, and requires its members to comply with its Bylaws. PLASMA maintains the following provisions in its Bylaws:

- A provision that prohibits a member from providing to a customer commercial lighting or sign services in the designated territory of another member, unless such other member first declines to perform the work;
- A price schedule governing the price of any such work performed in the designated territory of another member; and
- A provision that bars any member, for one year following termination of membership, from soliciting or competing for the customers (or prospective customers) of another member.

PLASMA also established a grievance committee to resolve alleged violations of the Bylaws, as well as a process through which PLASMA could sanction violations of the Bylaws.

II. The Allegations

The Complaint alleges that PLASMA has violated Section 5 of the Federal Trade Commission Act by designating a territory for each member, and by restricting through its Bylaws the ability of members to compete in the designated territory of another member; to compete on price; and to solicit or compete for the customers of other members.

The Complaint alleges that the purpose, effect, tendency, or capacity of the combination, agreement, acts and practices of PLASMA has been and is to restrain competition unreasonably and to injure consumers by discouraging and restricting competition among licensed electricians.

III. The Proposed Order

The Proposed Order has the following substantive provisions: Paragraph II requires PLASMA to cease and desist from restraining its members from competing in the territories of other members; from restraining price competition among members; and from restraining members from soliciting the customers of other members upon the termination of membership in the association. The Proposed Order does not prohibit PLASMA from requesting that its members identify any geographic region(s) within which such members can quickly respond for service. However, PLASMA may not place restrictions on the number of members that may identify a particular geographic region as a ''quick response'' region.

Paragraph III of the Proposed Order requires PLASMA to remove from its Web site and organization documents any statement inconsistent with the Proposed Order. PLASMA must distribute a statement describing the Consent Agreement (''the Settlement Statement'') to PLASMA's board of directors, officers, employees, and members. Paragraph III also requires PLASMA to provide all new members and all members who receive a membership renewal notice with a copy of the Settlement Statement.

Paragraph IV of the Proposed Order requires PLASMA to design, maintain, and operate an antitrust compliance program. PLASMA will have to appoint an Antitrust Compliance Officer for the duration of the Proposed Order. For a period of three years, PLASMA will have to provide annual training to its board of directors, offices, and employees, and conduct a presentation at its annual conference that summarizes PLASMA's obligations under the Proposed Order and provides context-appropriate guidance on compliance with the antitrust laws. PLASMA must also implement policies and procedures to enable persons to ask questions about, and report violations of, the Proposed Order and the antitrust laws confidentially and without fear of retaliation, and to discipline its leaders,

employees, and members for failure to comply with the Proposed Order.

Paragraphs V–VII of the Proposed order impose certain standard reporting and compliance requirements on PLASMA.

The Proposed Order will expire in 20 years.

By direction of the Commission.

Janice Podoll Frankle,

Acting Secretary.

[FR Doc. 2014–30646 Filed 12–30–14; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 142 3117]

TXVT Limited Partnership, Doing Business as Trophy Nissan; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 22, 2015.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/tvxtlimitedconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''TXVT Limited Partnership, a Texas Limited Partnership, d/b/a Trophy Nissan—Consent Agreement; File No. 1423117'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/tvxtlimitedconsent* by following the instructions on the Web-based form. If you prefer to file your comment on paper, write ''TXVT Limited Partnership, a Texas Limited Partnership, d/b/a Trophy Nissan—Consent Agreement; File No. 1423117'' 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.

FOR FURTHER INFORMATION CONTACT: Luis Gallegos, (214) 979–9383, Southwest Region, 1999 Bryan Street, Suite 2150, Dallas, TX 75201–6808.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 23, 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 January 22, 2015. Write ''TXVT Limited Partnership, a Texas Limited Partnership, d/b/a Trophy Nissan—Consent Agreement; File No. 1423117'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/tvxtlimitedconsent* by following the instructions on the Web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''TXVT Limited Partnership, a Texas Limited Partnership, d/b/a Trophy Nissan—Consent Agreement; File No. 1423117'' 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 January 22, 2015. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''FTC'') has accepted, subject to final approval, an agreement containing a consent order from TXVT Limited Partnership, d/b/a Trophy Nissan. The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the FTC will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

The Respondent is a motor vehicle dealer. The matter involves its advertising of the purchase, financing, and leasing of its motor vehicles. According to the FTC complaint, Respondent has advertised that when a consumer trades in a used vehicle in order to purchase a new vehicle and pays $1.00, Respondent will pay off the balance of any loan or lease agreement on the trade-in vehicle such that the consumer will have no remaining obligation for any amount of that loan or lease. The complaint alleges that in fact, when a consumer trades in a used vehicle with negative equity (*i.e.,* the loan or lease balance on the vehicle exceeds the vehicle's value), pays $1.00, and purchases another vehicle, Respondent does not pay off the balance of the loan or lease agreement on the trade-in vehicle such that the consumer will have no remaining obligation for any amount of that loan or lease agreement. Instead, the Respondent includes the negative equity from the trade-in in the loan for the newly purchased vehicle. The complaint alleges therefore that the representation is false or misleading in violation of Section 5 of the FTC Act.

The complaint also alleges that Respondent has advertised that Respondent would match consumers' income tax refund for use as a down payment on an automobile. The complaint alleges that Respondent's advertisement did not disclose adequately additional terms pertaining to the offer, such as that Respondent would match only up to $1,000 of consumers' income tax refund. The complaint alleges therefore that the failure to disclose adequately the additional terms is deceptive in violation of Section 5 of the FTC Act.

The complaint further alleges that Respondent advertised that consumers could lease advertised vehicles at terms prominently stated in the advertisements, including, but not necessarily limited to, the monthly payment amount. The complaint alleges that Respondent's advertisements did not disclose or disclose adequately additional terms pertaining to the lease offer, such as the total amount of any payments due at lease inception. The complaint alleges that these additional terms were material to consumers in deciding whether to lease a vehicle. The complaint alleges therefore that the failure to disclose or disclose adequately the additional terms is deceptive in violation of Section 5 of the FTC Act.

In addition, the complaint alleges violations of the Consumer Leasing Act (''CLA'') and Regulation M for failing to disclose or to disclose clearly and conspicuously certain costs and terms when advertising leases. Finally, the complaint alleges violations of the Truth in Lending Act (''TILA'') and Regulation Z for failing to disclose or to disclose clearly and conspicuously certain costs and terms when advertising credit.

The proposed order is designed to prevent the Respondent from engaging in similar deceptive practices in the future. Part I.A of the proposed order prohibits the Respondent from misrepresenting that it will pay any particular amount of the remaining loan or lease obligation on a consumer's trade-in vehicle used to purchase, finance, or lease another motor vehicle, including representing that the Respondent will pay the entire remaining obligation on the trade-in vehicle when the consumer will actually be responsible for paying that amount. Part I.B of the proposed order prohibits Respondent from misrepresenting the material terms of any promotion or other incentive, and the nature, value, or amount of a promotion or other incentive, including, but not limited to, that Respondent will match a consumer's tax refund for use as the down payment on the purchase of a vehicle. Part I.C prohibits the Respondent from misrepresenting the cost of: (1) Leasing a vehicle, including, but not necessarily limited to, the total amount due at lease inception, the down payment, amount down, acquisition fee, capitalized cost reduction, any other amount required to be paid at lease inception, and the amounts of all monthly or other periodic payments; or (2) purchasing a vehicle with financing, including but not necessarily limited to, the amount or percentage of the down payment, and the repayment obligation over the full term of the loan, including any balloon payment. Part I.D prohibits the Respondent from misrepresenting any other material fact about the price, sale, financing, or leasing of any vehicle.

Part II of the proposed order prohibits Respondent from making any representation about any promotion or other incentive including, but not limited to, that Respondent will match a consumer's tax refund for use as the down payment on the purchase of a vehicle, without disclosing clearly and conspicuously, the terms and limitations of such promotion or other incentive.

Part III of the proposed order requires Respondent to clearly and conspicuously make all of the disclosures required by CLA and Regulation M if they state relevant trigger terms, including the monthly lease payment or the amount of any payment or that any or no initial payment is required at lease inception. In addition, Part III prohibits any other violation of CLA or Regulation M.

Part IV of the proposed order requires that the Respondent clearly and conspicuously make all of the disclosures required by TILA and Regulation Z if they state the amount or percentage of any downpayment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge. In addition, Part IV prohibits the Respondent from stating a rate of finance charge without stating the rate as an ''annual percentage rate'' or the abbreviation ''APR,'' using that term. Part IV also prohibits any other violation of TILA and Regulation Z.

Part V of the proposed order requires Respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements. Part VI requires that Respondent provide copies of the order to certain of their personnel. Part VII requires notification to the Commission regarding changes in corporate structure that might affect compliance obligations under the order. Part VIII requires the Respondent to file compliance reports with the Commission. Finally, Part IX is a provision ''sunsetting'' the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission.

Janice Podoll Frankle,

Acting Secretary.

[FR Doc. 2014–30650 Filed 12–30–14; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 131 0168]

Professional Skaters Association, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 22, 2015.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/FTC/proskatersconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''the Professional Skaters Association, Inc.—Consent Agreement; File 131–0168'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/FTC/proskatersconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''the Professional Skaters Association, Inc.—Consent Agreement; File 131–0168'' on your comment and on the envelope, and mail it 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: Karen A. Mills, Bureau of Competition, (202–326–2052), 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 23, 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 January 22, 2015. Write ''the Professional Skaters Association, Inc.—Consent Agreement; File 131–0168'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/FTC/proskatersconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''the Professional Skaters Association, Inc.—Consent Agreement; File 131–0168'' 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 January 22, 2015. 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 (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Consent Agreement'') from the Professional Skaters Association, Inc. (hereinafter ''PSA''). The Commission's complaint (''Complaint'') alleges that PSA, acting as a combination of its members and in agreement with at least some of its members, restrained competition among its members and others in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by adopting and maintaining a provision in its Code of Ethics that restrains coaches from soliciting teaching work.

Under the terms of the proposed Consent Agreement, PSA is required to cease and desist from restricting

[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).

competition among its members, or working with other ice skating organizations to restrict competition, including by restricting solicitation, advertising, or price—related competition.

The Commission anticipates that the competitive issues described in the Complaint will be resolved by accepting the proposed order, subject to final approval, contained in the Consent Agreement. The proposed Consent Agreement has been placed on the public record for 30 days for receipt of comments from interested members of the public. Comments received during this period will become part of the public record. After 30 days, the Commission will review the Consent Agreement again and the comments received, and will decide whether it should withdraw from the Consent Agreement or make final the accompanying Decision and Order (''the Proposed Order'').

The purpose of this Analysis to Aid Public Comment is to invite and facilitate public comment. It is not intended to constitute an official interpretation of the proposed Consent Agreement and the accompanying Proposed Order or in any way to modify their terms.

The Consent Agreement is for settlement purposes only and does not constitute an admission by PSA that the law has been violated as alleged in the Complaint or that the facts alleged in the Complaint, other than jurisdictional facts, are true.

I. The Complaint

The Complaint makes the following allegations.

A. The Respondent

PSA is a non-profit trade association whose members include approximately 6400 coaches of ice skating who teach, train, and coach skaters at all levels—from beginners to elite skaters. Many PSAs members teach and coach skaters for a fee. Some PSA members are employed at schools, universities, ice skating clubs, and ice skating rinks. PSA membership provides financial benefits to its members.

PSA membership and continuing education is required by the U.S. Figure Skating Association (''USFSA'') for coaches of skaters participating in: (i) USFSA qualifying competitions, and (ii) international ice skating competitions as part of Team USA. Because of this requirement, PSA membership is required in order to coach competitive skaters.

Coaches require access to ice skating rink facilities. Some ice skating rink facilities require that coaches have PSA membership.

PSA maintains a Code of Ethics applicable to the commercial activities of its members. The PSA Code of Ethics states that, ''No member shall in any case solicit pupils of another member, directly or indirectly, or through third parties.'' The PSA Code of Ethics also requires that, ''Prior to acting as a coach, the member shall determine the nature and extent of any earlier teaching relationship with that skater and other members.''

B. The Anticompetitive Conduct

The Complaint alleges that PSA violated Section 5 of the Federal Trade Commission Act by restraining competition among coaches of ice skating through adoption and enforcement of the no-solicitation provision of PSA's Code of Ethics. This is in effect an agreement among competitors not to compete. PSA interprets the no-solicitation rule broadly, prohibiting direct, indirect, third-party, and social media solicitation of teaching work. PSA has instructed its members and others that the Code of Ethics no solicitation rule prohibits coaches from many types of direct or indirect communication with skaters and parents, including:

- Suggesting a skater change coaches
- Suggesting a skater would have better results by changing coaches
- Suggesting a skater who attends a seminar stay for a few days of additional training
- Sending recruiting material to a skater or parent
- Claiming one coach is a more qualified coach than another
- Claiming one ice skating program is better than another
- Offering free lessons, ice time, or equipment

PSA requires its members to agree to abide by the Code of Ethics, educates members about the Code of Ethics, exhorts its members to follow the Code of Ethics and polices members' behavior. It also enforces the Code of Ethics through a grievance process administered by PSA's Committee on Professional Standards (the ''COPS''). PSA has enforced the Code of Ethics no-solicitation provision against at least nine member coaches since 2006, with penalties including private admonition, public admonition, suspended membership, and probation.

PSA has sanctioned member coaches for soliciting students of other members even when the students and their parents wanted to switch coaches for a variety of compelling reasons. PSA has enlisted parents and skaters in the effort to enforce the Code of Ethics no-solicitation provision. The Complaint alleges that the purpose, effect, tendency, or capacity of the combination, agreement, acts and practices of PSA has been and is to restrain competition unreasonably and to injure consumers by discouraging and restricting competition among ice skating teachers and coaches.

II. The Proposed Order

The Proposed Order has the following substantive provisions:

Paragraph I contains definitions for terms used in the Order.

Paragraph II requires PSA to cease and desist from restraining or declaring unethical, interfering with, or advising against the solicitation of teaching work. It also requires that PSA not prohibit or advise against coaches' solicitation of students. Paragraph II requires PSA to cease and desist from encouraging or assisting any other organization to adopt, maintain, or enforce any Code of Ethics or other restriction on solicitation. Finally, Paragraph II requires PSA to cease and desist from restraining price competition, including offering free lessons.

The Proposed Order does not prohibit PSA from adopting and enforcing reasonable principles, rules, guidelines, or policies governing the conduct of its Members with respect to (i) representations that Respondent reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act; (ii) prevention of sexual and physical abuse of children; or (iii) in-person solicitation of a skater actively engaged in (a) a skating lesson, or (b) skating or preparing to skate at an arena in a test, competition, or exhibition. The Order defines skating or preparing to skate as including meetings with coaches, locker room time, practice skating, and warm-up skating.

Paragraph III of the Proposed Order requires PSA to remove from its organization documents and Web site any statement inconsistent with the Proposed Order PSA must publicize to its members, new members, leaders, employees, and the public the changes PSA must make to the Code of Ethics, and a statement describing the Consent Agreement. Finally, PSA must notify the Ice Skating Institute (''ISI'') and United States Figure Skating Association that PSA (i) agreed to change its Code of Ethics and (ii) will not enforce or investigate on behalf of Skating Organizations violation of any Code of Ethics or practice that does not comply with the FTC's Order against PSA.

Further, the Order requires PSA to notify USFSA and ISI that the Order will prevent PSA from doing on behalf of USFSA or ISI anything that, if done by PSA, would be inconsistent with the Order against PSA. This is necessary because PSA provides various education services on ethics to both USFA and ISI coaches.

Paragraph IV of the Proposed Order requires PSA to design, maintain, and operate an antitrust compliance program. PSA must have an Antitrust Compliance Officer for the duration of the Proposed Order. For a period of five years, PSA must provide guidance to its staff, employees, members, and leaders concerning the antitrust laws and PSA obligations under the Proposed Order. PSA also must implement policies and procedures to enable persons to ask questions about, and report violations of, the Proposed Order and the antitrust laws confidentially and without fear of retaliation, and to discipline its leaders, employees and agents for failure to comply with the Proposed Order.

Paragraphs V–VII of the Proposed Order require certain standard compliance reporting, cooperation, and access.

The Proposed Order will expire in the 20 years.

By direction of the Commission.

Janice Podoll Frankle,

Acting Secretary.

[FR Doc. 2014–30649 Filed 12–30–14; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 141 0142]

Eli Lilly and Company and Novartis AG; Analysis of Proposed Consent Orders To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent orders—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 21, 2015.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/elililllyconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Eli Lilly and Company and Novartis A.G.—Consent Agreement; File No. 141–0142'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/elililllyconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''Eli Lilly and Company and Novartis A.G.—Consent Agreement; File No. 141–0142'' 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.

FOR FURTHER INFORMATION CONTACT: Michael Barnett, Bureau of Competition, (202–326–2362), 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent orders to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 22, 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 January 21, 2015. Write ''Eli Lilly and Company and Novartis A.G.—Consent Agreement; File No. 141–0142'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/elililllyconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Eli Lilly and Company and Novartis A.G.—Consent Agreement; File No. 141–0142'' 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

[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).

possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before January 21, 2015. 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 Orders To Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from Eli Lilly and Company (''Eli Lilly''), which is designed to remedy the anticompetitive effects of Eli Lilly's acquisition of the Novartis Animal Health business (''Novartis Animal Health'') from Novartis AG (''Novartis'').

The proposed Consent Agreement has been placed on the public record for thirty days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will again evaluate the proposed Consent Agreement, along with the comments received, in order to make a final decision as to whether it should withdraw from the proposed Consent Agreement, modify it, or make final the Decision and Order (''Order'').

Pursuant to a Stock and Asset Purchase Agreement dated April 22, 2014, Eli Lilly proposes to acquire Novartis Animal Health for approximately $5.4 billion (the ''Proposed Acquisition''). Both parties sell canine heartworm parasiticide products in the United States. The Commission alleges in its Complaint that the Proposed Acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by lessening competition in the U.S. market for canine heartworm parasiticides. The proposed Consent Agreement will remedy the alleged violations by preserving the competition that would otherwise be eliminated by the Proposed Acquisition. Specifically, under the terms of the Consent Agreement, Eli Lilly is required to divest all of the rights and assets related to Sentinel Spectrum and Sentinel Flavor Tabs (''the Sentinel products''). Eli Lilly has proposed Virbac S.A. (''Virbac'') as the buyer of the rights and assets related to the Sentinel products.

II. The Relevant Product and Structure of the Market

The relevant product market in which to analyze the Proposed Acquisition is no broader than all canine heartworm parasiticides. Canine heartworm parasiticides are medications used to treat heartworm disease in dogs. Heartworm disease is a potentially fatal condition caused by parasitic worms living in the arteries of a dog's heart and lungs. Canine heartworm parasiticides primarily target heartworm, but the various products in the category have different attributes. For example, some canine heartworm parasiticides also treat other internal parasites, such as hookworm, roundworm, whipworm and tapeworm, and/or external parasites, like fleas. Canine parasiticides are offered in oral, topical, and injectable formulations, with most customers preferring the oral ones.

The United States is the relevant geographic market in which to assess the competitive effects of the Proposed Acquisition. Canine heartworm parasiticides must be approved by the FDA or EPA before being sold in the United States. Thus, canine heartworm parasiticides sold outside the United States, but not approved for sale in the United States, are not alternatives for U.S. consumers.

The market for canine heartworm parasiticides in the United States is highly concentrated. Eli Lilly, which markets Trifexis, is the market leader with a share in excess of 35%. Merial Limited, which sells Heartgard and Heartgard Plus, is the second-leading supplier, with a share of 30%. Heartgard and Heartgard Plus are oral products but do not treat fleas. Novartis's Sentinel product line has an 8% market share. The only other significant supplier is Zoetis Inc., which supplies Revolution and ProHeart 6. Revolution is a combination product that requires topical application. ProHeart 6 is an injectable product that does not impact fleas. Thus, the Acquisition would consolidate the two closest competitors, would substantially increase concentration, and would produce a single firm controlling more than 43% of the relevant market.

III. Entry

Entry into the U.S. market for canine heartworm parasiticides would not be timely, likely, or sufficient in magnitude, character, and scope to deter or counteract the anticompetitive effects of the Proposed Acquisition. Three major obstacles stand in the way of a prospective canine heartworm parasiticide entrant: Lengthy development timeframes, FDA and other agency approval requirements, and difficulty of establishing a brand name and convincing veterinarians to prescribe new products.

IV. Effects of the Acquisition

Eli Lilly's acquisition of Novartis Animal Health will adversely affect competition in the market for canine heartworm parasiticides by eliminating close head-to-head competition between Trifexis and the Sentinel products. Trifexis and the Sentinel products are each other's closest competitors because, among other reasons, they are the only oral heartworm products that impact fleas. Flea prevention combined with heartworm prevention in one oral treatment is particularly important as it combines the convenience of a single oral treatment while avoiding the mess and smell of topical products. In addition, Trifexis and the Sentinel products are the only oral combination products that treat whipworm. These attributes provide a scope of treatment and ease of use not available with other canine heartworm parasiticides. Absent a remedy, the Proposed Acquisition would likely result in higher prices for consumers due to the ability of Eli Lilly to effect a unilateral price increase.

V. The Consent Agreement

The proposed Consent Agreement effectively remedies the Proposed Acquisition's anticompetitive effects in the canine heartworm parasiticide market by requiring the parties to divest the rights and assets related to the Sentinel products to Virbac. This divestiture will preserve the close competition between the only two oral products on the market indicated for the treatment of heartworm, other internal worms, and fleas in dogs.

Virbac is a multinational pharmaceutical company headquartered in Carros, France with approximately 4,350 employees. In 2013, the company generated $934 million in global revenues. Companion animal products comprise 56% of Virbac sales, making it the sixth-largest veterinary product company in the companion animal products business. Virbac operates in the United States through its subsidiary, Virbac Corp., which focuses on canine, feline, and equine pharmaceutical and hygiene products. Virbac Corp. has 350 employees, and had $130 million in

revenue in 2013. Virbac Corp. is well suited to acquire the Sentinel products because of its current presence in the companion animal health business, and because it already has experience with canine heartworm products. Although Virbac currently sells canine heartworm products, their sales are relatively small and, because they do not contain an active ingredient to treat fleas, their competitive interaction with the Sentinel products is limited.

The Order requires Eli Lilly to divest all of its respective rights and interests in the Sentinel products no later than ten days after the consummation of the Proposed Acquisition or on the date on which the Order becomes final, whichever is earlier. The divestiture includes all regulatory approvals, brand names, marketing materials, and confidential business information, including customer information, related to the Sentinel products, and other assets associated with producing, marketing and selling the Sentinel products. To ensure the divestiture is successful, the Order requires Eli Lilly and Novartis to secure all third-party consents and waivers required to permit Virbac to conduct business with the Sentinel products. The Order also requires Eli Lilly to divest supply chain assets related to the Sentinel products. These assets include certain rights and intellectual property for the active pharmaceutical ingredients in the Sentinel products. Additionally, Eli Lilly and Virbac must complete a technical transfer of manufacturing from Novartis to Virbac. The Order calls for an interim supply agreement of the Sentinel products for up to four years while Eli Lilly and Virbac complete the technical transfer.

The Commission has agreed to appoint an Interim Monitor to ensure that Eli Lilly and Novartis comply with all of their obligations pursuant to the Consent Agreement and to keep the Commission informed about the status of the transfer of the rights and assets to Virbac.

The Commission's goal in evaluating possible purchasers of divested rights and assets is to maintain the competitive environment that existed prior to the Proposed Acquisition. If the Commission determines that Virbac is not an acceptable acquirer of the divested rights and assets, or that the manner of the divestitures is not acceptable, the parties must unwind the sale of rights and assets to Virbac and divest them to a Commission-approved acquirer within six months of the date the Order becomes final. In that circumstance, the Commission may appoint a trustee to divest the rights and assets if the parties fail to divest them as required.

The purpose of this analysis is to facilitate public comment on the proposed Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Order or to modify its terms in any way.

By direction of the Commission.

Janice Podoll Frankle,

Acting Secretary.

[FR Doc. 2014–30686 Filed 12–30–14; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–2254]

The Drug Supply Chain Security Act Implementation: Product Tracing Requirements—Compliance Policy; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''DSCSA Implementation: Product Tracing Requirements—Compliance Policy.'' This guidance announces FDA's intention with regard to enforcement of certain product tracing requirements of the Federal Food, Drug, and Cosmetic Act (FD&C Act), as added by the Drug Supply Chain Security Act (DSCSA). FDA does not intend to enforce these requirements against manufacturers, wholesale distributors, and repackagers who do not, prior to May 1, 2015, provide or capture the transaction information, transaction history, and transaction statement required by the FD&C Act (product tracing information) for transaction of certain human, finished prescription drugs that are covered in the statute.

DATES: Effective December 31, 2014. For information about enforcement dates, please see the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: All responses to this notice should be identified with Docket No. FDA–2014–D–2254 and directed to the office listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

FOR FURTHER INFORMATION CONTACT: Office of Compliance, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–3100, *drugtrackandtrace@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''DSCSA Implementation: Product Tracing Requirements—Compliance Policy.'' This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This guidance has been implemented without prior public comment because the Agency has determined that prior public participation is not feasible or appropriate. (§ 10.115(g)(2)). This guidance document provides information pertaining to statutory requirements that will take effect on January 1, 2015, regarding the provisions to provide and capture product tracing information under section 582(b)(1), (c)(1), and (e)(1) of the FD&C Act (21 U.S.C. 360eee–1(b)(1), (c)(1), and (e)(1)). It is important that FDA provide this information before that date. Although this guidance document is immediately in effect, it remains subject to comment in accordance with the Agency's good guidance practices. (§ 10.115(g)(3)).

On November 27, 2013, the DSCSA (Title II of Pub. L. 113–54) was signed into law. Section 202 of the DSCSA added sections 581 and 582 to the FD&C Act, which set forth new definitions and requirements for the tracing of products through the pharmaceutical distribution supply chain. Starting in 2015, trading partners (manufacturers, wholesale distributors, dispensers, and repackagers) will be required under section 582(b)(1), (c)(1), (d)(1), and (e)(1) of the FD&C Act, to exchange product tracing information when engaging in transactions involving certain prescription drugs. Manufacturers, wholesale distributors, and repackagers must meet these requirements by January 1, 2015; dispensers must meet these requirements by July 1, 2015.

Although the product tracing requirements under section 582(b), (c), and (e) of the FD&C Act go into effect for manufacturers, wholesale distributors, and repackagers on January 1, 2015, some trading partners have expressed concern that unforeseen complications with the exchange of the required information may result in disruptions in the pharmaceutical supply chain, and ultimately could impact patients' access to needed prescription drugs. FDA recognizes that some manufacturers, wholesale distributors, and repackagers may need time beyond January 1, 2015, to work

with trading partners to ensure that all the proper product tracing information is provided and captured. To minimize possible disruptions in the distribution of prescription drugs in the United States, FDA does not intend to take action against trading partners who do not, prior to May 1, 2015, provide or capture the product tracing information required by section 582(b)(1), (c)(1), and (e)(1) of the FD&C Act. This compliance policy is limited to the requirements that trading partners provide and capture product tracing information; it does not extend to other requirements in section 582 of the FD&C Act, such as verification of suspect and illegitimate products (including quarantine, investigation, notification, and recordkeeping) or the requirement to engage only in transactions with authorized trading partners.

II. Comments

This guidance is for immediate implementation. FDA is issuing this guidance for immediate implementation in accordance with § 10.115(g)(2). Submit one set of either electronic or written comments on this guidance at any time. Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. You should identify all comments with Docket No. FDA–2014–D–2254.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *http://www.regulations.gov.*

Dated: December 23, 2014.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2014–30608 Filed 12–30–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (NIDA).

SUMMARY: National Institute on Drug Abuse (NIDA), National Institutes of Health, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on the ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery '' for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et. seq.). This collection was developed as part of a Federal Government-wide effort to streamline the process for seeking feedback from the public on service delivery. This notice announces our intent to submit this collection to OMB for approval and solicits comments on specific aspects for the proposed information collection.

To submit comments and for further information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Genevieve deAlmeida, Ph.D., Health Research Evaluator, Office of Science Policy and Communications, National Institute on Drug Abuse, NIH, 6001 Executive Boulevard, Bethesda, MD, Bethesda, MD 20892–9557, or call non-toll-free number (301) 594–6802, or Email your request, including your address to: *dealmeig@nida.nih.gov* Formal requests for additional plans and instruments must be requested in writing.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (NIDA), 0925–0655, Expiration Date 3/31/2015, EXTENSION, National Institute on Drug Abuse (NIDA).

Need and Use of Information Collection: The information collected under this clearance will be qualitative customer and stakeholder feedback information—their perceptions, experiences and expectations of services, issues with service, to focus attention on areas where communication, training or changes in operations might improve delivery of products or services. The information will be useful and will allow for collaborative and actionable communications between the Agency and its customers and stakeholders, and will contribute directly to improving the programs and management of them.

The information will not yield data that can be generalized to the overall population. The information may also be formative for the purpose of developing a concept for a new service program or dissemination program. The collections may still be eligible for submission for other generic mechanisms designed to yield quantitative results.

The primary objectives are to obtain feedback on programs from customers and stakeholders, that would help make positive changes to the programs, or to assist in developing a new program or dissemination initiative, or to test medical tools and devices for usability, feasibility, and pilot testing of survey questionnaires for understandability. Data collection methods to be used in these studies include web-based and mailed surveys, focus groups, interviews with small groups, ad hoc collections at Conferences. The findings will provide valuable information to assist in improving programs that serve the public, and in developing good tools and devices to serve the public. OMB approval is requested for 3 years.

NIDA will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses

require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. 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.

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 Office of Management and Budget control number.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 1,312.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of collection	Number of respondents	Annual frequency per response	Hours per response	Total hours
Customer outcomes and usability testing	888	1	40/60	592
Customer Satisfaction and needs assessment survey	600	1	40/60	400
Focus Groups	60	1	1	60
Small Discussion Groups	60	1	1	60
Pilot Testing of instruments for applicability among diverse populations	300	1	40/60	200
Total				1,312

Dated: December 24, 2014.

Genevieve deAlmeida,

Project Clearance Liaison, NIDA, NIH.

[FR Doc. 2014–30656 Filed 12–30–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60 Day Comment Request Prevalence, Incidence, Epidemiology and Molecular Variants of HIV in Blood Donors in Brazil (NHLBI)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH), will publish periodic summaries of proposed projects to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and for Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Simone Glynn, MD, Project Officer/ICD Contact, Two Rockledge Center, Suite 9142, 6701 Rockledge Drive, Bethesda, MD 20892, or call non-toll-free number (301)–435–0065, or Email your request to: *glynnsa@nhlbi.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: Prevalence, Incidence, Epidemiology and Molecular Variants of HIV in Blood Donors in Brazil 0925–0597 expiration date, July 31, 2015, Extension, National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH).

Need and Use of Information Collection: Establishing and monitoring viral prevalence and incidence rates, and identifying behavioral risk behaviors for HIV infection among

donors are critical steps to assessing and reducing risk of HIV transmission through blood transfusion. Detecting donors with recently acquired HIV infection is particularly critical as it enables characterization of the viral subtypes currently transmitted within the screened population. In addition to characterizing genotypes of recently infected donors for purposes of blood safety, molecular surveillance of incident HIV infections in blood donors serves important public health roles by identifying new HIV infections for anti-retroviral treatment, and enabling documentation of the rates of primary transmission of anti-viral drug resistant strains in the community. This study is a continuation of a previous research project which enrolled eligible HIV positive blood donors and analyzed HIV molecular variants and their association with risk.

This previous project was conducted by the NHLBI Retrovirus Epidemiology Donor Study—II (REDS–II) International Brazil program and included not only data collection on HIV seropositive donors but also collection of risk factor data on uninfected donors. The current Recipient Epidemiology and Donor Evaluation Study—III (REDS–III) research proposal is a continuation of the previous REDS–II project at the same four blood centers in Brazil, located in the cities of Sao Paulo, Recife, Rio de Janeiro and Belo Horizonte, but this time restricted to the study of HIV-positive subjects.

The primary study aims are to continue monitoring HIV molecular variants and risk behaviors in blood donors in Brazil, and to evaluate HIV subtype and drug resistance profiles among HIV positive donors according to HIV infection status (recent versus long-standing infection), year of donation, and site of collection. Additional study objectives include determining trends in HIV molecular variants and risk factors associated with HIV infection by combining data collected in the previous REDS–II project with that which will be obtained in the planned research activities.

Nucleic acid testing (NAT) testing for HIV is currently being implemented in Brazil. It will be important to continue to collect molecular surveillance and risk factor data on HIV infections, especially now that infections that might not have been identified by serology testing alone could be recognized through the use of NAT. NAT-only infections represent very recently acquired infections. The NAT assay will be used at the four REDS–III blood centers in Brazil during the planned research activities. In addition, in order to distinguish between recent seroconversion and long-standing infection, samples from all HIV antibody—dual reactive donations and/or NAT positive donations will be tested by the Recent Infection Testing Algorithm (*RITA*) which is based on use of a sensitive/less-sensitive enzyme immunoassay (''detuned'' Enzyme Immunoassay). RITA testing will be performed by the Blood Systems Research Institute, San Francisco, California, USA, which is the REDS–III Central Laboratory.

Subjects are being enrolled for a 5-year period from July 2012 through 2017. According to the Brazilian guidelines, blood donors are requested to return to the blood bank for HIV confirmatory testing and HIV counseling. Donors are invited to participate in the study through administration of informed consent when they return for HIV counseling. Once informed consent has been administered and enrollment has occurred, participants are asked to complete a confidential self-administered risk factor questionnaire by computer. In addition, a small blood sample is collected from each HIV positive participant to be used for the genotyping and drug resistance testing. The results of the drug resistance testing are communicated back to the HIV positive participants during an in-person counseling session at the blood center. For those individuals who do not return for confirmatory testing, the samples will be anonymized and sent to the REDS–III central laboratory to perform the recent infection testing algorithm (RITA).

This research effort will allow for an evaluation of trends in the trafficking of non-B subtypes and rates of transmission of drug resistant viral strains in low risk blood donors. These data could also be compared with data from similar studies in higher risk populations. Monitoring drug resistance strains is extremely important in a country that provides free anti-retroviral therapy for HIV infected individuals, many of whom have low level education and modest resources, thus making compliance with drug regimens and hence the risk of drug resistant HIV a serious problem.

The findings from this project will add to those obtained in the REDS–II study, allowing for extended trend analyses over a 10-year period and will complement similar monitoring of HIV prevalence, incidence, transfusion risk and molecular variants in the USA and other funded international REDS–III sites in South Africa and China, thus allowing direct comparisons of these parameters on a global level.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 40.

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hour
Risk Factor Assessment	Adult Donors	100	1	24/60	40

Dated: December 18, 2014.

Lynn Susulske,

NHLBI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2014–30657 Filed 12–30–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of meetings of the National Center for Advancing Translational Sciences.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The 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/or 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 grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Cures Acceleration Network Review Board.

Date: January 15, 2015.

Time: 8:30 a.m. to 3:00 p.m.

Agenda: Report from the Institute Director.

Place: National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Danilo A. Tagle, Ph.D., Executive Secretary, National Center for Advancing Translational Sciences, 1 Democracy Plaza, Room 992, Bethesda, MD 20892, 301–594–8064, *Danilo.Tagle@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to finalizing the agenda and scheduling of meeting topics.

Name of Committee: National Center for Advancing Translational Sciences Advisory Council.

Date: January 15, 2015.

Open: 8:30 a.m. to 3:00 p.m.

Agenda: Report from the Institute Director and other staff.

Place: National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Closed: 3:15 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 6, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Danilo A. Tagle, Ph.D., Executive Secretary, National Center for Advancing Translational Sciences, 1 Democracy Plaza, Room 992, Bethesda, MD 20892, 301–594–8064, *Danilo.Tagle@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to finalizing the agenda and scheduling of meeting topics.

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: December 23, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–30619 Filed 12–30–14; 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 Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of meetings of the AIDS Research Advisory Committee, NIAID.

The meetings will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: AIDS Research Advisory Committee, NIAID.

Date: January 26, 2015.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: Reports from the Division Director and other staff.

Place: National Institutes of Health, Natcher Building, Conference Rooms E1/E2, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Mark A. Mueller, Executive Secretary, AIDS Research Advisory Committee, Division of AIDS, NIAID/NIH, 5601 Fishers Lane, RM 8D39 Bethesda, MD 20892, 301–402–2308, *mark.mueller@nih.gov.*

Name of Committee: AIDS Research Advisory Committee, NIAID.

Date: May 18, 2015.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: Reports from the Division Director and other staff.

Place: National Institutes of Health, Natcher Building, Conference Rooms E1/E2, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Mark A. Mueller, Executive Secretary, AIDS Research Advisory Committee, Division of AIDS, NIAID/NIH, 5601 Fishers Lane, RM 8D39 Bethesda, MD 20892, 301–402–2308, *mark.mueller@nih.gov.*

Name of Committee: AIDS Research Advisory Committee, NIAID.

Date: September 21, 2015.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: Reports from the Division Director and other staff.

Place: National Institutes of Health, Natcher Building, Conference Rooms E1/E2, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Mark A. Mueller, Executive Secretary, AIDS Research Advisory Committee, Division of AIDS, NIAID/NIH, 5601 Fishers Lane, RM 8D39 Bethesda, MD 20892, 301–402–2308, *mark.mueller@nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(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: December 23, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–30620 Filed 12–30–14; 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: Population Sciences and Epidemiology Integrated Review Group, Social Sciences and Population Studies A Study Section.

Date: January 29–30, 2015.

Time: 8:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: Fairmont Hotel San Francisco, 950 Mason Street, San Francisco, CA 94108.

Contact Person: Suzanne Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 435–1712, *ryansj@csr.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Mechanisms of Sensory, Perceptual, and Cognitive Processes Study Section.

Date: February 2–3, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Suites By Hilton Santa Monica, 1707 Fourth Street, Santa Monica, CA 90401.

Contact Person: Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301–435–1242, *kgt@mail.nih.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group, Lung Injury, Repair, and Remodeling Study Section.

Date: February 2–3, 2015.

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: Ghenima Dirami, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7814, Bethesda, MD 20892, 240–498–7546, *diramig@csr.nih.gov*.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group, Musculoskeletal Tissue Engineering Study Section.

Date: February 2–3, 2015.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Baljit S. Moonga, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7806, Bethesda, MD 20892, 301–435–1777, *moongabs@mail.nih.gov*.

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group, Bioengineering of Neuroscience, Vision and Low Vision Technologies Study Section.

Date: February 2, 2015.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: JW Marriott New Orleans, 614 Canal Street, New Orleans, LA 70130.

Contact Person: Robert C. Elliott, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5190, MSC 7846, Bethesda, MD 20892, 301–435–3009, *elliotro@csr.nih.gov*.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group, Behavioral Medicine, Interventions and Outcomes Study Section.

Date: February 2–3, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Le Meridien Delfina Santa Monica, 530 Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Lee S. Mann, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3224, MSC 7808, Bethesda, MD 20892, (301) 435–0677, *mannl@csr.nih.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group, Lung Cellular, Molecular, and Immunobiology Study Section.

Date: February 3–4, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: George M. Barnas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, 301–435–0696, *barnasg@csr.nih.gov*.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group, Biomaterials and Biointerfaces Study Section.

Date: February 4–5, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115.

Contact Person: Joseph D. Mosca, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7808, Bethesda, MD 20892, (301) 408–9465, *moscajos@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: December 24, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–30616 Filed 12–30–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Bridging the Gap Between Cancer Mechanism and Population Science.

Date: January 27, 2015.

Time: 9:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W032, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Thomas Winters, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W240, Bethesda, MD 20892–9750, 240–276–6386, *twinters@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Omnibus SEP–16.

Date: March 26, 2015.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 6W032, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Adriana Stoica, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W234, Bethesda, MD 20892–9750, 240–276–6368, *Stoicaa2@.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer

Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: December 23, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–30534 Filed 12–30–14; 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 Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Mental Health Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Mental Health Council.

Date: February 6, 2015.

Closed: 8:00 a.m. to 8:45 a.m.

Agenda: To review and evaluate the NIMH Division of Intramural Research Programs.

Place: National Institutes of Health, Neuroscience Center, Conference Room C/D/E, 6001 Executive Boulevard, Rockville, MD 20852.

Open: 9:00 a.m. to 2:30 p.m.

Agenda: Presentation of the NIMH Director's Report and discussion of NIMH program and policy issues.

Place: National Institutes of Health, Neuroscience Center, Conference Room C/D/E, 6001 Executive Boulevard, Rockville, MD 20852.

Closed: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, Conference Room C/D/E, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Jane A. Steinberg, Ph.D., Director, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892–9609, 301–443–5047.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nimh.nih.gov/about/advisory-boards-and-groups/namhc/index.shtml.,* where an agenda and any additional information for the meeting will be posted when available. (Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: December 24, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–30618 Filed 12–30–14; 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, Risk, Prevention and Health Behavior AREA (R15) Review.

Date: January 28, 2015.

Time: 1:00 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John H. Newman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3222, MSC 7808, Bethesda, MD 20892, (301) 435–0628, *newmanjh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR–12–259: Lymphatics in Health and Disease in the Digestive, Urinary, Cardiovascular and Pulmonary Systems.

Date: January 28, 2015.

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: Bonnie L. Burgess-Beusse, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301–435–1783, *beusseb@mail.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: December 24, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–30617 Filed 12–30–14; 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 Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of meetings of the National Advisory Allergy and Infectious Diseases Council.

The meetings will be open to the public as indicated below, with

attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The 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 Advisory Allergy and Infectious Diseases Council.
Date: January 26, 2015.
Open: 10:30 a.m. to 11:40 a.m.
Agenda: Report from the Institute Director.
Place: National Institutes of Health, Natcher Building, Conference Rooms E1/E2, 45 Center Drive, Bethesda, MD 20892.
Closed: 11:40 a.m. to 12:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, Conference Rooms E1/E2, 45 Center Drive, Bethesda, MD 20892.
Contact Person: Matthew J. Fenton, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rm 4F50, Bethesda, MD 20892, 301–496–7291, *fentonm@niaid.nih.gov*.

Name of Committee: National Advisory Allergy and Infectious Diseases Council; Acquired Immunodeficiency Syndrome Subcommittee.
Date: January 26, 2015.
Closed: 8:30 a.m. to 10:15 a.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, Conference Room A, 45 Center Drive, Bethesda, MD 20892.
Open: 1:00 p.m. to adjournment.
Agenda: Program advisory discussions and reports from division staff.
Place: National Institutes of Health, Natcher Building, Conference Rooms E1/E2, 45 Center Drive, Bethesda, MD 20892.
Contact Person: Matthew J. Fenton, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rm 4F50, Bethesda, MD 20892, 301–496–7291, *fentonm@niaid.nih.gov*.

Name of Committee: National Advisory Allergy and Infectious Diseases Council; Microbiology and Infectious Diseases Subcommittee.
Date: January 26, 2015.
Closed: 8:30 a.m. to 10:15 a.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, Conference Rooms F1/F2, 45 Center Drive, Bethesda, MD 20892.
Open: 1:00 p.m. to adjournment.
Agenda: Reports from the Division Director and other staff.
Place: National Institutes of Health, Natcher Building, Conference Rooms F1/F2, 45 Center Drive, Bethesda, MD 20892.
Contact Person: Matthew J. Fenton, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rm 4F50, Bethesda, MD 20892, 301–496–7291, *fentonm@niaid.nih.gov*.

Name of Committee: National Advisory Allergy and Infectious Diseases Council; Allergy, Immunology and Transplantation Subcommittee.
Date: January 26, 2015.
Closed: 8:30 a.m. to 10:15 a.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, Conference Room D, 45 Center Drive, Bethesda, MD 20892.
Open: 1:00 p.m. to adjournment.
Agenda: Reports from the Division Director and other staff.
Place: National Institutes of Health, Natcher Building, Conference Room D, 45 Center Drive, Bethesda, MD 20892.
Contact Person: Matthew J. Fenton, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rm 4F50, Bethesda, MD 20892, 301–496–7291, *fentonm@niaid.nih.gov*.

Name of Committee: National Advisory Allergy and Infectious Diseases Council; Allergy, Immunology and Transplantation Subcommittee.
Date: May 18, 2015.
Closed: 8:30 a.m. to 10:15 a.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, Conference D, 45 Center Drive, Bethesda, MD 20892.
Open: 1:00 p.m. to adjournment.
Agenda: Reports from the Division Director and other staff.
Place: National Institutes of Health, Natcher Building, Conference D, 45 Center Drive, Bethesda, MD 20892.
Contact Person: Matthew J. Fenton, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rm 4F50, Bethesda, MD 20892, 301–496–7291, *fentonm@niaid.nih.gov*.

Name of Committee: National Advisory Allergy and Infectious Diseases Council; Microbiology and Infectious Diseases Subcommittee.
Date: May 18, 2015.
Closed: 8:30 a.m. to 10:15 a.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, Conference Rooms F1/F2, 45 Center Drive, Bethesda, MD 20892.
Open: 1:00 p.m. to adjournment.
Agenda: Reports from the Division Director and other staff.
Place: National Institutes of Health, Natcher Building, Conference Rooms F1/F2, 45 Center Drive, Bethesda, MD 20892.
Contact Person: Matthew J. Fenton, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rm 4F50, Bethesda, MD 20892, 301–496–7291, *fentonm@niaid.nih.gov*.

Name of Committee: National Advisory Allergy and Infectious Diseases Council; Acquired Immunodeficiency Syndrome Subcommittee.
Date: May 18, 2015.
Closed: 8:30 a.m. to 10:15 a.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, Conference Room A, 45 Center Drive, Bethesda, MD 20892.
Open: 1:00 p.m. to adjournment.
Agenda: Program advisory discussions and reports from division staff.
Place: National Institutes of Health, Natcher Building, Conference Rooms E1/E2, 45 Center Drive, Bethesda, MD 20892.
Contact Person: Matthew J. Fenton, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rm 4F50, Bethesda, MD 20892, 301–496–7291, *fentonm@niaid.nih.gov*.

Name of Committee: National Advisory Allergy and Infectious Diseases Council.
Date: May 18, 2015.
Open: 10:30 a.m. to 11:40 a.m.
Agenda: Report from the Institute Director.
Place: National Institutes of Health, Natcher Building, Conference Rooms E1/E2, 45 Center Drive, Bethesda, MD 20892.
Closed: 11:40 a.m. to 12:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, Conference Rooms E1/E2, 45 Center Drive, Bethesda, MD 20892.
Contact Person: Matthew J. Fenton, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rm 4F50, Bethesda, MD 20892, 301–496–7291, *fentonm@niaid.nih.gov*.

Name of Committee: National Advisory Allergy and Infectious Diseases Council; Microbiology and Infectious Diseases Subcommittee.
Date: September 21, 2015.
Closed: 8:30 a.m. to 10:15 a.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, Conference Rooms F1/F2, 45 Center Drive, Bethesda, MD 20892.
Open: 1:00 p.m. to adjournment.
Agenda: Reports from the Division Director and other staff.
Place: National Institutes of Health, Natcher Building, Conference Rooms F1/F2, 45 Center Drive, Bethesda, MD 20892.
Contact Person: Matthew J. Fenton, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rm 4F50, Bethesda, MD 20892, 301–496–7291, *fentonm@niaid.nih.gov*.

Name of Committee: National Advisory Allergy and Infectious Diseases Council; Acquired Immunodeficiency Syndrome Subcommittee.

Date: September 21, 2015.
Closed: 8:30 a.m. to 10:15 a.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, Conference Room A, 45 Center Drive, Bethesda, MD 20892.
Open: 1:00 p.m. to adjournment.
Agenda: Program advisory discussions and reports from division staff.
Place: National Institutes of Health, Natcher Building, Conference Rooms E1/E2, 45 Center Drive, Bethesda, MD 20892.
Contact Person: Matthew J. Fenton, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rm 4F50, Bethesda, MD 20892, 301–496–7291, *fentonm@niaid.nih.gov.*

Name of Committee: National Advisory Allergy and Infectious Diseases Council; Allergy, Immunology and Transplantation Subcommittee.
Date: September 21, 2015.
Closed: 8:30 a.m. to 10:15 a.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, Conference Room D, 45 Center Drive, Bethesda, MD 20892.
Open: 1:00 p.m. to adjournment.
Agenda: Reports from the Division Director and other staff.
Place: National Institutes of Health, Natcher Building, Conference Room D, 45 Center Drive, Bethesda, MD 20892.
Contact Person: Matthew J. Fenton, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rm 4F50, Bethesda, MD 20892, 301–496–7291, *fentonm@niaid.nih.gov*.

Name of Committee: National Advisory Allergy and Infectious Diseases Council.
Date: September 21, 2015.
Open: 10:30 a.m. to 11:40 a.m.
Agenda: Report from the Institute Director.
Place: National Institutes of Health, Natcher Building, Conference Rooms E1/E2, 45 Center Drive, Bethesda, MD 20892.
Closed: 11:40 a.m. to 12:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Natcher Building, Conference Rooms E1/E2, 45 Center Drive, Bethesda, MD 20892.
Contact Person: Matthew J. Fenton, Ph.D., Director, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rm 4F50, Bethesda, MD 20892, 301–496–7291, *fentonm@niaid.nih.gov*.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit. Information is also available on the Institute's/Center's home page: *www.niaid.nih.gov/facts/facts.htm,* where an agenda and any additional information for the meeting will be posted when available.

(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: December 23, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–30621 Filed 12–30–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposal and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposal, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development; Special Emphasis Panel.
Date: January 15, 2015.
Time: 1:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).
Contact Person: Sathasiva B. Kandasamy, Ph.D., Scientific Review Officer, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Executive Boulevard, Rockville, MD 20892–9304, (301) 435–6680, *skandasa@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: December 24, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–30615 Filed 12–30–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIAID Investigator Initiated Program Project Applications (P01).
Date: January 8, 2015.
Time: 12:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 5601 Fisher Lane, Rockville, MD 20892, (Telephone Conference Call).
Contact Person: Jane K. Battles, PhD., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, Room F30B, Rockville, MD 20852, 240–669–5029.

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. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: December 23, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–30535 Filed 12–30–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2014–1020]

Guidance on Maritime Cybersecurity Standards

AGENCY: Coast Guard, DHS.

ACTION: Correction.

SUMMARY: The Coast Guard published a notice in the **Federal Register** on December 18, 2014 requesting public comments on maritime cybersecurity standards. The notice included a footnote that contained an error regarding the scope of the population that might wish to submit comments on the notice. The purpose of this correction is to clarify that Coast Guard seeks comments from all parties interested in maritime cybersecurity standards.

DATES: This correction is effective December 31, 2014. The comment period remains open through February 17, 2015.

ADDRESSES: Submit comments using one of the listed methods, and see **SUPPLEMENTARY INFORMATION** for more information on public comments.

- Online—*http://www.regulations.gov* following Web site instructions.
- Fax—202–493–2251.
- Mail or hand deliver—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. Hours for hand delivery are 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays (telephone 202–366–9329).

FOR FURTHER INFORMATION CONTACT: For information about this document call or email LT Josephine Long, Coast Guard; telephone 202–372–1109, email *Josephine.A.Long@uscg.mil* or LCDR Joshua Rose, Coast Guard; 202–372–1106, email *Joshua.D.Rose@uscg.mil.* For information about viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826, toll free 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Public Participation and Comments

We encourage you to submit comments (or related material) on the notice we published on December 18, 2014 (79 FR 75574). We will consider all submissions and may adjust our final policy actions based on your comments. Comments should be marked with docket number USCG–2014–1020, and should provide a reason for each suggestion or recommendation. You should provide personal contact information so that we can contact you if we have questions regarding your comments; but please note that all comments will be posted to the online docket without change and that any personal information you include can be searchable online (see the **Federal Register** Privacy Act notice regarding our public dockets, 73 FR 3316, Jan. 17, 2008).

Mailed or hand-delivered comments should be in an unbound 8½ x 11 inch format suitable for reproduction. The Docket Management Facility will acknowledge receipt of mailed comments if you enclose a stamped, self-addressed postcard or envelope with your submission.

Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following the Web site's instructions. You can also view the docket at the Docket Management Facility (see the mailing address under **ADDRESSES**) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Correction

In the December 18, 2014 edition of the **Federal Register**, the Coast Guard published a notice titled, ''Guidance on Maritime Cybersecurity Standards'' (79 FR 75574). In providing background information, the notice contained the following statement: ''Coast Guard regulations require certain vessel and facility operators to conduct security assessments, and to develop security plans that address vulnerabilities identified by the security assessment.'' Mistakenly, the footnote at the end of that statement, referencing the applicable regulatory citations, referred to 33 CFR parts 104 (vessels) and 105 (facilities), but failed to refer to 33 CFR part 106 (outer continental shelf facilities). To avoid any confusion that may have resulted from the inadvertent omission of 33 CFR part 106 from the footnote, we wish to clarify that we are soliciting comments from all parties interested in maritime cybersecurity standards, including all parties regulated by the Coast Guard under 33 CFR chapter I, subchapter H.

Authority

This notice is issued under the authority of 5 U.S.C. 552(a).

Dated: December 23, 2014.

Katia Cervoni,

Chief, Office of Regulations and Administrative Law, U.S. Coast Guard.

[FR Doc. 2014–30613 Filed 12–30–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1461]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before March 31, 2015.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1461, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

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

Dated: December 11, 2014.

Roy E. Wright,

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

I. Watershed-Based Studies:

UPPER CHOCTAWHATCHEE WATERSHED

Community	Community map repository address
Coffee County, Alabama, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
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City of Enterprise	City Hall, 501 South Main Street, Enterprise, AL 36330.
Town of New Brockton	Town Hall, 706 East McKinnon Street, New Brockton, AL 36351.
Unincorporated Areas of Coffee County	8 County Complex, 1065 East McKinnon Street, New Brockton, AL 36351.
Dale County, Alabama, and Incorporated Areas	
City of Daleville	City Hall, 740 South Daleville Avenue, Daleville, AL 36322.
City of Enterprise	City Hall, 501 South Main Street, Enterprise, AL 36330.
City of Fort Rucker	Emergency Management Agency, 453 Novasel Street, Building 114, Fort Rucker, AL 36362.
City of Midland City	City Hall, 1385 Hinton Waters Avenue, Midland City, AL 36350.
City of Ozark	City Hall, 275 North Union Avenue, Ozark, AL 36360.
Town of Ariton	Town Hall, 6 East Main Street, Ariton, AL 36311.
Town of Clayhatchee	Town Hall, 1 West Main Street, Daleville, AL 36322.
Town of Level Plains	Town Hall, 1708 Joe Bruer Road, Daleville, AL 36322.
Town of Newton	Town Hall, 209 Oats Drive, Newton, AL 36352.
Town of Pinckard	Town Hall, 1309 East Highway 134, Pinckard, AL 36371.
Unincorporated Areas of Dale County	Dale County Courthouse, 100 Court Square, Ozark, AL 36361.
Geneva County, Alabama, and Incorporated Areas	
City of Geneva	City Hall, 517 South Commerce Street, Geneva, AL 36340.
City of Hartford	City Hall, 203 West Main Street, Hartford, AL 36344.
City of Slocomb	City Hall, 255 Harris Highway, Slocomb, AL 36375.
Town of Coffee Springs	Town Office, 222 East Spring Street, Coffee Springs, AL 36318.
Town of Malvern	Town Hall, 312 South Main Street, Malvern, AL 36349.

UPPER CHOCTAWHATCHEE WATERSHED—Continued

Community	Community map repository address
Unincorporated Areas of Geneva County	Geneva County Emergency Management Agency, 200 South Commerce Street, Geneva, AL 36340.
Houston County, Alabama, and Incorporated Areas	
Unincorporated Areas of Houston County	Houston County Engineer's Office, 2400 Columbia Highway, Dothan, AL 36303.

II. Non-Watershed-Based Studies:

Community	Community map repository address
San Diego County, California, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Imperial Beach	City Hall, 825 Imperial Beach Boulevard, Imperial Beach, CA 91932.
City of San Diego	Development Services Department, 1222 First Avenue, MS301, San Diego, CA 92101.
Unincorporated Areas of San Diego County	Department of Public Works, Flood Control, 5510 Overland Avenue, Suite 410, San Diego, CA 92123.
Sarasota County, Florida, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of North Port	Building Office, 4970 City Hall Boulevard, North Port, FL 34286.
City of Sarasota	City Hall, 1565 1st Street, Sarasota, FL 34236.
City of Venice	City Hall, 401 West Venice Avenue, Venice, FL 34285.
Town of Longboat Key	Public Works Department, 600 General Harris Street, Longboat Key, FL 34228.
Unincorporated Areas of Sarasota County	Sarasota County Zoning Department, 1001 Sarasota Center Boulevard, Sarasota, FL 34240.

[FR Doc. 2014–30645 Filed 12–30–14; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of February 18, 2015 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

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

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

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for

each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

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

Dated: December 11, 2014.

Roy E. Wright,

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

Community	Community map repository address
Mohave County, Arizona, and Incorporated Areas Docket No.: FEMA–B–1351	
City of Kingman	City Hall, 310 North 4th Street, Kingman, AZ 86401.
Unincorporated Areas of Mohave County	County Administration Building, 700 West Beale Street, Kingman, AZ 86401.
San Bernardino County, California, and Incorporated Areas Docket No.: FEMA–B–1351	
City of Ontario	City Hall, Engineering Department Public Counter, 303 East B Street, Ontario, CA 91764.
City of Rancho Cucamonga	City Hall, Engineering Department Plaza Level, 10500 Civic Center Drive, Rancho Cucamonga, CA 91730.
Fayette County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1348	
City of Connersville	Fayette County Area Plan Commission, Courthouse Annex, 401 North Central Avenue, Connersville, IN 47331.
Unincorporated Areas of Fayette County	Fayette County Area Plan Commission, Courthouse Annex, 401 North Central Avenue, Connersville, IN 47331.
Anne Arundel County, Maryland and Incorporated Areas Docket No.: FEMA–B–1352	
City of Annapolis	Department of Neighborhood and Environmental Programs, 145 Gorman Street, Annapolis, MD 21401.
Town of Highland Beach	Town Hall, 3243 Walnut Drive, Highland Beach, MD 21403.
Unincorporated Areas of Anne Arundel County	Anne Arundel County Department of Inspections and Permits, 2664 Riva Road, Annapolis, MD 21401.
Newaygo County, Michigan (All Jurisdictions) Docket No.: FEMA–B–1348	
Charter Township of Sheridan	Township Hall, 6360 South Township Parkway, Fremont, MI 49412.
City of Fremont	City Hall, 101 East Main Street, Fremont, MI 49412.
City of Newaygo	City Hall, 28 North State Road, Newaygo, MI 49337.
City of White Cloud	City Hall, 12 North Charles Street, White Cloud, MI 49349.
Township of Ashland	Township Hall, 2019 West 120th Street, Grant, MI 49327.
Township of Bridgeton	Township Hall, 11830 South Warner Avenue, Grant, MI 49327.
Township of Brooks	Township Hall, 490 Quarterline Road, Newaygo, MI 49337.
Township of Croton	Township Hall, 5833 East Division Street, Newaygo, MI 49337.
Township of Dayton	Township Hall, 3215 South Stone Road, Fremont, MI 49412.
Township of Everett	Township Hall, 1516 East 8th Street, White Cloud, MI 49349.
Township of Garfield	Township Hall, 7910 South Bingham Avenue, Newaygo, MI 49337.
Township of Lilley	Multi Purpose Building, 10767 Prospect Avenue, Bitely, MI 49309.
Township of Lincoln	Township Hall, 1988 North Wisner Avenue, White Cloud, MI 49349.
Township of Merrill	Township Hall, 1585 West 11 Mile Road, Bitely, MI 49309.
Township of Sherman	Township Hall, 2168 South Wisner Avenue, Fremont, MI 49412.
Township of Wilcox	Township Hall, 1795 North Evergreen Drive, White Cloud, MI 49349.
King George County, Virginia (All Jurisdictions) Docket No.: FEMA–B–1359	
Unincorporated Areas of King George County	King George County Community Development Department, 10459 Courthouse Drive, Suite 104, King George, VA 22485.
Northumberland County, Virginia (All Jurisdictions) Docket No.: FEMA–B–1352	
Unincorporated Areas of Northumberland County	Northumberland County Building and Zoning Department, 72 Monument Place, Heathsville, VA 22473.

Community	Community map repository address
Stafford County, Virginia (All Jurisdictions) Docket No.: FEMA–B–1359	
Unincorporated Areas of Stafford County	Stafford County Administration Center, Department of Code Administration, 1300 Courthouse Road, Stafford, VA 22554.

[FR Doc. 2014–30683 Filed 12–30–14; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1459]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before March 31, 2015.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1459, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

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

Dated: December 11, 2014.

Roy E. Wright,

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

I. Watershed-Based Studies:

LOWER LITTLE BLUE WATERSHED

Community	Community map repository address
Gage County, Nebraska, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Unincorporated Areas of Gage County	Gage County Highway Department, 823 South 8th Street, Beatrice, NE 68310.
Town of Leitchfield	Village Hall, 102 Grand Avenue, Barneston, NE 68309.

II. Non-Watershed-Based Studies:

Community	Community map repository address
Bourbon County, Kansas, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Fort Scott	Memorial Hall, 1 East Third Street, Fort Scott, KS 66701.
Unincorporated Areas of Bourbon County	GIS Office, 210 South National Avenue, Fort Scott, KS 66701.

[FR Doc. 2014–30643 Filed 12–30–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The effective date of February 4, 2015 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

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

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

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

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

Dated: December 11, 2014.

Roy E. Wright,

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

Community	Community map repository address
New Castle County, Delaware, and Incorporated Areas Docket No.: FEMA–B–1352	
City of Delaware City	City Hall, 407 Clinton Street, Delaware City, DE 19706.

Community	Community map repository address
City of New Castle	Public Works Building, 900 Wilmington Road, New Castle, DE 19720–3638.
City of Wilmington	Department of Licensing and Inspection, 800 North French Street, Wilmington, DE 19801.
Town of Middletown	Town Hall, 19 West Green Street, Middletown, DE 19709.
Town of Odessa	Town Hall, 315 Main Street, Odessa, DE 19730.
Town of Townsend	Town Hall, 661 South Street, Townsend, DE 19734.
Unincorporated Areas of New Castle County	New Castle County Land Use Department, 87 Reads Way, New Castle, DE 19720.
Howard County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1348	
City of Kokomo	Kokomo Planning Commission, 120 East Mulberry Street, Suite 114, Kokomo, IN 46901.
Town of Greentown	Town Hall, 112 North Meridian Street, Greentown, IN 46936.
Town of Russiaville	Town Hall, 250 North Union Street, Russiaville, IN 46979.
Unincorporated Areas of Howard County	Kokomo Planning Commission, 120 East Mulberry Street, Suite 114, Kokomo, IN 46901.
Somerset County, Maryland and Incorporated Areas Docket No.: FEMA–B–1352	
City of Crisfield	City Hall, 319 West Main Street, Crisfield, MD 21817.
Town of Princess Anne	Town Hall, 30489 Broad Street, Princess Anne, MD 21853.
Unincorporated Areas of Somerset County	Somerset County Department of Technical and Community Services, 11916 Somerset Avenue, Suite 211, Princess Anne, MD 21853.
Mecosta County, Michigan (All Jurisdictions) Docket No.: FEMA–B–1348	
Charter Township of Green	Green Charter Township, 21431 Northland Drive, Paris, MI 49338.
City of Big Rapids	City Hall, 226 North Michigan Avenue, Big Rapids, MI 49307.
Township of Aetna	Aetna Township Hall, 196 North Cass Street, Morley, MI 49336.
Township of Austin	Austin Township Hall, 14132 Pierce Road, Stanwood, MI 49346.
Township of Big Rapids	Township Hall, 14212 Northland Drive, Big Rapids, MI 49307.
Township of Colfax	Colfax Township Hall, 14428 157th Avenue, Big Rapids, MI 49307.
Township of Deerfield	Deerfield Township Hall, 396 East Fourth Street, Morley, MI 49336.
Township of Fork	Fork Township Hall, 147 Northern Avenue, Barryton, MI 49305.
Township of Grant	Grant Township Hall, 21 Mile Road and 150th Avenue, Big Rapids, MI 49307.
Township of Mecosta	Mecosta Township Hall, 19729 11 Mile Road, Big Rapids, MI 49307.
Township of Morton	Morton Township Hall, 290 West Main Street, Mecosta, MI 49332.
Village of Barryton	Village Hall, 94 Angel, Barryton, MI 49305.
Village of Mecosta	Village Office, 115 West Main Street, Mecosta, MI 49332.
Village of Morley	Village Hall, 189 South Cass Street, Morley, MI 49336.
Jefferson County, Wisconsin, and Incorporated Areas Docket No.: FEMA–B–1315	
City of Fort Atkinson	City Hall, 101 North Main Street, Fort Atkinson, WI 53538.
City of Jefferson	City Hall, 317 South Main Street, Jefferson, WI 53549.
City of Lake Mills	City Hall, 200 D Water Street, Lake Mills, WI 53551.
City of Waterloo	City Hall, 136 North Monroe Street, Waterloo, WI 53594.
City of Watertown	City Hall, 106 Jones Street, Watertown, WI 53094.
City of Whitewater	City Hall, 312 West Whitewater Street, Whitewater, WI 53190.
Unincorporated Areas of Jefferson County	County Courthouse, Room 201, 320 North Main Street, Jefferson, WI 53949.
Village of Cambridge	Village Hall, 200 Spring Street, Cambridge, WI 53523.
Village of Johnson Creek	Village Hall, 125 Depot Street, Johnson Creek, WI 53038.
Village of Lac La Belle	Village Hall, 600 Lac La Belle Drive, Oconomowoc, WI 53066.
Village of Palmyra	Village Hall, 100 West Taft Street, Palmyra, WI 53156.

[FR Doc. 2014–30679 Filed 12–30–14; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1458]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov*; or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html*.

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

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

Dated: December 11, 2014.

Roy E. Wright,

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

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Arkansas: Benton	City of Rogers, (14–06–1977P).	The Honorable Greg Hines, Mayor, City of Rogers, 301 West Chestnut Street, Rogers, AR 72756.	City Hall, 301 West Chestnut Street, Rogers, AR 72756.	*http://www.msc.fema.gov/lomc.*	Feb. 20, 2015	050013
District of Columbia: Washington	District of Columbia, (14–03–2215P).	The Honorable Vincent C. Gray, Mayor, District of Columbia, 1350 Pennsylvania Avenue, Northwest, Suite 316, Washington, DC 20004.	Department of the Environment, 1200 1st Street, Northeast, 5th Floor, Washington, DC 20002.	*http://www.msc.fema.gov/lomc.*	Mar. 4, 2015	110001

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Maryland: Montgomery	Unincorporated areas of Montgomery County, (13–03–1642P).	The Honorable Isiah Leggett, Montgomery County Executive, 101 Monroe Street, 2nd Floor, Rockville, MD 20850.	Montgomery County Department of Permitting Services, 255 Rockville Pike, 2nd Floor, Rockville, MD 20850.	*http://www.msc.fema.gov/lomc.*	Mar. 2, 2015	240049
Massachusetts:						
Middlesex	City of Lowell, (14–01–1641P).	Mr. Kevin J. Murphy, Manager, City of Lowell, 375 Merrimack Street, 2nd Floor, Room 43, Lowell, MA 01852.	City Hall, 375 Merrimack Street, Lowell, MA 01852.	*http://www.msc.fema.gov/lomc.*	Feb. 20, 2015	250201
Middlesex	Town of Chelmsford, (14–01–1641P).	The Honorable Patricia Wojtas, Chairman, Chelmsford Town Board of Selectmen, 50 Billerica Road, 2nd Floor, Chelmsford, MA 01824.	Town Hall, 50 Billerica Road, Chelmsford, MA 01824.	*http://www.msc.fema.gov/lomc.*	Feb. 20, 2015	250188
New Mexico: Lincoln	Unincorporated areas of Lincoln County, (14–06–2363P).	Ms. Nita Taylor, Manager, Lincoln County, P.O. Box 711, Carrizozo, NM 88301.	Lincoln County, 115 Kansas City Road, Ruidoso, NM 88345.	*http://www.msc.fema.gov/lomc.*	Feb. 5, 2015	350122
Pennsylvania:						
Chester	Township of Caln, (14–03–1638P).	The Honorable John Contento, President, Caln Township Board of Commissioners, 253 Municipal Drive, Thorndale, PA 19372.	Caln Township Municipal Building, 253 Municipal Drive, Thorndale, PA 19372.	*http://www.msc.fema.gov/lomc.*	Feb. 6, 2015	422247
Dauphin	Township of Derry, (14–03–0956P).	The Honorable John Foley, Chairman, Derry Township Board of Supervisors, 600 Clearwater Road, Hershey, PA 17033.	Derry Township Municipal Building, 600 Clearwater Road, Hershey, PA 17033.	*http://www.msc.fema.gov/lomc.*	Feb. 6, 2015	420376
Texas:						
Bexar	City of San Antonio, (13–06–2738P).	The Honorable Ivy R. Taylor, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Department of Public Works, Storm Water Engineering, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*http://www.msc.fema.gov/lomc.*	Mar. 2, 2015	480045
Bexar	City of San Antonio, (14–06–0171P).	The Honorable Ivy R. Taylor, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Department of Public Works, Storm Water Engineering, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*http://www.msc.fema.gov/lomc.*	Mar. 2, 2015	480045
Bexar	Unincorporated areas of Bexar County, (14–06–0171P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	*http://www.msc.fema.gov/lomc.*	Mar. 2, 2015	480035
Bexar	Unincorporated areas of Bexar County, (14–06–3173P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	*http://www.msc.fema.gov/lomc.*	Mar. 4, 2015	480035
Bowie	Unincorporated areas of Bowie County, (13–06–3716P).	The Honorable Sterling Lacy, Bowie County Judge, 710 James Bowie Drive, New Boston, TX 75570.	Bowie County Courthouse, 710 James Bowie Drive, New Boston, TX 75570.	*http://www.msc.fema.gov/lomc.*	Jan. 27, 2015	481194
Collin	City of Wylie, (14–06–1119P).	The Honorable Eric Hogue, Mayor, City of Wylie, 300 Country Club Road, Building 100, Wylie, TX 75098.	300 Country Club Road, Building 100, Wylie, TX 75098.	*http://www.msc.fema.gov/lomc.*	Feb. 5, 2015	480759
Comal	City of New Braunfels, (13–06–4372P).	The Honorable Barron Casteel, Mayor, City of New Braunfels, 424 South Castell Avenue, New Braunfels, TX 78130.	Municipal Building, 424 South Castell Avenue, New Braunfels, TX 78130.	*http://www.msc.fema.gov/lomc.*	Feb. 26, 2015	485493

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Dallas	City of Rowlett, (14–06–2443P).	The Honorable Todd W. Gottel, Mayor, City of Rowlett, 4000 Main Street, Rowlett, TX 75088.	Development Services Building, 3901 Main Street, Rowlett, TX 75088.	*http://www.msc.fema.gov/lomc.*	Mar. 13, 2015	480185
Dallas and Denton.	City of Coppell, (14–06–1947P).	The Honorable Karen Hunt, Mayor, City of Coppell, P.O. Box 9478, Coppell, TX 75019.	Engineering Department, 265 Parkway Boulevard, Coppell, TX 75019.	*http://www.msc.fema.gov/lomc.*	Feb. 9, 2015	480170
El Paso	Unincorporated areas of El Paso County, (13–06–3651P).	The Honorable Veronica Escobar, El Paso County Judge, 500 East San Antonio Street, Suite 301, El Paso, TX 79901.	El Paso County Public Works Department, 800 East Overland Avenue, Suite 407, El Paso, TX 79901.	*http://www.msc.fema.gov/lomc.*	Mar. 4, 2015	480212
Kendall	City of Boerne, (14–06–2663P).	The Honorable Mike Schultz, Mayor, City of Boerne, 402 East Blanco Road, Boerne, TX 78006.	Department of Planning and Community Development, 402 East Blanco Road, Boerne, TX 78006.	*http://www.msc.fema.gov/lomc.*	Feb. 9, 2015	480418
Kendall	Unincorporated areas of Kendall County, (14–06–1363P).	The Honorable Darrel L. Lux, Kendall County Judge, 201 East San Antonio Avenue, Suite 122, Boerne, TX 78006.	Kendall County Development and Floodplain Management Office, 201 East San Antonio Avenue, Suite 101, Boerne, TX 78006.	*http://www.msc.fema.gov/lomc.*	Feb. 17, 2015	480417
Tarrant	City of Colleyville, (14–06–2163P).	The Honorable David Kelly, Mayor, City of Colleyville, 100 Main Street, Colleyville, TX 76034.	Engineering Division, 100 Main Street, 2nd Floor, Colleyville, TX 76034.	*http://www.msc.fema.gov/lomc.*	Feb. 3, 2015	480590
Tarrant	City of Southlake, (14–06–2163P).	The Honorable John Terrell, Mayor, City of Southlake, 1400 Main Street, Suite 270, Southlake, TX 76092.	Public Works Administration and Engineering Division, 1400 Main Street, Suite 320, Southlake, TX 76092.	*http://www.msc.fema.gov/lomc.*	Feb. 3, 2015	480612
Williamson ..	City of Georgetown, (13–06–1572P).	The Honorable Dale Ross, Mayor, City of Georgetown, 113 East 8th Street, Georgetown, TX 78626.	City Hall, 113 East 8th Street, Georgetown, TX 78626.	*http://www.msc.fema.gov/lomc.*	Feb. 26, 2015	480668
Williamson ..	City of Round Rock, (14–06–2866P).	The Honorable Alan McGraw, Mayor, City of Round Rock, 221 East Main Street, Round Rock, TX 78664.	Department of Utilities and Environmental Services, 2008 Enterprise Drive, Round Rock, TX 78664.	*http://www.msc.fema.gov/lomc.*	Mar. 13, 2015	481048
Virginia:						
Prince William.	Unincorporated areas of Prince William County, (14–03–0598P).	The Honorable Melissa S. Peacor, Prince William County Executive, 1 County Complex Court, Prince William, VA 22192.	Prince William County, James J. McCoart Administration Building, 5 County Complex Court, Suite 170, Prince William, VA 22192.	*http://www.msc.fema.gov/lomc.*	Jan. 22, 2015	510119
Stafford	Unincorporated areas of Stafford County, (14–03–1089P).	The Honorable Jack Cavalier, Chairman, Stafford County Board of Supervisors, P.O. Box 339, Stafford, VA 22555.	Stafford County Administration Center, 1300 Courthouse Road, Stafford, VA 22554.	*http://www.msc.fema.gov/lomc.*	Feb. 4, 2015	510154

[FR Doc. 2014–30721 Filed 12–30–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports,

currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

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

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

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

Dated: December 11, 2014.

Roy E. Wright,

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

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Delaware: New Castle, (FEMA Docket No.: B–1432).	Unincorporated areas of New Castle County, (13–03–2557P).	The Honorable Thomas P. Gordon, New Castle County Executive, 87 Reads Way, New Castle, DE 19720.	New Castle County Government Center, Land Use Department, 87 Reads Way, New Castle, DE 19720.	November 14, 2014	105085
Minnesota:					
Steele, (FEMA Docket No.: B–1432).	City of Owatonna, (14–05–4257P).	The Honorable Thomas Kuntz, Mayor, City of Owatonna, 540 West Hills Circle, Owatonna, MN 55060.	City Administration Building, 540 West Hills Circle, Owatonna, MN 55060.	November 12, 2014	270463
Steele, (FEMA Docket No.: B–1432).	Unincorporated areas of Steele County, (14–05–4257P).	Mr. Tom Shea, Steele County Administrator, P.O. Box 890, Owatonna, MN 55060.	Steele County Planning and Zoning Department, 630 Florence Avenue, Owatonna, MN 55060.	November 12, 2014	270635
Oklahoma:					
Tulsa, (FEMA Docket No.: B–1432).	City of Owasso, (13–06–0281P).	The Honorable Jeri Moberly, Mayor, City of Owasso, 111 North Main Street, Owasso, OK 74055.	City Municipal Building, 111 North Main Street, Owasso, OK 74055.	October 24, 2014	400210
Tulsa, (FEMA Docket No.: B–1432).	Unincorporated areas of Tulsa County, (13–06–0281P).	The Honorable Ron Peters, Chairman, Tulsa County Board of Commissioners, 500 South Denver Avenue, Tulsa, OK 74103.	Tulsa County Administration Building, 500 South Denver Avenue, Tulsa, OK 74103.	October 24, 2014	400462
Texas:					
Bexar, (FEMA Docket No.: B–1432).	City of San Antonio, (13–06–3277P).	The Honorable Ivy R. Taylor, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Department of Public Works, Storm Water Engineering, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	November 6, 2014	480045
Collin, (FEMA Docket No.: B–1437).	City of Allen, (13–06–4603P).	The Honorable Stephen Terrell, Mayor, City of Allen, 305 Century Parkway, 1st Floor, Allen, TX 75013.	City Hall, 305 Century Parkway, Allen, TX 75013.	November 7, 2014	480131
El Paso, (FEMA Docket No.: B–1432).	City of El Paso, (14–06–2375P).	The Honorable Oscar Leeser, Mayor, City of El Paso, 300 North Campbell Street, El Paso, TX 79901.	Engineering Department, 222 South Campbell Street, El Paso, TX 79901.	October 27, 2014	480214
Harris, (FEMA Docket No.: B–1432).	Unincorporated areas of Harris County, (14–06–1909P).	The Honorable Ed M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permits Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	November 5, 2014	480287

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Montgomery, (FEMA Docket No.: B–1432).	City of Conroe, (13–06–3866P).	The Honorable Webb K. Melder, Mayor, City of Conroe, P.O. Box 3066, Conroe, TX 77305.	City Hall, 300 West Davis Street, Conroe, TX 77301.	October 29, 2014	480484
Tarrant, (FEMA Docket No.: B–1441).	City of Keller, (13–06–4442P).	The Honorable Mark Mathews, Mayor, City of Keller, P.O. Box 770, Keller, TX 76244.	City Hall, 1100 Bear Creek Parkway, Keller, TX 76248.	November 21, 2014	480602
Tarrant, (FEMA Docket No.: B–1441).	City of Southlake, (13–06–4442P).	The Honorable John Terrell, Mayor, City of Southlake, 1400 Main Street, Suite 270, Southlake, TX 76092.	Public Works Department, Administration and Engineering Division, 1400 Main Street, Suite 320, Southlake, TX 76092.	November 21, 2014	480612
Virginia:					
Arlington, (FEMA Docket No.: B–1432).	Unincorporated areas of Arlington County, (13–03–1764P).	The Honorable Jay Fisette, Jr., Chairman, Arlington County Board, 2100 Clarendon Boulevard, Suite 300, Arlington, VA 22201.	Arlington County Department of Environmental Services, 2100 Clarendon Boulevard, Suite 800, Arlington, VA 22201.	October 31, 2014	515520
City of Falls Church, (FEMA Docket No.: B–1432).	Independent City of Falls Church, (13–03–1764P).	The Honorable David Tarter, Mayor, City of Falls Church, 300 Park Avenue, Suite 300 East, Falls Church, VA 22046.	Department of Public Works, 300 Park Avenue, Suite 100 West, Falls Church, VA 22046.	October 31, 2014	510054

[FR Doc. 2014–30642 Filed 12–30–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4204–DR; Docket ID FEMA–2014–0003]

New York; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New York (FEMA–4204–DR), dated December 22, 2014, and related determinations.

DATES: *Effective Date:* December 22, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated December 22, 2014, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of New York resulting from a severe winter storm, snowstorm, and flooding during the period of November 17–26, 2014, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of New York.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. You are further authorized to provide snow assistance under the Public Assistance program for a limited period of time during or proximate to the incident period. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, William L. Vogel, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of New York have been designated as adversely affected by this major disaster:

Cattaraugus, Chautauqua, Erie, Genesee, Jefferson, Lewis, Orleans, St. Lawrence, and Wyoming Counties for Public Assistance.

Erie, Genesee, and Wyoming Counties for snow assistance under the Public Assistance program for any continuous 48-hour period during or proximate to the incident period.

All areas within the State of New York are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–30651 Filed 12–30–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4193–DR; Docket ID FEMA–2014–0003]

California; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of California (FEMA–4193–DR), dated September 11, 2014, and related determinations.

DATES: *Effective Date:* December 19, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Timothy J. Scranton, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Stephen M. De Blasio Sr. as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–30653 Filed 12–30–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4195–DR; Docket ID FEMA–2014–0003]

Michigan; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of Michigan (FEMA–4195–DR), dated September 25, 2014, and related determinations.

DATES: *Effective Date:* December 24, 2014.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, David Samaniego, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Dolph A. Diemont as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–30726 Filed 12–30–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2014–0001]

RIN 1652–ZA19

TSA Pre✓® Application Program; Expansion of Enrollment Options

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice; request for comments.

SUMMARY: The Transportation Security Administration (TSA) recently announced its intent to expand enrollment options for the TSA Pre✓® Application Program. The purpose of this Notice is to solicit comments from the traveling public concerning their overall views on the TSA Pre✓® Application Program and on TSA efforts to improve and/or expand enrollment.

ADDRESSES: You may submit comments, identified by the TSA docket number to this Notice, to the Federal Docket Management System (FDMS), a government-wide, electronic docket management system, using any one of the following methods:

Electronically: You may submit comments through the Federal eRulemaking portal at *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Mail, in Person, or Fax: Address, hand-deliver, or fax your written comments to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; fax (202) 493–2251. The Department of Transportation (DOT), which maintains and processes TSA's official regulatory dockets, will scan the submission and post it to FDMS. See **SUPPLEMENTARY INFORMATION** for format and other information about comment submissions.

FOR FURTHER INFORMATION CONTACT: Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6014; email: *tsa-fees@dhs.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

TSA invites interested persons to submit written comments, data, or views. *See* **ADDRESSES** above for information on where to submit comments.

With each comment, please identify the docket number at the beginning of your comments. TSA encourages commenters to provide their names and addresses. You may submit comments and material electronically, in person, by mail, or fax as provided under **ADDRESSES**, but please submit your comments and material by only one means. If you submit comments by mail or delivery, submit them in an unbound format, no larger than 8.5 by 11 inches, suitable for copying and electronic filing.

If you would like TSA to acknowledge receipt of comments submitted by mail, include with your comments a self-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

TSA will file all comments to our docket address, as well as items sent to the address or email under **FOR FURTHER INFORMATION CONTACT**, in the public docket, except for comments containing confidential information and sensitive security information (SSI). Should you wish your personally identifiable information redacted prior to filing in the docket, please so state. TSA will

consider all comments that are in the docket on or before the closing date for comments and will consider comments filed late to the extent practicable. The docket is available for public inspection before and after the comment closing date.

Reviewing Comments in the Docket

Please be aware that anyone is able to search the electronic form of all comments in any of our dockets by the name of the individual who submitted the comment (or signed the comment, if an association, business, labor union, etc., submitted the comment). You may review the applicable Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477) and modified on January 17, 2008 (73 FR 3316).

You may review TSA's electronic public docket on the Internet at *http://www.regulations.gov.* In addition, DOT's Docket Management Facility provides a physical facility, staff, equipment, and assistance to the public. To obtain assistance or to review comments in TSA's public docket, you may visit this facility between 9:00 a.m. and 5:00 p.m., Monday through Friday, excluding legal holidays, or call (202) 366–9826. This docket operations facility is located in the West Building Ground Floor, Room W12–140 at 1200 New Jersey Avenue SE., Washington, DC 20590.

Availability of This Document

You may obtain an electronic copy of this document using the Internet by—

(1) Searching the electronic Federal Docket Management System (FDMS) Web page at *http://www.regulations.gov;*

(2) Accessing the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR* to view the daily published **Federal Register** edition; or accessing the ''Search the **Federal Register** by Citation'' in the ''Related Resources'' column on the left, if you need to do a Simple or Advanced search for information, such as a type of document that crosses multiple agencies or dates; or

(3) Visiting TSA's Security Regulations Web page at *http://www.tsa.gov* and accessing the link for ''Stakeholders'' at the top of the page, then the link ''Research Center'' in the left column.

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number of this rulemaking.

DATES: Comments and related material must be received on or before January 30, 2015.

Discussion

In December 2013, TSA introduced the TSA Pre✓® Application Program,[1] a voluntary passenger prescreening initiative for low risk passengers who are eligible to receive expedited screening at participating U.S. airport security checkpoints.[2] This Program permits any member of the public to apply directly to TSA for eligibility by providing biographic and biometric information that TSA uses to conduct a comprehensive security threat assessment.[3] TSA issues a ''known traveler number'' to applicants who TSA deems a low risk to transportation security based on the results of the security threat assessment. As of December 5, 2014, 734,761 individuals have enrolled with TSA and been approved for the TSA Pre✓® Application Program.

TSA has established a total of 328 enrollment centers across the country for applicants to use to apply for the Program. Of these, 33 are located at airports and 295 are located off airport property. Many of the 295 enrollment centers were first established several years ago to meet the needs for other TSA programs, such as enrolling port workers applying for a Transportation Worker Identification Credential needed for access to maritime facilities, and commercial truck drivers applying for a Hazardous Materials Endorsement. TSA leveraged these enrollment centers when the TSA Pre✓® Application Program launched to quickly provide enrollment sites for interested individuals across the country.

The TSA Pre✓® Application Program is a risk-based approach to aviation screening that allows TSA to focus its limited resources on unknown and perhaps high-risk travelers, while improving the travel experience for most air travelers. The overwhelming majority of air passengers are 'low risk' travelers, but it is not possible for TSA to confirm that on an individual basis without more information. This program improves security by directly providing TSA with the information necessary to achieve a high level of confidence on the relative risk each individual may present. For this reason, TSA seeks new methods to expand the program at a greater pace than the current rate.

In September, TSA Administrator John Pistole announced that TSA is developing a private sector application initiative as an additional option for travelers to apply to TSA's Pre✓® Application Program. Under this initiative, TSA plans to expand enrollment options for the TSA Pre✓® Application Program by seeking proposals from the private sector to market, enroll, and pre-screen applicants.[4] TSA is seeking proposals for enrollment and prescreening from the private sector that would include, at a minimum, options to collect biographic and biometric (*e.g.,* fingerprints or iris scans) information, to validate identity, and to perform a criminal history records check to ensure that applicants do not have convictions for criminal offenses that would disqualify them from the TSA Pre✓® Application Program (please refer to the list of current disqualifiers available at *www.tsa.gov/tsa-precheck/eligibility-requirements*). These options may include the use of commercial and other publicly available data to conduct identity verification and prescreening of applicants.

[1] See, ''TSA Announces New Application Process for TSA Pre✓™, More Options to Apply for Expedited Screening; First Application Center to Open in Indianapolis,'' *http://www.tsa.gov/press/releases/2013/12/03/tsa-announces-new-application-process-tsa-precheck-more-options-apply.* See also: Privacy Impact Assessment for the TSA Pre✓™ Application Program, DHS/TSA/PIA–041, (Sept. 4, 2013), *www.dhs.gov/sites/default/files/publications/privacy-pia-tsa-precheck-09042013.pdf;* Notice of Privacy Act system of records, Privacy Act of 1974; Department of Homeland Security/Transportation Security Administration-DHS/TSA–021 TSA Pre✓™, 78 FR 55274 (Sept. 10, 2013); and Notice, TSA Pre✓™ Application Program Fee, 78 FR 72922 (Dec. 4, 2013).

[2] Passengers who are eligible for expedited screening through a dedicated lane typically receive more limited physical screening, *e.g.,* will be able to leave on their shoes, light outerwear, and belt; keep their laptop in its case; and keep their 3–1–1 compliant liquids/gels bag in a carry-on. The first travelers eligible for TSA Pre✓® screening included members of U.S. Customs and Border Protection (CBP) trusted traveler programs, and other groups such as government employees with security clearances for whom TSA had conducted a threat assessment.

[3] This threat assessment includes vetting the applicant's voluntarily submitted biographic and biometric information against law enforcement, immigration, and intelligence databases, including a criminal history check conducted by the Federal Bureau of Investigation using the applicant's fingerprints. See Privacy Impact Assessment for the TSA Pre✓™ Application Program, DHS/TSA/PIA–041, (Sept. 4, 2013), *www.dhs.gov/sites/default/files/publications/privacy-pia-tsa-precheck-09042013.pdf;* Notice of Privacy Act system of records, Privacy Act of 1974; Department of Homeland Security/Transportation Security Administration-DHS/TSA–021 TSA Pre✓™, 78 FR 55274 (Sept. 10, 2013); and Notice, TSA Pre✓™ Application Program Fee, 78 FR 72922 (Dec. 4, 2013).

[4] See the solicitation notice for the TSA Pre✓® Application Program Expansion Initiative in FedBizOpps.gov at *https://www.fbo.gov/index?s=opportunity&mode=form&id=7f7ef8721d3465271d42053408e50119&tab=core&_cview=0.*

For successfully enrolled and pre-screened applicants, TSA would conduct a security threat assessment and make a final eligibility determination for the TSA Pre✓® Application Program. By leveraging private-sector best practices in business operations, marketing, and algorithm optimization, TSA hopes to provide a better travel experience for an increased number of trusted travelers.[5]

We believe input from the traveling public can be useful in a variety of areas to enhance enrollment, including:

- Identification of convenient locations for enrollment centers;
- Preferred marketing and communications techniques to reach a higher percentage of travelers;
- Potential uses of private sector capabilities for marketing, enrollment, and prescreening of applicants;
- Data sources and methods to enhance the verification of an applicant's identity, including the use of commercially-available data;
- Ideas to remove barriers to the existing application process and/or ways to streamline the application process; and
- Other factors to improve the program overall.

Commenters must be cognizant of the fact that, while TSA will review and consider all comments received, TSA may not implement all comments. TSA, like most Government agencies, is subject to a variety of laws that may restrict our ability to significantly restructure the program. TSA is required by law to collect fees for all vetting and credentialing programs[6] and thus, we cannot eliminate the fee for conducting security threat assessments on applicants to determine their risk status. We must collect personal information from applicants in order to conduct security threat assessments, and thus must adhere to all laws that require the protection of and regulate the use of that information. Most importantly, TSA will not implement any new measure, process, or standard that diminishes security or prevents TSA from using its discretion to make final eligibility determinations for the TSA Pre✓® Application Program.

Dated: December 23, 2014.

Kenneth C. Fletcher,

Chief Risk Officer, Office of the Chief Risk Officer.

[FR Doc. 2014–30639 Filed 12–30–14; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5759–N–16]

60-Day Notice of Proposed Information Collection: Re-entry Assistance Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: Comments Due Date: March 2, 2015.

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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW., (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Re-entry Assistance Program.

OMB Approval Number: Pending.

Type of Request: New Collection.

Description of the need of the information and proposes use:

The Reentry Assistance Program Information Collection represents a new information request. The OMB approval number for this collection is pending. The information provided by the eligible applicants will be reviewed and evaluated by HUD. The information to be collected by HUD will be used to preliminarily rate applications, to determine eligibility for the Reentry Assistance Program Grant Competition and to establish grant amounts. The Reentry Assistance Program Grant Competition Application will be used to determine eligibility and funding for recipients. Respondents of this information collection will be public housing agencies and/or their partners. Forms for this information collection are under development, however it is anticipated that applicants will provide quantitative and qualitative data as well as narrative information for evaluation.

Respondents: Individual, State, Local or Tribal Government.

Form	Number of respondents	Response/year	Total annual responses	Hours per response	Total hours
SF424—Application for Federal Assistance	2,500	1	2,500	0.5	1,250
SF425—Federal Financial Report	200	1	200	1.0	200
HUD 96011—Facsimile Transmittal (OMB No. 2535–0118)	200	1	200	1.0	200
Reentry Assistance Application—Narrative (Strategy, Approach, Match, Budget)	200	1	200	80.0	16,000
HUD 96010—Logic Model (OMB No. 2535–0114)	200	1	200	40.0	8,000
HUD 2991 (Certification of Consistency with the Consolidated Plan (OMB No. 2506–0112)	200	1	200	1.0	200

[5] See ''TSA Pre✓™ Private Sector Vetting Initiative,'' *http://www.tsa.gov/press/news/2014/09/26/tsa-precheck-private-sector-vetting-initiative.*

[6] *See* 6 U.S.C. 469.

Form	Number of respondents	Response/year	Total annual responses	Hours per response	Total hours
Partnership Agreement between PHA and partners	200	1	200	40.0	8,000
Subtotal Application:				163.5	33,850
HUD 1044—Grant Agreement	17.0	1.0	17.0	1.0	17
Quarterly Performance Report (Narrative and Data)	17.0	4.0	68.0	4.0	272
HUD 27061 Race and Ethnic Data	17.0	1.0	17.0	2.0	34
Subtotal (Program Reporting/Recordkeeping)				7.0	323
Total Burden				170.5	34,173

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: December 23, 2014.

Michael Dennis,

Director, Office of Housing Voucher Programs.

[FR Doc. 2014–30668 Filed 12–30–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5759–N–17]

60-Day Notice of Proposed Information Collection: Application for Resident Opportunity & Self Sufficiency (ROSS) Grant Forms

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, PIH, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* March 2, 2015.

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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW., (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Application for the Resident Opportunities and Self Sufficiency (ROSS) Program.

OMB Approval Number: 5577–0229.

Type of Request: Revision of a currently approved collection.

Form Number: ROSS Grant Application forms: HUD 52752; HUD 52753; HUD–52754, HUD–52755; HUD–57268; HUD–52769; HUD–96010; SF–424; HUD–2880; HUD–2990; HUD–2991; SF–LLL, HUD–2993, HUD–2994–A.

Revision is being requested specifically for two forms: The HUD form 52768 (ROSS SERVICE COORDINATORS—FUNDING REQUEST) has been revised to add clarifying questions regarding two application types: Resident associations and nonprofit organizations and the form has been somewhat reformatted. Minor formatting changes were made to the HUD form 52769 (ROSS SERVICE COORDINATORS—NEEDS and SERVICE PARTNERS). The FSS Funding Request form (Form 52651) was removed from the collection.

Description of the need for the information and proposed use: The forms are used to evaluate capacity and eligibility of applicants to the ROSS program.

Respondents: Public Housing Authorities, tribes/TDHEs, public housing resident associations, and nonprofit organizations.

Estimated Number of Respondents: 400.

Estimated Number of Responses: 400.

Frequency of Response: 1.

Average Hours per Response: 5.5 hours.

Total Estimated Burdens: 2,200.

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.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: December 23, 2014.

Michael Dennis,

Director, Office of Housing Voucher Programs.

[FR Doc. 2014–30671 Filed 12–30–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5759–N–18]

60-Day Notice of Proposed Information Collection: Inspector Candidate Assessment Questionnaire

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* March 2, 2015.

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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW., (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Proposal: Inspector Candidate Assessment Questionnaire.

OMB Approval Number: 2577–0243.

Type of Request: Revision of a currently approved collection.

Form Number: Form HUD 50002A and Form HUD 50002B—HFA.

Description of the need for the information and proposed use: To meet the requirements of the Uniform Physical Condition Standards (UPCS), the Physical Condition of Multifamily Properties and the Public Housing Assessment System (PHAS) rules, the Department conducts physical condition inspections of approximately 14,000 multifamily and public housing properties annually. To conduct these inspections, HUD uses contract inspectors that are trained and certified in the Uniform Physical Condition Standards protocol by HUD. Individuals who wish to be trained and certified by HUD are requested to electronically submit the questionnaire via the Internet. The questionnaire provides HUD with basic knowledge of an individual's inspection skills and abilities. As part of aligning REAC inspections, state Housing Finance Agencies may also fill out the form for informational purposes only.

Respondents: Applicants to the UPCS inspector certification program and state HFA staff.

Estimated Number of Respondents: 605.

Estimated Number of Responses: 605.

Frequency of Response: To apply to UPCS training.

Average Hours per Response: 15 to 20 minutes depending on the respondent.

Total Estimated Burdens: 192 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: December 23, 2014.

Michael Dennis,

Director, Office of Housing Voucher Programs.

[FR Doc. 2014–30676 Filed 12–30–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2014–N147]; [FXES11120000–156–FF08ECAR00]

Endangered and Threatened Wildlife and Plants; Incidental Take Permit Application; Proposed Low-Effect Habitat Conservation Plan and Associated Documents; County of San Diego, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Pauma Estates, Inc. (applicant) for a 5-year incidental take permit for the endangered arroyo toad pursuant to the Endangered Species Act of 1973, as amended (Act). We are requesting comments on the permit application and on the preliminary

determination that the proposed HCP qualifies as a ''low-effect'' Habitat Conservation Plan, eligible for a categorical exclusion under the National Environmental Policy Act (NEPA) of 1969, as amended. The basis for this determination is discussed in the environmental action statement (EAS) and associated low-effect screening form, which are also available for public review.

DATES: Written comments should be received on or before January 30, 2015.

ADDRESSES: *Submitting Comments:* You may submit comments by one of the following methods:

- *U.S. Mail:* Field Supervisor, Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2177 Salk Avenue, Suite 250, Carlsbad, CA 92008.
- *Fax:* Field Supervisor, 760–431–9624.

Obtaining Documents: To request copies of the application, proposed HCP, and EAS, contact the Service immediately, by telephone at 760–431–9440 or by letter to the Carlsbad Fish and Wildlife Office (see **ADDRESSES**). Copies of the proposed HCP and EAS also are available for public inspection during regular business hours at the Carlsbad Fish and Wildlife Office (see **ADDRESSES**).

FOR FURTHER INFORMATION CONTACT: Ms. Karen A. Goebel, Assistant Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES**); telephone 760–431–9440. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), have received an application from Pauma Estates, Inc. (applicant) for a 5-year incidental take permit for one covered species pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.,* Act). The application addresses the potential ''take'' of the endangered arroyo toad in the course of activities associated with the construction of the Pauma Estates residential development in unincorporated San Diego County, California. A conservation program to avoid, minimize, and mitigate for project activities would be implemented as described in the proposed Habitat Conservation Plan (HCP) by the applicant.

We are requesting comments on the permit application and on the preliminary determination that the proposed HCP qualifies as a ''low-effect'' Habitat Conservation Plan, eligible for a categorical exclusion under the National Environmental Policy Act (NEPA) of 1969, as amended. The basis for this determination is discussed in the environmental action statement (EAS) and associated low-effect screening form, which are also available for public review.

Background

Section 9 of the Act and its implementing Federal regulations prohibit the ''take'' of animal species listed as endangered or threatened. Take is defined under the Act as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or to attempt to engage in any such conduct'' (16 U.S.C. 1538). ''Harm'' includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns such as breeding, feeding, or sheltering (50 CFR 17.3). However, under section 10(a) of the Act, the Service may issue permits to authorize incidental take of listed species. ''Incidental take'' is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species, respectively, are found at 50 CFR 17.22 and 50 CFR 17.32.

The applicant requests a 5-year permit under section 10(a)(1)(B) of the Act. If we approve the permit, the applicant anticipates taking arroyo toad [*Anaxyrus* (=*Bufo*) *californicus*] as a result of permanent impacts to 10.74 acres (ac) of habitat the species uses for feeding and sheltering. The take would be incidental to the applicant's activities associated with the construction of the Pauma Estates residential development in San Diego County, California, and includes in-perpetuity management activities within the proposed on-site biological open space area.

The Pauma Estates project proposes to grade 16 lots for residential homes, construct the associated initial infrastructure (private road and utilities installation), and improve 3.8 ac of public road. The applicant will grade and install the initial infrastructure improvements necessary to create residential lots that will subsequently be sold to individual buyers for final buildout (*e.g.,* pads, driveways, and landscaping) at an unspecified time in the future.

The project will impact 10.74 ac of arroyo toad upland aestivation habitat permanently as a result of the residential development activities.

To minimize take of arroyo toad by the Pauma Estates project and offset impacts to its habitat, the applicant proposes to mitigate for permanent impacts to approximately 10.74 ac of occupied arroyo toad habitat through the on-site preservation of approximately 9.43 ac of occupied arroyo toad habitat within a dedicated conservation easement. In addition, the applicant proposes to improve the quality of arroyo toad habitat within the 9.43-ac biological open space area by providing funding for and implementing the in-perpetuity management of the biological open space area pursuant to an approved Resource Management Plan. The applicant's proposed HCP also contains the following proposed measures to minimize the effects of activities to arroyo toad:

- Grading and construction within arroyo toad upland aestivation habitat will only take place during the arroyo toad breeding season (defined as March 15–July 31), when arroyo toads are less likely to occupy the upland habitat.
- A permanent arroyo toad barrier wall will be constructed between the development area and the on-site biological open space area.

The above described impacts and mitigation will occur within designated critical habitat for the arroyo toad. Although the project site is adjacent to occupied habitat for other federally threatened and endangered species, no other listed species or designated critical habitat occur within the project site.

Proposed Action and Alternatives

The Proposed Action consists of the issuance of an incidental take permit and implementation of the proposed HCP, which includes measures to avoid, minimize, and mitigate impacts to the arroyo toad. If we approve the permit, take of arroyo toad would be authorized for the applicant's activities associated with the construction of the Pauma Estates residential development. In the proposed HCP, the applicant considers alternatives to the taking of arroyo toad under the proposed action. Three alternatives to the taking of the listed species under the proposed action are considered in the proposed HCP.

(1) Under the Reduced Density Alternative, the project impact footprint would be reduced; however, the alternative would either render the project economically infeasible, or would result in insufficient funding to conserve and manage arroyo toad habitat areas not proposed for development.

(2) Under the Increased Density Alternative, additional areas of arroyo toad habitat would be impacted by project development and adequate

habitat for the arroyo toad would not remain for conservation and management, thereby providing no benefit to the species in the project area.

(3) Under the No Action Alternative, no arroyo toad habitat would be impacted or conserved.

Our Preliminary Determination

The Service has made a preliminary determination that approval of the proposed HCP qualifies as a categorical exclusion under NEPA, as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1) and as a ''low-effect'' plan as defined by the Habitat Conservation Planning Handbook (November 1996).

We base our determination that a HCP qualifies as a low-effect plan on the following three criteria:

(1) Implementation of the HCP would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats, including designated critical habitat;

(2) Implementation of the HCP would result in minor or negligible effects on other environmental values or resources; and

(3) Impacts of the HCP, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources that would be considered significant.

Based upon this preliminary determination, we do not intend to prepare further NEPA documentation. We will consider public comments in making the final determination on whether to prepare such additional documentation.

Next Steps

We will evaluate the proposed HCP and comments we receive to determine whether the permit application meets the requirements and issuance criteria under section 10(a) of the Act (16 U.S.C. 1531 *et seq.*). We will also evaluate whether issuance of a section 10(a)(1)(B) incidental take permit would comply with section 7 of the Act by conducting an intra-Service consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue a permit. If the requirements and issuance criteria under section 10(a) are met, we will issue the permit to the applicant for incidental take of arroyo toad.

Public Comments

If you wish to comment on the permit application, proposed HCP, and associated documents, you may submit comments by any of the methods noted in the **ADDRESSES** section.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Karen A. Goebel,

Acting Field Supervisor, Carlsbad Fish and Wildlife Office, Carlsbad, California.

[FR Doc. 2014–30689 Filed 12–30–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–NWRS–2014–N251; FXRS126309WHHC0–FF09R81000–156]

Wildlife and Hunting Heritage Conservation Council; Public Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a public meeting of the Wildlife and Hunting Heritage Conservation Council (Council). The Council provides advice about wildlife and habitat conservation endeavors that benefit wildlife resources; encourage partnership among the public, the sporting conservation organizations, the States, Native American tribes, and the Federal Government; and benefit recreational hunting.

DATES: *Meeting:* Tuesday January 13, 2015, from 8 a.m. to 4:30 p.m., and Wednesday January 14, 2015, from 8 a.m. to 1 p.m. (Eastern standard time). For deadlines and directions on registering to attend, requesting reasonable accommodations, submitting written material, and giving an oral presentation, please see ''Public Input'' under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held in the South Penthouse Room, Main Interior Building, 1849 C St. NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Joshua Winchell, Council Designated Federal Officer, U.S. Fish and Wildlife Service, National Wildlife Refuge System, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone (703) 358–2639; or email *joshua_winchell@fws.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we announce that Wildlife and Hunting Heritage Conservation Council will hold a meeting.

Background

Formed in February 2010, the Council provides advice about wildlife and habitat conservation endeavors that:

1. Benefit wildlife resources;

2. Encourage partnership among the public, the sporting conservation organizations, the states, Native American tribes, and the Federal Government; and

3. Benefit recreational hunting.

The Council advises the Secretary of the Interior and the Secretary of Agriculture, reporting through the Director, U.S. Fish and Wildlife Service (Service), in consultation with the Director, Bureau of Land Management (BLM); Director, National Park Service (NPS); Chief, Forest Service (USFS); Chief, Natural Resources Service (NRCS); and Administrator, Farm Services Agency (FSA). The Council's duties are strictly advisory and consist of, but are not limited to, providing recommendations for:

1. Implementing the Recreational Hunting and Wildlife Resource Conservation Plan—A Ten-Year Plan for Implementation;

2. Increasing public awareness of and support for the Wildlife Restoration Program;

3. Fostering wildlife and habitat conservation and ethics in hunting and shooting sports recreation;

4. Stimulating sportsmen and women's participation in conservation and management of wildlife and habitat resources through outreach and education;

5. Fostering communication and coordination among State, tribal, and Federal governments; industry; hunting and shooting sportsmen and women; wildlife and habitat conservation and management organizations; and the public;

6. Providing appropriate access to Federal lands for recreational shooting and hunting;

7. Providing recommendations to improve implementation of Federal conservation programs that benefit

wildlife, hunting, and outdoor recreation on private lands; and

8. When requested by the Designated Federal Officer in consultation with the Council Chairperson, performing a variety of assessments or reviews of policies, programs, and efforts through the Council's designated subcommittees or workgroups.

Background information on the Council is available at *http://www.fws.gov/whhcc.*

Meeting Agenda

The Council will convene to consider issues including:

1. Land and Water Conservation Fund;

2. BLM Land Use Planning Processes; and

3. Other Council business.

The final agenda will be posted on the Internet at *http://www.fws.gov/whhcc.*

Public Input

If you wish to	You must contact the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**) no later than
Attend the meeting	January 2, 2015.
Submit written information or questions before the meeting for the council to consider during the meeting.	January 2, 2015.
Give an oral presentation during the meeting.	January 2, 2015.

Attendance

To attend this meeting, register by close of business on the dates listed in ''Public Input'' under **SUPPLEMENTARY INFORMATION**. Please submit your name, time of arrival, email address, and phone number to the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**).

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions for the Council to consider during the public meeting. Written statements must be received by the date above, so that the information may be made available to the Council for their consideration prior to this meeting. Written statements must be supplied to the Council Coordinator in both of the following formats: One hard copy with original signature, and one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, MS PowerPoint, or rich text file).

Giving an Oral Presentation

Individuals or groups requesting to make an oral presentation at the meeting will be limited to 2 minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact the Council Coordinator, in writing (preferably via email; see **FOR FURTHER INFORMATION CONTACT**), to be placed on the public speaker list for this meeting. Nonregistered public speakers will not be considered during the meeting. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, may submit written statements to the Council Coordinator up to 30 days subsequent to the meeting.

Meeting Minutes

Summary minutes of the conference will be maintained by the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**). They will be available for public inspection within 90 days of the meeting, and will be posted on the Council's Web site at *http://www.fws.gov/whhcc.*

Rowan W. Gould,

Acting Director.

[FR Doc. 2014–30531 Filed 12–30–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–14876–D, F–14876–J, F–14876–N; LLAK940000–L14100000–HY0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Decision Approving Lands for Conveyance.

SUMMARY: The Bureau of Land Management (BLM) will issue an appealable decision approving the conveyance of the surface estate in the lands described below to NANA Regional Corporation, Inc., Successor in Interest to Kivalina Sinuakmeut Corporation, pursuant to the Alaska Native Claims Settlement Act (ANCSA). The subsurface estate in these lands will be conveyed to NANA Regional Corporation, Inc., when the surface estate is conveyed to NANA Regional Corporation, Inc., Successor in Interest to Kivalina Sinuakmeut Corporation.

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. Please see the **SUPPLEMENTARY INFORMATION** section for the time limits for appealing this decision.

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.

SUPPLEMENTARY INFORMATION: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision will be issued by the BLM to NANA Regional Corporation, Inc., Successor in Interest to Kivalina Sinuakmeut Corporation. 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 NANA Regional Corporation, Inc., when the surface estate is conveyed to NANA Regional Corporation, Inc., as Successor in Interest to Kivalina Sinuakmeut Corporation. Kivalina Sinuakmeut Corporation was the original ANCSA corporation for the village of Kivalina, but merged with NANA Regional Corporation, Inc., in 1976 under the authority of Public Law 94–204. The lands are in the vicinity of Kivalina, Alaska, and are described as:

Kateel River Meridian, Alaska

T. 26 N., R. 25 W.,
Sec. 24.
Containing 5.39 acres.
T. 28 N., R. 25 W.,
Secs. 9 and 10.
Containing 1,280 acres.
T. 29 N., R. 25 W.,
Sec. 23.
Containing 640 acres.
T. 28 N., R. 27 W.,
Sec. 21.
Containing 16.06 acres.
Aggregating 1,941.45 acres.

Notice of the decision will also be published once a week for four consecutive weeks in the *Arctic Sounder*.

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 January 30, 2015 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.

Joe J. Labay,

Land Transfer Resolution Specialist, Division of Lands and Cadastral.

[FR Doc. 2014–30725 Filed 12–30–14; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–19154–15, F–19154–60, F–19154–61; LLAK940000–L14100000–HY0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: The Bureau of Land Management (BLM) will issue an appealable decision approving the conveyance of the surface and subsurface estates in the lands described below to NANA Regional Corporation, Inc., pursuant to the Alaska Native Claims Settlement Act.

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. Please see the **SUPPLEMENTARY INFORMATION** section for the time limits for appealing this decision.

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.

SUPPLEMENTARY INFORMATION: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision will be issued by the BLM to NANA Regional Corporation, Inc. The decision approves conveyance of the surface and subsurface estates in the lands described below pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*). The lands are in the vicinity of Noorvik, Alaska, and are described as:

Lot 2, U.S. Survey No. 6253, Alaska.
Containing 49.63 acres.
Lot 2, U.S. Survey No. 6312, Alaska.
Containing 124.50 acres.

Kateel River Meridian, Alaska

T. 16 N., R. 8 W.,
Secs. 28, 29, and 32.
Containing 1,849.10 acres.
Aggregating 2,023.23 acres.

Notice of the decision will also be published once a week for four consecutive weeks in the *Arctic Sounder.*

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 January 30, 2015 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.

Joe J. Labay,

Land Transfer Resolution Specialist, Division of Lands and Cadastral.

[FR Doc. 2014–30724 Filed 12–30–14; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–14834–B, F–14834–B2; LLAK940000–L14100000–HY0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: The Bureau of Land Management (BLM) will issue an appealable decision approving the conveyance of the surface estate in the lands described below to Atqasuk Corporation pursuant to the Alaska Native Claims Settlement Act (ANCSA). These lands lie entirely within the National Petroleum Reserve—Alaska. As provided by the ANCSA, the subsurface estate in lands lying within the Petroleum Reserve is not available for conveyance to Arctic Slope Regional Corporation and will be reserved to the United States at the time of conveyance.

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. Please see the **SUPPLEMENTARY INFORMATION** section for the time limits for appealing this decision.

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.

SUPPLEMENTARY INFORMATION: 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 Atqasuk Corporation. 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.*). These lands lie entirely within the National Petroleum Reserve—Alaska. As provided by ANCSA, the subsurface estate in lands lying within the Petroleum Reserve is

not available for conveyance to Arctic Slope Regional Corporation and will be reserved to the United States at the time of conveyance. The lands are in the vicinity of Atqasuk, Alaska, and are described as:

Umiat Meridian, Alaska

T. 14 N., R. 19 W.,
Secs. 29 and 32.
Containing 1,081.33 acres.

Notice of the decision will also be published once a week for four consecutive weeks in the *Arctic Sounder.*

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 January 30, 2015 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.

Joe J. Labay,

Land Transfer Resolution Specialist, Division of Lands and Cadastral.

[FR Doc. 2014–30723 Filed 12–30–14; 8:45 am]

BILLING CODE 4310–JA–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Ink Cartridges and Components Thereof, DN 3048;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *EDIS*, [1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at *USITC.* [2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *EDIS.* [3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Epson Portland Inc., Epson America, Inc. and Seiko Epson Corporation on December 23, 2014. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ink cartridges and components thereof. The complaint names as respondents Zhuhai Nano Digital Technology Co., Ltd. of China; Nano Business & Technology, Inc. d/b/a Nano Digital d/b/a Nano Ink Spot d/b/a Dinsink of Lake Osewego, OR; Zhuhai National Resources & Jingjie Imaging Products Co., Ltd. d/b/a Ink-Tank of China; Huebon Co., Ltd. of Hong Kong; Chancen Co., Ltd. of Hong Kong; Zhuhai Rich Imaging Technology Co., Ltd. of China; Shanghai Orink Infotech International Co., Ltd. of China; Orink Infotech Co., Ltd. of Hong Kong; Zinyaw LLC d/b/a TonerPirate.com of Houston, TX; Yotat Group Co., Ltd. of Hong Kong; Yotat (Zhuhai) Technology Co., Ltd. of China; Ourway Image Co., Ltd. of China; Kingway Image Co., Ltd of China; Zhuhai Chinamate Technology, Co., Ltd. of China; InkPro2day, LLC of Los Angeles, CA; Dongguan OcBestjet Printer Consumables Co., Ltd. of China; OcBestjet Printer Consumables (HK) Co., Ltd. of Hong Kong; Aomya Printer Consumables (Zhuhai) Co., Ltd. of China; Zhuhai Richeng Development Co., Ltd. d/b/a Richeng Technology of China. The complainant requests that the Commission issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3048'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *Electronic Filing Procedures).* [4] Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on *EDIS.* [5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

Issued: December 23, 2014.
By order of the Commission.

Jennifer Rohrbach,

Supervisory Attorney.

[FR Doc. 2014–30567 Filed 12–30–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–931]

Certain Formatted Magnetic Data Storage Tapes and Cartridges Containing Same; Notice of Commission Determination Not To Review an Initial Determination To Amend the Complaint and Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 7) to amend the complaint and notice of investigation to add as respondents Oracle America, Inc., of Redwood Shores, California, and Fujifilm Recording Media USA, Inc., of Bedford, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Clark S. Cheney, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2661. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 29, 2014, based on a complaint filed by Advanced Research Corporation of White Bear Lake, Minnesota (''ARC''). 79 FR 58382 (Sept. 29, 2014). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain formatted magnetic data storage tapes and cartridges containing the same, by reason of infringement of five U.S. patents. The original notice of investigation named as respondents International Business Machines Corp. of Armonk, NY; Fujifilm Holdings Corporation of Tokyo, Japan; Fujifilm Corporation of Tokyo, Japan; and Oracle Corporation of Redwood Shores, California. *Id.* at 58383. The Office of Unfair Import Investigations is participating in the investigation. *Id.*

On November 18, 2014, ARC filed an unopposed motion to amend the complaint and notice of investigation to add as respondents Oracle America, Inc., of Redwood Shores, California, and Fujifilm Recording Media USA, Inc., of Bedford, Massachusetts.

On December 1, 2014, the ALJ issued the subject ID (Order No. 7) granting the motion to amend the complaint and notice of investigation. The ALJ found good cause for the amendment because ARC very recently learned of the additional respondents through discovery, the amendment would not delay the investigation, and the amendment would not prejudice the current parties to the investigation. No petitions for review of the ID were filed.

The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.
Issued: December 24, 2014.

Jennifer Rohrbach,

Supervisory Attorney.

[FR Doc. 2014–30626 Filed 12–30–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 337–TA–890]

Certain Sleep-Disordered Breathing Treatment Systems and Components Thereof; Notice of the Commission's Final Determination; Issuance of a Limited Exclusion Order and Cease and Desist Orders; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found a violation of section 337 in this investigation and has (1) issued a limited exclusion order prohibiting importation of infringing sleep-disordered breathing treatment systems and components thereof and (2) issued cease and desist orders directed to domestic respondents.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3042. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on August 23, 2013, based on a complaint filed by ResMed Corporation of San Diego, California; ResMed Incorporated of San Diego, California; and ResMed Limited of New South Wales, Australia (collectively, ''ResMed''). 78 *FR* 52564 (Aug. 23, 2013). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain sleep-disordered breathing treatment systems and components thereof that infringe one or more of claims 32–37, 53, 79, 80, and 88 of U.S. Patent No. 7,997,267 (''the '267 patent''); claims 1–7 of U.S. Patent No. 7,614,398 (''the '398 patent''); claim 1 of U.S. Patent No. 7,938,116 (''the '116 patent''); claims 30, 37, and 38 of U.S. Patent No. 7,341,060 (the '060 patent); claims 1, 3, 5, 11, 28, 30, 31, and 56 of U.S. Patent No. 8,312,883 (''the '883 patent''); claims 1, 3, 6, 7, 9, 29, 32, 35, 40, 42, 45, 50, 51, 56, 59, 89, 92, 94, and 96 of U.S. Patent No. 7,178,527 (the '527 patent); claims 19–24, 26, 29–36, and 39–41 of U.S. Patent No. 7,950,392 (the '392 patent); and claims 13, 15, 16, 26–28, 51, 52, and 55 of U.S. Patent No. 7,926,487 (''the '487 patent''). The notice of investigation named the following respondents: BMC Medical Co., Ltd. of Beijing, China; 3B Medical, Inc. of Lake Wales, Florida; and 3B Products, L.L.C., of Lake Wales, Florida (collectively ''Respondents''). The Office of Unfair Import Investigations (''OUII'') is participating in the investigation.

On January 9, 2014, the ALJ issued an ID granting a motion by ResMed to amend the complaint and notice of investigation to substitute U.S. Patent No. RE 44,453 (''the '453 patent'') for the '398 patent and to terminate the investigation as to the '398 patent. *See* Order No. 7 (Jan. 9, 2014). The Commission determined not to review the ID. *See* Notice of Commission Determination Not to Review an Initial Determination Granting the Complainants' Motion to Amend the Complaint and Notice of Investigation (Feb. 10, 2014); 79 *FR* 9000–01 (Feb. 14, 2014).

On February 24, 2014, the ALJ issued an ID granting a motion by ResMed to withdraw its allegations with respect to the '116 patent. *See* Order No. 11 (Feb. 24, 2014). The Commission determined not to review the ID. *See* Notice of Commission Determination Not to Review an Initial Determination Granting the Complainants' Motion to Partially Terminate the Investigation by Withdrawing Allegations with Respect to U.S. Patent No. 7,938,116 (March 11, 2014).

On March 18, 2014, the ALJ granted a motion by ResMed to terminate the investigation as to claims 26–28 of the '487 Patent. *See* Order No. 20 (Mar 18, 2012). The Commission determined not to review the ID. *See* Notice of Commission Determination Not to Review an Initial Determination Granting Complainants' Unopposed Motion for Partial Termination of the Investigation by Withdrawal of Claims 26–28 of U.S. Patent No. 7,926,487 (Apr. 29, 2014).

On August 21, 2014, the ALJ issued his final ID, finding a violation of section 337 by Respondents with respect to certain asserted claims of the '392, '267, '060, '883, '527, and '453 patents. The ALJ found no violation of section 337 with respect to the asserted claims of the '487 patent. Specifically, the ALJ found that the Commission has subject matter jurisdiction, *in rem* jurisdiction over the accused products, and *in personam* jurisdiction over the respondents. ID at 10–11. The parties stipulated to importation of the accused products and the ALJ found that the importation requirement of section 337 (19 U.S.C. 1337(a)(1)(B)) has been satisfied. *Id.* at 3. The ALJ found that the accused products infringe asserted claims 1, 9, 32, 89, and 92 of the '527 patent; asserted claims 19, 21, 29, 32, and 36 of the '392 patent; asserted claims 32–34 and 53 of the '267 patent; asserted claims 30, 37, and 38 of the '060 patent; asserted claims 1, 3, 5, 11, 28, 30, 31, and 56 of the '883 patent; and asserted claim 2 of the '453 patent. *See* ID at 23, 46, 57–58, 71–78, 95, 99, and 102. The ALJ found that Respondents failed to establish by clear and convincing evidence that the asserted claims of the '392, '267, '060, '883, '527, or claim 2 of the '453 patents were invalid in light of the cited prior art references. *See id.* at 25–45, 48–55, 96, and 100. The ALJ concluded that the accused products satisfy each limitation of claims 4 and 7 of the '453 patent but found those claims invalid in view of the prior art. *See id.* at 103–139. The ALJ also found that the accused products satisfy each limitation of asserted claims 13, 51, 52, and 55 of the '487 patent, but found those claims invalid in view of the prior art. *See id.* at 78–92. The ALJ further found that ResMed established the existence of a domestic industry that practices the asserted patents under 19 U.S.C. 1337(a)(2). *See* ID at 139–188.

On September 3, 2014, Respondents and the Commission investigative attorney filed petitions for review of the ID. That same day, ResMed filed a contingent petition for review of the ID. On September 11, 2014, the parties filed responses to the various petitions and contingent petition for review.

On October 16, 2014, the Commission determined to review the final ID in part. 79 *FR* 63163–65 (Oct. 22, 2014). Specifically, with respect to the '487 patent, the Commission determined to review the ALJ's construction of the claim term ''gas washout vent'' and construed the limitation to mean ''a vent comprising a thin air permeable membrane extending across an opening for exhausting gas to the atmosphere.'' As a result of the new claim construction, the Commission determined to review the ALJ's findings on infringement, invalidity, and the technical prong of the domestic industry requirement. Regarding the '453 patent, the Commission determined to review (1) the ALJ's construction of the claim limitation ''a retaining mechanism configured to secure the connecting structure to the CPAP apparatus'' and struck the ID's requirement that the claimed ''retaining mechanism'' must include an arrangement of moving parts; (2) the ALJ's finding that the prior art REMstar device does not anticipate the asserted claims of the '453 patent; and (3) the ALJ's findings on infringement and the technical prong of the domestic industry requirement. The Commission also determined to review the ID's findings and conclusions regarding the economic prong of the domestic industry requirement under 19 U.S.C. 1337(a)(3)(C).

On October 31, 2014, the parties filed written submissions on the issues under review, remedy, the public interest, and bonding. On November 7, 2014, the parties filed reply submissions.

Having examined the record of this investigation, including the ALJ's final ID, with respect to the '487 patent, the Commission has determined that under its construction of the claim term ''gas washout vent'' to mean ''a vent comprising a thin air permeable membrane extending across an opening for exhausting gas to the atmosphere,'' a violation of section 337 has not occurred because, as all the parties agree, ResMed failed to show that its domestic industry products practice the

'487 patent. To conserve resources, the Commission has determined to take no position on infringement and validity as it pertains to the '487 patent. Regarding the '453 patent, the Commission has determined that the prior art REMstar device anticipates the asserted claims of the '453 patent under the Commission's construction of the claim limitation ''a retaining mechanism configured to secure the connecting structure to the CPAP apparatus'' to mean ''one or more parts for holding in place the CPAP apparatus that is configured to attach the connecting structure to the CPAP apparatus.'' Given that Commission's construction is broader than the ALJ's construction, the Commission has determined to affirm the ALJ's infringement and domestic industry, technical prong, findings. With respect to domestic industry the Commission has determined to vacate the ID's findings and conclusion that ResMed established a domestic industry under 19 U.S.C. 1337(a)(3)(C).

Having found a violation of section 337 in this investigation, the Commission has determined that the appropriate form of relief is: (1) A limited exclusion order prohibiting the unlicensed entry of sleep-disordered breathing treatment systems and components thereof that infringe one or more of claims 1, 9, 32, 89, and 92 of the '527 patent; claims 19, 21, 29, 32, and 36 of the '392 patent; claims 32, 33, 34, and 53 of the '267 patent; claims 30, 37, and 38 of the '060 patent; and claims 1, 3, 5, 11, 28, 30, 31, and 56 of the '883 patent that are manufactured by, or on behalf of, or are imported by or on behalf of BMC Medical Co., Ltd., 3B Medical, Inc., or 3B Products L.L.C. or any of their affiliated companies, parents, subsidiaries, agents, or other related business entities, or their successors or assigns, except for service and replacement parts for customers that purchased their covered products prior to the date the exclusion order becomes final; and (2) cease and desist orders prohibiting domestic respondents BMC Medical Co., Ltd., 3B Medical, Inc. from conducting any of the following activities in the United States: Importing, selling, marketing, advertising, distributing, transferring (except for exportation), and soliciting U.S. agents or distributors for, sleep-disordered breathing treatment systems and components thereof covered by claims 1, 9, 32, 89, and 92 of the '527 patent; claims 19, 21, 29, 32, and 36 of the '392 patent; claims 32, 33, 34, and 53 of the '267 patent; claims 30, 37, and 38 of the '060 patent; and claims 1, 3, 5, 11, 28, 30, 31, and 56 of the '883 patent. The proposed cease and desist orders include the following exemptions: (1) If in a written instrument, the owner of the patents authorizes or licenses such specific conduct, or such specific conduct is related to the importation or same of covered products by or for the United States; or (2) conduct limited to the provision of service and replacement parts for customers that purchased their covered products prior to the date this Order becomes final within the meaning of 19 U.S.C. 1337(j)(4).

The Commission has also determined that the public interest factors enumerated in section 337(d) and (f) (19 U.S.C. 1337(d) and (f)) do not preclude issuance of the limited exclusion order or cease and desist orders. Finally, the Commission has determined that a bond in the amount of 65 percent of entered value is required to permit temporary importation during the period of Presidential review (19 U.S.C. 1337(j)) of sleep-disordered breathing treatment systems and components thereof that are subject to the limited exclusion order. The Commission's orders and opinion were delivered to the President and to the United States Trade Representative on the day of their issuance.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: December 23, 2014.

Jennifer Rohrbach,

Supervisory Attorney.

[FR Doc. 2014–30584 Filed 12–30–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under Cercla

On December 22, 2014, the Department of Justice lodged a proposed consent decree between the United States and Robert G. Schory, III with the United States District Court for the Western District of North Carolina, Charlotte Division, in a case entitled *United States* v. *Boulos Family Properties, LLC, et al,* No. 2:14–cv–059.

The proposed consent decree resolves claims for response costs under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (''CERCLA''), 42 U.S.C. 9607, against Robert G. Schory, III, in connection with the National Petroleum Packers Site, a former glycol reprocessing facility in Stallings, North Carolina. Under the proposed consent decree, Mr. Schory will pay $1,500 in exchange for a covenant not to sue for the Site from the United States, conditioned on the accuracy of certain representations he made about his financial condition.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Boulos Family Properties, LLC, et al,* DJ. Ref. No. # 90–11–3–10947. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $6.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–30629 Filed 12–30–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Vehicle to Infrastructure (V2I) Consortium

Notice is hereby given that, on December 3, 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''), Vehicle to Infrastructure (V2I) Consortium (''V2I Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the identities of the parties to the venture are: Chrysler Group LLC, Auburn Hills, MI; Ford Motor Company—Research and Innovation Center, Dearborn, MI; General Motors Company—Research and Development Center, Warren, MI; Honda R&D Americas, Inc., Southfield, MI; Hyundai-Kia America Technical Center, Inc., Superior Township, MI; Mazda Motor of America, Inc., Irvine, CA; Mercedes-Benz Research & Development North America, Inc., Sunnyvale, CA; Nissan Technical Center North America Inc., Farmington Hills, MI; Fuji Heavy Industries USA, Inc., Subaru, Cherry Hill, NJ; Volkswagen/Audi of America, Auburn Hills, MI; and Volvo Group North America, Costa Mesa, CA.

The general area of V2I Consortium's planned activity is to engage in a collaborative effort in order to gain further knowledge and understanding of connected vehicle interactions and/or applications for vehicles that are intended to transform surface transportation safety, mobility, and environmental performance through a connected vehicle environment.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–30673 Filed 12–30–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Pistoia Alliance, Inc.

Notice is hereby given that, on November 20, 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''), Pistoia Alliance, Inc. 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, Hewlett-Packard Company, Palo Alto, CA; Etzard Stotle (individual member), Arlesheim, SWITZERLAND; Patcore Inc., Shinagawa-ku, Tokyo, JAPAN; and University of Reading, Reading, Berkshire, UNITED KINGDOM, 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 Pistoia Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 28, 2009, Pistoia Alliance, Inc. 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 July 15, 2009 (74 FR 34364).

The last notification was filed with the Department on September 5, 2014. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on October 9, 2014 (79 FR 61098).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–30670 Filed 12–30–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Center for Medical Interoperability, Inc.

Notice is hereby given that, on November 12, 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''), Center For Medical Interoperability, Inc. (''The Center'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the name and principal place of business of the standards development organization is: Center for Medical Interoperability, Inc., La Jolla, CA. The nature and scope of The Center's standards development activities are: Promoting healthcare and enhancing the quality of or access to healthcare by the public through the advancement of interoperability of medical devices and information systems.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–30672 Filed 12–30–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ASTM International Standards

Notice is hereby given that, on December 9, 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''), the American Society of ASTM International (''ASTM'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. 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, ASTM has provided an updated list of current, ongoing ASTM standards activities originating between September 2014 and December 2014 designated as Work Items. A complete listing of ASTM Work Items along with a brief description of each, is available at *http://www.astm.org.*

On September 15, 2004, ASTM 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 November 10, 2004 (69 FR 65226).

The last notification with the Attorney General was filed on September 11, 2014. A notice was filed in the **Federal Register** on October 9, 2014 (79 FR 61098).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–30669 Filed 12–30–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Vehicle Safety Communications 5 (VSC5) Consortium

Notice is hereby given that, on December 3, 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''), Vehicle Safety Communications 5 (VSC5) Consortium (''VSC5 Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the identities of the parties to the venture are: Ford Motor Company—Research and Innovation Center, Dearborn, MI; General Motors Company—Research and Development Center, Warren, MI; Honda R&D Americas, Inc., Southfield, MI; Hyundai-Kia America Technical Center, Inc., Superior Township, MI; Mazda Motor of America, Inc., Irvine, CA; Mercedes-Benz Research & Development North America, Inc., Sunnyvale, CA; Nissan Technical Center North America, Inc., Farmington Hills, MI; and Volkswagen/Audi of America, Auburn Hills, MI.

The general area of VSC5 Consortium's planned activity is to engage in a collaborative effort in order to gain further knowledge and understanding of connected vehicle interactions and/or applications for vehicles that are intended to transform surface safety and mobility through a connected vehicle environment.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–30674 Filed 12–30–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Vehicle Safety Communications 4 (VSC4) Consortium

Notice is hereby given that, on December 3, 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''), Vehicle Safety Communications 4 (VSC4) Consortium (''VSC4 Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the identities of the parties to the venture are: Ford Motor Company—Research and Innovation Center, Dearborn, MI; General Motors Company—Research and Development Center, Warren, MI; Honda R&D Americas, Inc., Southfield, MI; Hyundai-Kia America Technical Center, Inc., Superior Township, MI; Mercedes-Benz Research & Development North America, Inc., Sunnyvale, CA; Nissan Technical Center North America, Inc., Farmington Hills, MI; and Volkswagen/Audi of America, Auburn Hills, MI.

The general area of VSC4 Consortium's planned activity is to engage in a collaborative effort in order to gain further knowledge and understanding of connected vehicle interactions and/or applications for vehicles that are intended to transform surface transportation safety and mobility through a connected vehicle environment.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–30667 Filed 12–30–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (BJA) Docket No. 1681]

Meeting of the Global Justice Information Sharing Initiative Federal Advisory Committee

AGENCY: Office of Justice Programs (OJP), Justice.

ACTION: Notice of meeting.

SUMMARY: This is an announcement of a meeting of the Global Justice Information Sharing Initiative (Global) Federal Advisory Committee (GAC) to discuss the Global Initiative, as described at *www.it.ojp.gov/global.*

DATES: The meeting will take place on Tuesday, January 27, 2015, from 9:00 a.m. to 4:00 p.m. ET.

ADDRESSES: The meeting will take place at the Office of Justice Programs offices (in the Main Conference Room), 810 7th Street, Washington, DC 20531; Phone: (202) 514–2000 [note: this is not a toll-free number].

FOR FURTHER INFORMATION CONTACT: J. Patrick McCreary, Global Designated Federal Employee (DFE), Bureau of Justice Assistance, Office of Justice Programs, 810 7th Street, Washington, DC 20531; Phone: (202) 616–0532 [note: this is not a toll-free number]; Email: *James.P.McCreary@usdoj.gov.*

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Due to security measures, however, members of the public who wish to attend this meeting must register with Mr. J. Patrick McCreary at the above address at least (7) days in advance of the meeting. Registrations will be accepted on a space available basis. Access to the meeting will not be allowed without registration. All attendees will be required to sign in at the meeting registration desk. Please bring photo identification and allow extra time prior to the meeting.

Anyone requiring special accommodations should notify Mr. McCreary at least seven (7) days in advance of the meeting.

Purpose

The GAC will act as the focal point for justice information systems integration activities in order to facilitate the coordination of technical, funding, and legislative strategies in support of the Administration's justice priorities.

The GAC will guide and monitor the development of the Global information sharing concept. It will advise the Assistant Attorney General, OJP; the Attorney General; the President

(through the Attorney General); and local, state, tribal, and federal policymakers in the executive, legislative, and judicial branches. The GAC will also advocate for strategies for accomplishing a Global information sharing capability.

Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with approval of the DFE.

J. Patrick McCreary,

Global DFE, Bureau of Justice Assistance, Office of Justice Programs.

[FR Doc. 2014–30579 Filed 12–30–14; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for Form ETA–9035, Labor Condition Application for Nonimmigrant Workers (OMB Control Number 1205–0310), Revision of a Currently Approved Collection

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the 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 (44 U.S.C. 3506(c)(2)(A)). This program helps 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, ETA is soliciting comments concerning the extension of the approval for the information collection, Office of Management and Budget (OMB) Control Number 1205–0310, containing Form ETA–9035—*Labor Condition Application for Nonimmigrant Workers;* Form ETA–9035E—*Labor Condition Application for Nonimmigrants Workers* (electronic version); Form ETA–9035CP—*General Instructions for the 9035 & 9035E;* Wage and Hour Division (WHD) Form WH–4—*Nonimmigrant Worker Information Form; and other H–1B related information collection and retention requirements,* which expire March 31, 2015. A copy of the proposed information collection request can be obtained by contacting the office listed below in the addressee section of this notice.

The forms are used by employers in DOL's H–1B, H–1B1, and E–3 nonimmigrant temporary employment-based programs to request permission to bring foreign workers to the United States as nonimmigrants and for workers and interested persons to file complaints with DOL's Wage and Hour Division.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before March 2, 2015.

ADDRESSES: Submit written comments to Brian Pasternak, National Director of Temporary Programs, Office of Foreign Labor Certification, Room C–4312, Employment & Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–693–3010 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Fax: 202–693–2768. Email: *ETA.OFLC.Forms@dol.gov* subject line: ETA–9035. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above.

SUPPLEMENTARY INFORMATION:

I. Background

The information collection is required by sections 212(n) and (t) and 214(c) of the Immigration and Nationality Act (INA) (8 U.S.C. 1182(n) and (t), and 1184(c)). The Department and the Department of Homeland Security have promulgated regulations to implement the INA. Specifically for this collection, 20 CFR 655 Subparts H and I, and 8 CFR 214.2(h)(4) are applicable. The INA mandates that no alien may enter the United States (U.S.) for the purpose of performing professional work on a temporary basis unless the U.S. employer makes certain attestations to the Secretary of Labor (Secretary). Those attestations include that the working conditions for the alien will not adversely affect the working conditions of similarly employed U.S. workers; that the salary will be the higher of the prevailing wage for the occupational classification in the area of employment or the actual wage paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question; that there is no strike or lockout in the course of a labor dispute in the occupational classification at the place of employment; and that the employer has met all other requirements of the program as specified in the regulations. This Information Collection Request (ICR) has been classified as a revision only because of a modification to Form WH–4 to remove a reference to the now defunct Employment Standards Administration (ESA). In addition, the forms have been made accessible for persons with disabilities, in a way that should be transparent to users. Data collected on forms approved under this ICR remains the same.

II. Review Focus

DOL 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 submissions of responses.

III. Current Actions

In order to meet its statutory responsibilities under the INA, the Department needs to extend an existing collection of information pertaining to labor condition applications that are used in the H–1B, H–1B1, and E–3 visa programs and allow employers to bring foreign labor to the U.S. on a temporary basis.

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 1205–0310. 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 March 31, 2015. The DOL seeks to extend PRA authorization for this revised information collection for three (3) more years.

In the past the respondents have been for-profit businesses and not-for-profit institutions. On rare occasions the respondents have been local, State, tribal governments, or the Federal government. The Secretary uses the collected information to determine if employers are meeting their statutory and regulatory obligations.

A. General

Title: Labor Condition Application for H–1B, H–1B1, and E–3 Non-immigrants.
Type of Review: Revision.
OMB Number: 1205–0310.

B. ETA Forms and Information Collections

Title(s): Labor Condition Application for Nonimmigrant Workers, and *General Instructions for the 9035 & 9035E.*
Affected Public: Private Sector (businesses or other for-profits and not-for-profit institutions) and State, Local, and Tribal Governments.
Form(s): ETA forms ETA–9035, ETA–9035E, and ETA–9035CP.
Total Annual Respondents: 57,589.
Annual Frequency: On occasion.
Total Annual Responses: 1,299,416.
Average Time per Response: 26 minutes.
Estimated Total Annual Burden Hours: 567,485.
Total Annual Burden Cost for Respondents: $0.

C. WHD Form

Title(s): Nonimmigrant Worker Information Form.
Affected Public: Individuals or Housholds.
Form(s): WH–4.
Total Annual Respondents: 425.
Annual Frequency: Once.
Total Annual Responses: 425.
Average Time per Response: 20 minutes.
Estimated Total Annual Burden Hours: 142.
Total Annual Burden Cost for Respondents: $0.

Comments submitted in response to this comment request will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record. Commenters are encouraged not to disclose private and/or sensitive information (*e.g.,* Social Security Numbers or confidential business information).

Portia Wu,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2014–30614 Filed 12–30–14; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,617]

Day & Zimmermann, Inc.; Kansas Division; Parsons, Kansas; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated December 2, 2014, the Kansas Department of Commerce requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for worker adjustment assistance applicable to workers and former workers of Day & Zimmermann, Inc., Kansas Division, Parsons, Kansas. The determination was issued on November 24, 2014 and the Notice of Determination has not yet been published in the **Federal Register**.

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 misinterpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a negative determination based on the findings that imports of high explosive mortar rounds and demolition charges have not increased; the subject firm did not shift production to a foreign country; and the subject firm is not a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a).

The request for reconsideration asserts that the subject firm was impacted by foreign competition and supplied new information.

The Department of Labor has carefully reviewed the request for reconsideration and the existing record, and has determined that the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 17th day of December, 2014.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–30606 Filed 12–30–14; 8:45 am]

BILLING CODE 4510–FN–P

LIBRARY OF CONGRESS

U.S. Copyright Office

[Docket No. 2014–5]

The Compendium of U.S. Copyright Office Practices

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Register of Copyrights releases the Compendium of U.S. Copyright Office Practices, Third Edition.

SUMMARY: The U.S. Copyright Office (the ''Office'') is announcing the release of its administrative manual, the *Compendium of U.S. Copyright Office Practices, Third Edition* (the ''*Third Edition*''). It is available on the Office's Web site and is effective as of December 22, 2014.

DATES: The *Compendium of U.S. Copyright Office Practices, Third Edition* is available on the Office's Web site as of December 22, 2014.

FOR FURTHER INFORMATION CONTACT: Robert Kasunic, Associate Register and Director of Registration Policy and Practice, U.S. Copyright Office, P.O. Box 70400, Washington, DC 20024–0400. Telephone (202) 707–8040.

SUPPLEMENTARY INFORMATION: The *Compendium of U.S. Copyright Office Practices* is the administrative manual of the Register of Copyrights concerning the mandate and statutory duties of the Copyright Office under title 17 of the United States Code. It serves as both a technical manual for the Office's staff, as well as a guidebook for authors, copyright licensees, practitioners,

scholars, the courts, and members of the general public.

On August 20, 2014 the Office released a public draft of this manual titled, *Compendium of U.S. Copyright Office Practices, Third Edition.* 79 FR 49343. The first major revision in more than two decades, the *Third Edition* is a comprehensive overhaul that makes the practices and standards of the Office more accessible and transparent to the public and sets the stage for a number of long-term improvements in registration and recordation policy.

The Office is now announcing the release of the official version of the *Third Edition.* It is available on the Office's Web site at *http://copyright.gov/comp3/.* The *Third Edition* is effective as of December 22, 2014 and is the governing administrative manual for registrations and recordations issued by the Office on or after that date.

Dated: December 19, 2014.

Robert Kasunic,

Associate Register of Copyrights and Director of the Office of Registration Policy and Practice.

[FR Doc. 2014–30415 Filed 12–30–14; 8:45 am]

BILLING CODE 1410–30–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

National Nanotechnology Coordination Office

Notice of Public Webinar

ACTION: Notice of public webinar.

SUMMARY: The National Nanotechnology Coordination Office (NNCO), on behalf of the Nanoscale Science, Engineering, and Technology (NSET) Subcommittee of the Committee on Technology, National Science and Technology Council (NSTC), will hold a series of webinars focusing on the experiences, successes, and challenges for small- and medium-sized businesses working in nanotechnology and on issues of interest to the business community. The first webinar in the series will be held Thursday, January 15, 2015.

DATES: The NNCO will hold multiple webinars between the publication of this Notice and December 31, 2015. The first webinar will be held on Thursday, January 15, 2015, from 12:00 p.m. to 1:00 p.m. EST.

ADDRESSES: These free, web-based events are open to the public. For current information about the webinars, please visit *www.nano.gov/SMEwebinars2015.*

Submitting Questions: Questions of interest to the small- and medium-sized business community may be submitted to *webinar@nnco.nano.gov* beginning one week prior to the event through the close of the webinar. During the question-and-answer segment of the webinars, submitted questions will be considered in the order received and may be posted on the NNI Web site (*www.nano.gov*). A moderator will identify relevant questions and pose them to the panelists. Due to time constraints, not all questions may be addressed during the webinar. The moderator reserves the right to group similar questions and to skip questions, as appropriate.

Registration: Registration for the webinar is required and is on a first-come, first-served basis. Registration will open approximately two weeks prior to each event and will be capped at 200 participants. Individuals planning to attend the webinar can find registration information at *www.nano.gov/SMEwebinars2015.*

FOR FURTHER INFORMATION CONTACT: Ms. Marlowe Newman, 703–292–7128, *mnewman@nnco.nano.gov.*

SUPPLEMENTARY INFORMATION: A list of Frequently Asked Question for the business community can be found at *https://www.nano.gov/bizfaqs.* Additional information on Federal funding, infrastructure, and business development can be found at *https://www.nano.gov/collaborationsandfunding.*

Ted Wackler,

Deputy Chief of Staff and Assistant Director.

[FR Doc. 2014–30325 Filed 12–30–14; 8:45 am]

BILLING CODE 3710–F5–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–313, 50–368, 72–13, and 72–1014; NRC–2014–0270]

Independent Spent Fuel Storage Installation, Entergy Operations, Inc.; Arkansas Nuclear One, Units 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to an October 2, 2014, request from Entergy Operations, Inc., (Entergy or licensee) from the requirement to comply with the terms, conditions, and specifications in Section 2.1 of Appendix B of the Technical Specifications for certificate of compliance (CoC) No. 1014, Amendment No. 5.

DATES: Notice of issuance of exemption given on December 31, 2014.

ADDRESSES: Please refer to Docket ID NRC–2014–0270 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0270. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select *''ADAMS Public Documents''* and then select *''Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Chris Allen, Office of Nuclear Material Safety and Safeguards, telephone: 301–287–9225, email: *William.Allen@nrc.gov;* U.S. Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION:

I. Background

Entergy is the holder of Facility Operating License Nos. DRP–51 and NPF–6, which authorize operation of ANO, Units 1 and 2, in Russellville, Arkansas, pursuant to part 50 of title 10 of the *Code of Federal Regulations* (10 CFR). The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the NRC now or hereafter in effect.

Under subpart K of 10 CFR part 72, a general license has been issued for the storage of spent fuel in an independent spent fuel storage installation (ISFSI) at power reactor sites to persons authorized to possess or operate nuclear

power reactors under 10 CFR part 50. Entergy is licensed to operate a nuclear power reactor under 10 CFR part 50, and authorized under the 10 CFR part 72 general license to store spent fuel at the ANO ISFSI. Under the terms of the general license, Entergy stores spent fuel using the Holtec International (Holtec) HI–STORM 100 System CoC No.1014 at ANO.

II. Request/Action

While performing drying operations on a loaded Holtec HI–STORM 100 Model 24 Multi-Purpose Canister (MPC–24), serial number MPC–24–060, Entergy detected Krypton-85 (Kr-85) gas. Kr-85 gas is a fission product gas and its presence may indicate fuel rods with greater than pinhole leaks or hairline cracks. Section 2.1 of Appendix B of the Technical Specifications for the HI–STORM 100 CoC No. 1014 specifies that only intact fuel assemblies, which is defined as fuel assemblies without known or suspected cladding defects greater than pinhole leaks or hairline cracks and which can be handled by normal means, are authorized for loading into an MPC–24 canister. Entergy stated that although all fuel assemblies loaded into MPC–24–060 were tested subsequent to their final operating cycle using standard, accepted methods (*i.e.,* in-mast sipping and ultrasonic testing), and were visually inspected for indications of rod damage, assembly damage, or other potential issues before being loaded into the canister, a fuel assembly with a defect greater than a pinhole leak or hairline crack may have been loaded into MPC–24–060.

By letter dated October 2, 2014, as supplemented October 14 and November 7, 2014 (ADAMS Accession Nos. ML14279A246, ML14289A239, and ML14311A121, respectively), Entergy requested an exemption from the following requirements to allow storage of MPC–24–060 in its current, as-loaded, condition at the ANO ISFSI:

- 10 CFR 72.212(a)(2), which limits the storage of spent fuel to casks approved in subpart K of 10 CFR part 72.
- 10 CFR 72.212(b)(11), which states, in part, that the ''licensee shall comply with the terms, conditions, and specifications of the CoC . . .''

III. Discussion

Pursuant to 10 CFR 72.7, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of 10 CFR part 72 as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest. In addition to the requirements from which Entergy requested exemption, the NRC determined exemption from the following requirements would be necessary to authorize Entergy's proposal:

- 10 CFR 72.212(b)(3), which requires that each cask used by the general licensee conforms to the terms, conditions, and specifications of a CoC listed in § 72.214.
- 10 CFR 72.212(b)(5)(i), which requires written evaluations be performed before use that a loaded cask will conform to the terms, conditions, and specifications of a CoC listed in § 72.214.
- 10 CFR 72.214, which lists the casks approved for storage of spent fuel under conditions specified in their CoCs.

Authorized by Law

This exemption would allow the licensee to store MPC–24–060 (loaded with spent nuclear fuel assemblies which are not authorized per Section 2.1 of Appendix B of the Technical Specifications for CoC No. 1014, Amendment No. 5) in its as-loaded configuration at the ANO ISFSI. The provisions in 10 CFR part 72 from which Entergy requested an exemption, as well as the provisions considered by the NRC, require the licensee to comply with the terms, conditions, and specifications of the CoC for the approved cask model that it uses.

Section 72.7 allows the NRC to grant exemptions from the requirements of 10 CFR part 72. Issuance of this exemption is consistent with the Atomic Energy Act of 1954, as amended, and not otherwise inconsistent with NRC regulations or other applicable laws. As explained below, the proposed exemption will not endanger life or property, or the common defense and security, and is otherwise in the public interest. Therefore, the exemption is authorized by law.

Will Not Endanger Life or Property or the Common Defense and Security

The requested exemption would allow the licensee to store MPC–24–060 (loaded with spent nuclear fuel assemblies which are not authorized per Section 2.1 of Appendix B of the Technical Specifications for CoC No. 1014, Amendment No. 5) in its as-loaded configuration at the ANO ISFSI.

In support of its exemption request, the licensee submitted Holtec Report HI–2146265, ''Justification for ANO Exemption Request for Loading of Damaged Fuel in MPC–24,'' Rev. 0 (ADAMS Accession No. ML14279A246). Holtec stated that the most likely source of the Kr-85 gas was a single breached rod in one fuel assembly and that it is unlikely that the cladding defects would allow fuel pellets to be released into the canister cavity. Nevertheless, as discussed further below, Holtec assumed in its thermal, criticality, and shielding analyses that multiple breached fuel rods had been loaded into MPC–24–060 and that fuel pellets had been released into the canister cavity. Based upon the fact that only trace amounts of Kr-85 gas were detected after the initial alarm annunciation, NRC staff concludes that these are conservative assumptions and therefore finds them acceptable.

The Holtec report asserted that, since the damaged fuel rods do not contact either the HI–STORM overpack or the HI–TRAC transfer cask, they will have no impact on the structural performance of either the HI–STORM overpack or the HI–TRAC transfer cask. Also, the normal, off-normal, and accident condition pressures and temperatures specified in Tables 2.2.1 and 2.2.3 of Revision 7 of the HI–STORM Final Safety Analysis Report (FSAR) are not exceeded as a result of the damaged fuel rods (ADAMS Accession No. ML110250163). Furthermore, the report stated that the stresses in the overpack and the transfer cask due to normal and off-normal handling events remain as calculated in the HI–STORM FSAR since the dead weight of the loaded casks and their centers of gravity are unaffected by the damaged fuel rods. In addition, the impact decelerations experienced by the cask as a result of either a handling accident or a hypothetical tip-over event are not increased, and the stability of the cask under design basis natural phenomena events (*i.e.,* tornado winds, earthquake, etc.) continues to be assured. The staff reviewed the structural evaluation provided by the applicant and the basis of its conclusions. Based on its review of the representations, determinations, and information provided by the applicant in the above mentioned Holtec report, the NRC staff concludes continued storage of one or more fuel assemblies with fuel rods having greater than a pinhole leak, not placed in a damaged fuel container, and loaded into a HI–STORM 100 MPC–24 will have no impact on the ability of the HI–STORM overpack, HI–TRAC transfer cask, or the MPC to withstand pressure loads due to tornado winds, floods, or explosions. The NRC staff also concludes that there is a reasonable assurance that the

overpack and transfer cask's structural performance will meet the requirements of 10 CFR part 72.

In Chapter 5 of Revision 7 to the HI–STORM FSAR, Holtec stated that storage of damaged fuel assemblies is identical from a shielding perspective to storage of intact fuel assemblies (ADAMS Accession No. ML082401632). Dose rate measurements performed by Entergy which show that the dose rates for MPC–24–060 are below the limits specified in the CoC support the results presented in the Holtec FSAR. The shielding analyses performed for accident conditions in Chapter 5 of Revision 7 to the HI–STORM FSAR simulated four collapsed, damaged fuel assemblies located on the periphery of an MPC–24. Since there are approximately 208 fuel rods in a fuel assembly, this equates to approximately 832 collapsed fuel rods. The results of these analyses showed that external dose rates at the bottom of the canister increased by less than 27% and dose rates at higher locations decreased. Since the number of damaged fuel rods assumed in the Holtec report is much less than that described in the FSAR analysis, the applicant stated that the effect on dose for MPC–24–060 loaded with fuel assemblies having defects greater than pinhole leaks and hairline cracks would be expected to be less than that described in the FSAR. Similarly, according to the Holtec report the postulated relocation of the fuel from a small number of rods would have a negligible effect on the dose contribution at the site boundary. Additionally, Chapters 7 and 11 of Revision 7 to the HI–STORM FSAR shows that leakage is not credible under normal, off-normal, and accident conditions (ADAMS Accession No. ML082401621 and ML082401626 respectively). The NRC staff reviewed Revision 7 to the HI–STORM 100 FSAR and information provided by the applicant and found that analysis acceptable to demonstrate the dose rates for MPC–24–060. Based on its review, the NRC staff finds that storage of fuel assemblies having greater than pinhole leaks and hairline cracks in the HI–STORM 100 MPC–24 Storage System will meet the dose rate and exposure limit requirements in 10 CFR part 20 and 10 CFR part 72.

Holtec assumed one fuel pin per assembly is damaged in each of the 24 assemblies loaded into MPC–24–060. The criticality evaluation indicated the potential relocation of fuel pellets from damaged fuel rods in the MPC has a negligible effect on the reactivity of the system, and the maximum reactivity remains well below 0.95. During storage operations, the MPC is internally dry, resulting in a low reactivity and large reactivity margins. For unloading operations, where the MPC is flooded, confirmatory calculations for possible relocation of fuel both within and outside of an assembly confirmed that the effect of fuel relocation on the reactivity of the system is small even if the MPC is flooded with unborated water. The NRC staff has reviewed the criticality evaluation and the basis of the conclusions reached by Holtec in support of Entergy's exemption request. Based on its review of the representations, determinations, and information provided, the NRC staff finds that the as-loaded potentially damaged fuel will not impact the criticality performance of the HI–STORM 100 MPC–24 Storage System, and therefore, as loaded, MPC–24–060 will meet the criticality safety requirements of 10 CFR part 72.

The staff also finds that there is no impact on the ability of the fuel to be retrieved from the canister for the following reasons. A complete break of a fuel rod on the periphery of a fuel assembly could affect retrievability; however, this condition was not identified by the visual inspections performed during loading. Also, the amount of gas released is not indicative of a complete break of a fuel rod. Expanded damage of breached rod(s) during storage could make handling of the fuel at a later time more difficult than if it was repackaged at the current time. However, the only degradation mechanism which could further damage the fuel is oxidation of exposed fuel pellets. Oxidized fuel pellets would exert stress on the cladding, potentially causing further damage and release of fuel pellets. Since the MPC has been seal welded shut and an inert atmosphere of helium has been introduced into the cavity, unless there is a breach of containment letting air into the canister, oxidation of the pellets will not occur. Consequently, the cladding will not be damaged further and fuel pellets will not be released. Therefore, NRC staff finds that storage of fuel assemblies having greater than pinhole leaks and hairline cracks in the HI–STORM 100 MPC–24 Storage System will meet the retrievability requirements of 10 CFR part 72.

As part of its thermal assessment of storage of the damaged fuel in a HI–STORM 100 MPC–24, Holtec stated that the damaged fuel rods in the canister would be well below 1% of the total number of fuel rods (approximately 50 fuel rods). Holtec evaluated the effect of damaged fuel on the different heat transfer mechanisms while the canister is in the storage configuration. Holtec stated that the damaged rods would remain in their correct physical positions within the fuel assembly and that the fuel assembly geometry is unchanged. Therefore, both the conduction heat transfer mechanism and the radiation heat transfer mechanism would not be impacted. Holtec also stated that the resistance to movement of helium within the fuel assemblies (*i.e.,* the hydraulic resistance that is also dependent on the fuel geometry) is unaffected. Consequently, the natural convection heat transfer mechanism, which is dependent upon the hydraulic resistance, would not be impacted. Even though Holtec believes the fuel rods are intact, Holtec evaluated the impact on the natural convection heat transfer mechanism within the canister from either fuel pellets or pieces of fuel cladding becoming dislodged from the damaged fuel rods. Holtec stated that, if a fuel pellet or piece of fuel cladding were to block one of the rod-to-rod interstitial spaces, the impact on the natural convection heat transfer would be very small because each interstitial space is connected to four adjacent rod-to-rod interstitial spaces. Therefore, helium could easily flow around any blocked rod-to-rod interstitial space. Holtec also stated that, if a fuel pellet or piece of fuel cladding were to fall completely out of the fuel assembly and into the bottom region of the fuel basket, the impact on the natural convection heat transfer mechanism due to helium circulation would be similarly negligible because openings in the bottom region of the fuel basket are sized sufficiently large enough to allow the movement of helium within the canister.

The NRC staff reviewed Holtec's evaluation on the impact of damaged spent fuel on the MPC–24 thermal performance discussed above and determined that it demonstrated that the presence of damaged fuel (to the extent described in the technical justification) would not affect the heat transfer characteristics (*i.e.,* conduction heat transfer, radiation heat transfer, and natural convection heat transfer by helium circulation). Since the impact on the thermal performance is small and because the total cask heat load is relatively low as compared to the design basis heat load, the staff concludes that neither temperature nor pressure limits in the FSAR would be exceeded. Also, the licensee characterized all the spent fuel assemblies loaded in MPC–24–060 as low burnup fuel, which is permitted to reach higher temperatures in storage than fuel of other burnup levels. The

HI–STORM 100 system is rated also to store high burnup fuel. As a result, MPC–24–060 has a large thermal margin. Therefore, based on the NRC staff's review of Holtec's evaluation and technical justification, the staff concludes that MPC–24–060 (loaded with the contents described in the ANO exemption request letter) inside the HI–STORM 100 system will meet the 10 CFR part 72 thermal requirements.

Based on its review, the NRC staff has reasonable assurance that Entergy's exemption request for an MPC loaded with fuel assemblies classified as having defects greater than pinhole leaks and hairline cracks will meet the thermal, structural, criticality, retrievability and radiation protection requirements of 10 CFR part 72 and the offsite dose limits of 10 CFR part 20. Therefore, the NRC staff concludes that the exemption to allow the licensee to store MPC–24–060 in its as-loaded configuration will not endanger life or property or the common defense and security.

Otherwise in the Public Interest

The information Entergy submitted with its exemption request, and the Holtec analyses documented in Holtec Report No. HI–2146265, ''Justification for ANO Exemption Request for Loading of Damaged Fuel in MPC–24,'' Rev. 0, demonstrates that the as-loaded MPC is not compromised due to the misloaded fuel (ADAMS Accession No. ML14279A246). If the NRC did not grant this exemption, Entergy would need to take action to correct the condition by reloading the affected MPC to be in compliance with CoC No. 1014, Amendment No. 5. This would involve unloading the spent fuel assemblies from the MPC, performing inspections of various MPC components, loading different spent fuel assemblies into the used MPC or a new MPC (if there was damage noted on the used MPC) in accordance with CoC No. 1014, Amendment No. 5 and performing the MPC closing procedures.

The licensee estimates that unloading and reloading the MPC would increase personnel exposures by 600 mRem. In addition, the licensee states that unloading and reloading would generate radioactive contaminated material and waste not only during unloading and reloading operations, but also from disposal of the used MPC (if the MPC were damaged during the unloading process). The licensee estimates this action would cost an estimated $300,000 for unloading and reloading operations. If the MPC was damaged during unloading, the licensee estimates an additional $750,000 for purchase of a new MPC and $200,000 for disposal of the used MPC. The licensee also states additional opportunities for design basis accidents, such as a fuel handling accident, would be introduced if the MPC were unloaded and reloaded.

Because the corrective action would result in increased radiation exposure to personnel and provides increased opportunities for fuel handling accidents which could result in radioactive material releases to the environment, granting the exemption, and allowing MPC–24–060 to remain in its as-loaded condition, is consistent with the NRC's mission to protect public health and safety. Therefore, the exemption is in the public interest.

Environmental Consideration

The NRC staff also considered in the review of this exemption request whether there would be any significant environmental impacts associated with the exemption. For this proposed action, the NRC staff performed an environmental assessment pursuant to 10 CFR 51.30. The proposed action is the approval of an exemption from the requirements of 10 CFR 72.212(a)(2), 10 CFR 72.212(b)(3), 10 CFR 72.212(b)(5)(i), and the portion of 72.212(b)(11) that requires compliance with the terms, conditions, and specifications of a CoC, and 10 CFR 72.214, but only to the extent necessary to allow Entergy to store MPC–24–060 in its current as-loaded configuration at the ANO ISFSI.

The NRC staff performed an environmental assessment and determined that the proposed action will not significantly impact the quality of the human environment. The NRC staff concludes that there are no changes being made in the types or amounts of any radiological effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure as a result of the proposed action. In addition, the proposed action only affects the requirements associated with the fuel assemblies already loaded into the canister and does not affect non-radiological plant effluents, or any other aspects of the environment. The Environmental Assessment and the Finding of No Significant Impact were published in the **Federal Register** on December 19, 2014 (79 FR 75843).

IV. Conclusion

Based on the foregoing considerations, the NRC has determined pursuant to 10 CFR 72.7, that the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the NRC grants Entergy a one-time exemption from the requirements in 10 CFR 72.212(a)(2), 10 CFR 72.212(b)(3), 10 CFR 72.212(b)(5)(i), and the portion of 10 CFR 72.212(b)(11) that requires compliance with the terms, conditions, and specifications of a CoC, and 10 CFR 72.214 for storage of HI–STORM 100 MPC–24–060 at the ANO ISFSI.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 19th day of December 2014.

For the Nuclear Regulatory Commission.

Mark Lombard,

Director, Division of Spent Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2014–30718 Filed 12–30–14; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: DD 1918 Establishment Information Form, DD 1919 Wage Data Collection Form, DD 1919C Wage Data Collection Continuation Form

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: The U.S. Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an existing information collection request (ICR) 3206–0036, Establishment Information Form (DD 1918), Wage Data Collection Form (DD 1919), and Wage Data Collection Continuation Form (DD 1919C). As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on September 25, 2014, at Volume 79 FR 57588 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until January 30, 2015. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: The Establishment Information Form, the Wage Data Collection Form, and the Wage Data Collection Continuation Form are wage survey forms developed by OPM for use by the Department of Defense to establish prevailing wage rates for Federal Wage System employees.

Analysis

Agency: Employee Services, U.S. Office of Personnel Management.

Title: Establishment Information Form (DD 1918), Wage Data Collection Form (DD 1919), and Wage Data Collection Continuation Form (DD 1919C).

OMB Number: 3206–0036.

Frequency: Annually.

Affected Public: Private sector establishments.

Number of Respondents: 21,760.

Estimated Time per Respondent: 1.5 hours.

Total Burden Hours: 32,640 hours.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2014–30690 Filed 12–30–14; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This notice identifies Schedule A, B, and C appointing authorities applicable to a single agency that were established or revoked from October 1, 2014, to October 31, 2014.

FOR FURTHER INFORMATION CONTACT: Senior Executive Resources Services, Senior Executive Services and Performance Management, Employee Services, (202) 606–2246.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 213.103, Schedule A, B, and C appointing authorities available for use by all agencies are codified in the Code of Federal Regulations (CFR). Schedule A, B, and C appointing authorities applicable to a single agency are not codified in the CFR, but the Office of Personnel Management (OPM) publishes a notice of agency-specific authorities established or revoked each month in the **Federal Register** at *www.gpo.gov/fdsys/.* OPM also publishes an annual notice of the consolidated listing of all Schedule A, B, and C appointing authorities, current as of June 30, in the **Federal Register**.

Schedule A

11. Department of Homeland Security (Sch. A, 213.3111)

(d) General—

(1) Not to exceed 1,000 positions to perform cyber risk and strategic analysis, incident handling and malware/vulnerability analysis, program management, distributed control systems security, cyber incident response, cyber exercise facilitation and management, cyber vulnerability detection and assessment, network and systems engineering, enterprise architecture, intelligence analysis, investigation, investigative analysis and cyber-related infrastructure interdependency analysis requiring unique qualifications currently not established by OPM. Positions will be at the General Schedule (GS) grade levels 09–15. No new appointments may be made under this authority after December 31, 2015.

Schedule B

No Schedule B authorities to report during October 2014.

Schedule C

The following Schedule C appointing authorities were approved during October 2014.

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF AGRICULTURE.	Office of the Under Secretary for Rural Development.	Special Assistant	DA140124	10/1/2014.
	Office of the Assistant Secretary for Congressional Relations.	Legislative Director	DA150001	10/3/2014
	Office of the Secretary	Confidential Assistant	DA150003	10/16/2014
	Farm Service Agency	State Executive Director, Idaho	DA150007	10/23/2014
		State Executive Director—Arizona	DA150008	10/23/2014
DEPARTMENT OF COMMERCE	Office of Policy and Strategic Planning.	Senior Advisor for Manufacturing Policy.	DC140166	10/7/2014
	Office of Deputy Assistant Secretary for Legislative and Intergovernmental Affairs.	Associate Director for Oversight	DC150003	10/9/2014
	Office of Public Affairs	Director of Digital Strategy	DC150008	10/23/2014
	Office of the Director General of the United States and Foreign Commercial Service and Assistant Secretary for Global Markets.	Special Assistant	DC150011	10/27/2014
CONSUMER PRODUCT SAFETY COMMISSION.	Office of Commissioners	Special Assistant (Legal)	PS140015	10/1/2014

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF DEFENSE	Office of the Assistant Secretary of Defense for Legislative Affairs.	Special Assistant	DD140147	10/3/2014
	Office of the Under Secretary of Defense for Policy.	Special Assistant for Middle East	DD150002	10/21/2014
DEPARTMENT OF EDUCATION	Office of Postsecondary Education	Confidential Assistant	DB150001	10/10/2014
		Chief of Staff	DB150005	10/23/2014
	Office of Planning, Evaluation and Policy Development.	Special Assistant	DB150002	10/16/2014
	Office of Special Education and Rehabilitative Services.	Confidential Assistant	DB150004	10/17/2014
	Office of the Under Secretary	Special Assistant	DB150006	10/21/2014
	Office of Communications and Outreach.	Special Assistant for Digital and Visual Media.	DB150008	10/30/2014
		Press Secretary	DB150012	10/30/2014
	Office of the Secretary	Special Advisor for Strategy and Planning.	DB150010	10/30/2014
		Confidential Assistant	DB150015	10/31/2014
	Office of the Deputy Secretary	Special Advisor	DB150011	10/30/2014
	Office of the General Counsel	Confidential Assistant	DB150014	10/31/2014
DEPARTMENT OF ENERGY	Assistant Secretary for Energy Efficiency and Renewable Energy.	Director, Legislative Affairs	DE140113	10/2/2014
	Office of the Deputy Secretary	Special Assistant	DE150001	10/2/2014
	Office of Electricity Delivery and Energy Reliability.	Senior Advisor for External Affairs	DE150002	10/22/2014
	Associate Administrator for External Affairs.	Deputy Director of Congressional Affairs.	DE150006	10/22/2014
	Office of Energy Policy and Systems Analysis.	Special Assistant	DE150007	10/22/2014
	Office of Public Affairs	Deputy Press Secretary	DE150004	10/27/2014
	Office of Fossil Energy	Special Advisor for Emerging Markets.	DE150005	10/29/2014
ENVIRONMENTAL PROTECTION AGENCY.	Office of the Associate Administrator for Policy.	Counsel for Policy	EP150002	10/20/2014
FEDERAL ENERGY REGULATORY COMMISSION.	Office of the Chairman	Confidential Assistant	DR150002	10/16/2014
GENERAL SERVICES ADMINISTRATION.	Office of Congressional and Intergovernmental Affairs.	Policy Advisor	GS150002	10/7/2014
	New England Region	Special Assistant	GS150003	10/7/2014
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of the Secretary	Special Assistant	DH140139	10/1/2014
	Office of Communications	Senior Advisor	DH150002	10/3/2014
	Office of the Assistant Secretary for Children and Families.	Confidential Assistant	DH150003	10/17/2014
	Office of Refugee Resettlement/ Office of the Director.	Special Advisor	DH150020	10/30/2014
	Office of Health Reform	Director of Outreach (Office of Health Reform).	DH150024	10/30/2014
	Office of the Assistant Secretary for Legislation.	Confidential Assistant for Legislation, Discretionary Health.	DH150014	10/31/2014
	Office of the Assistant Secretary for Public Affairs.	Communications Director for Public Health.	DH150019	10/31/2014
	Health Resources and Services Administration Office of the Administrator.	Special Assistant and Policy Advisor.	DH150021	10/31/2014
DEPARTMENT OF HOMELAND SECURITY.	United States. Immigration and Customs Enforcement.	Special Assistant	DM150006	10/8/2014
	Office of Assistant Secretary for Legislative Affairs.	Chief of Staff	DM150009	10/10/2014
	Office of Assistant Secretary for Public Affairs.	Confidential Assistant for Public Affairs.	DM150010	10/10/2014
		Assistant Press Secretary	DM150019	10/29/2014
	United States Citizenship and Immigration Services.	Press Secretary and Advisor for Intergovernmental and External Affairs.	DM150011	10/14/2014
	Office of the Assistant Secretary for Intergovernmental Affairs.	Intergovernmental Affairs Coordinator (2).	DM150012	10/14/2014
			DM150008	10/23/2014
	Office of the Chief of Staff	Advance Officer	DM150017	10/30/2014
	Federal Emergency Management Agency.	Press Secretary	DM150018	10/31/2014
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of Fair Housing and Equal Opportunity.	Chief of Staff/Senior Advisor	DU150003	10/17/2014
	Office of Administration	Director of Advance	DU150004	10/30/2014
	Office of the Secretary	Deputy White House Liaison	DU150006	10/30/2014

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF THE INTERIOR.	Office of Assistant Secretary for Fish and Wildlife and Parks.	Advisor	DI140073	10/2/2014
	Secretary's Immediate Office	Special Assistant	DI140072	10/21/2014
	National Park Service	Centennial Campaign Public Affairs Specialist.	DI150006	10/30/2014
DEPARTMENT OF JUSTICE	Civil Rights Division	Senior Counsel	DJ140135	10/1/2014
	Office of the Associate Attorney General.	Deputy Chief of Staff and Counsel	DJ150002	10/3/2014
		Senior Counsel (2)	DJ140129	10/6/2014
			DJ150012	10/30/2014
	Office of Public Affairs	Public Affairs Specialist (2)	DJ140123	10/7/2014
			DJ150010	10/29/2014
	Office of Justice Programs	Senior Policy Advisor	DJ150009	10/22/2014
	Office on Violence Against Women.	Deputy Director for Policy Development.	DJ150013	10/30/2014
DEPARTMENT OF LABOR	Office of the Secretary	Special Assistant	DL150002	10/16/2014
	Office of the Assistant Secretary for Policy.	Associate Deputy Assistant Secretary.	DL150004	10/23/2014
	Mine Safety and Health Administration.	Special Assistant	DL150008	10/23/2014
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.	Office of Legislative and Intergovernmental Affairs.	Management Analyst	NN150004	10/23/2014
	Office International and Interagency Relations.	International Affairs Specialist	NN150005	10/23/2014
OFFICE OF MANAGEMENT AND BUDGET.	Office of Communications	Press Secretary	BO150001	10/6/2014
		Deputy Press Secretary	BO150002	10/27/2014
OFFICE OF SCIENCE AND TECHNOLOGY POLICY.	Office of Science and Technology Policy.	Confidential Assistant	TS150002	10/20/2014
SMALL BUSINESS ADMINISTRATION.	Office of Congressional and Legislative Affairs.	Special Advisor	SB150004	10/30/2014
	Office of Capital Access	Senior Advisor for Capital Access	SB150005	10/30/2014
DEPARTMENT OF STATE	Bureau of Political and Military Affairs.	Staff Assistant	DS150002	10/3/2014
	Office of the Chief of Protocol	Protocol Officer (Visits)	DS150003	10/3/2014
		Public Affairs Specialist	DS150004	10/17/2014
	Office of the Counselor	Staff Assistant	DS140120	10/16/2014
DEPARTMENT OF VETERANS AFFAIRS.	Office of the Assistant Secretary for Public and Intergovernmental Affairs.	Special Assistant	DV140048	10/3/2014
	Office of the Secretary and Deputy.	Special Assistant	DV140049	10/3/2014

The following Schedule C appointing authorities were revoked during October 2014.

Agency name	Organization name	Position title	Authorization No.	Vacate date
DEPARTMENT OF COMMERCE	Deputy Assistant Secretary for Domestic Operations.	Special Assistant	DC130061	10/4/2014
	Assistant Secretary for Industry and Analysis.	Deputy Director, Office of Advisory Committees.	DC130002	10/15/2014
CONSUMER PRODUCT SAFETY COMMISSION.	Office of Commissioners	Special Assistant (Legal)	PS100003	10/18/2014
OFFICE OF THE SECRETARY OF DEFENSE.	Office of Assistant Secretary of Defense (Public Affairs).	Senior Public Affairs Advisor	DD140003	10/1/2014
		Speechwriter	DD130012	10/17/2014
	Office of the Assistant Secretary of Defense (Homeland Defense and America's Security Affairs).	Special Assistant to the Assistant Secretary of Defense for Homeland Defense and America's Security Affairs.	DD130050	10/4/2014
	Office of Assistant Secretary of Defense (Legislative Affairs).	Special Assistant	DD130129	10/20/2014
DEPARTMENT OF THE AIR FORCE.	Office of Assistant Secretary Air Force, Installations, Environment, and Logistics.	Special Assistant	DF100073	10/4/2014
DEPARTMENT OF EDUCATION	Office of Special Education and Rehabilitative Services.	Confidential Assistant	DB110015	10/19/2014
ENVIRONMENTAL PROTECTION AGENCY.	Advance Staff	Deputy Director for Advance	EP110032	10/11/2014

Agency name	Organization name	Position title	Authorization No.	Vacate date
	Office of Public Affairs	Deputy Associate Administrator for External Affairs and Environmental Education.	EP140013	10/11/2014
	The Deputy Administrator	Special Assistant to the Deputy Administrator for Policy and Operations.	EP130033	10/18/2014
		Policy Advisor to the Deputy Administrator.	EP130034	10/25/2014
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of the Secretary	Advance Lead	DH130106	10/4/2014
		Special Assistant	DH140125	10/4/2014
DEPARTMENT OF HOMELAND SECURITY.	Office of the Under Secretary for National Protection and Programs Directorate.	Special Assistant to the Under Secretary, National Protection and Programs Directorate.	DM100338	10/4/2014
	Federal Emergency Management Agency.	Director of Individual and Community Preparedness.	DM130059	10/18/2014
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of the Secretary	Special Policy Advisor	DU130044	10/4/2014
	Office of Public Affairs	Deputy Press Secretary	DU130051	10/28/2014
DEPARTMENT OF JUSTICE	Office of Public Affairs	Public Affairs Specialist	DJ120103	10/18/2014
	Office of the Associate Attorney General.	Counsel and Deputy Chief of Staff	DJ140046	10/18/2014
DEPARTMENT OF LABOR	Office of Congressional and Intergovernmental Affairs.	Deputy Director of Intergovernmental Affairs.	DL130009	10/4/2014
SMALL BUSINESS ADMINISTRATION.	Office of Communications and Public Liaison.	Press Secretary	SB120017	10/18/2014
		Special Assistant	SB120038	10/26/2014
	Office of Capital Access	Deputy Associate Administrator for Capital Access.	SB120034	10/19/2014
DEPARTMENT OF VETERANS AFFAIRS.	Office of the Assistant Secretary for Public and Intergovernmental Affairs.	Special Assistant	DV120061	10/4/2014
	Office of the Secretary and Deputy.	Special Assistant	DV130049	10/4/2014

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2014–30691 Filed 12–30–14; 8:45 am]

BILLING CODE 6325–39–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2015–22 and CP2015–28; Order No. 2308]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an addition of Priority Mail Express Contract 25 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 2, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add Priority Mail Express Contract 25 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

[1] Request of the United States Postal Service to Add Priority Mail Express Contract 25 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 22, 2014 (Request).

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2015–22 and CP2015–28 to consider the Request pertaining to the proposed Priority Mail Express Contract 25 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than January 2, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Lyudmila Bzhilyanskaya to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2015–22 and CP2015–28 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Lyudmila Bzhilyanskaya is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than January 2, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–30577 Filed 12–30–14; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 15c2–7, SEC File No. 270–420, OMB Control No. 3235–0479.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 15c2–7 (17 CFR 240.15c2–7) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 15c2–7 places disclosure requirements on broker-dealers who have correspondent relationships, or agreements identified in the rule, with other broker-dealers. Whenever any such broker-dealer enters a quotation for a security through an inter-dealer quotation system, Rule 15c2–7 requires the broker-dealer to disclose these relationships and agreements in the manner required by the rule. The inter-dealer quotation system must also be able to make these disclosures public in association with the quotation the broker-dealer is making.

When Rule 15c2–7 was adopted in 1964, the information it requires was necessary for execution of the Commission's mandate under the Securities Exchange Act of 1934 to prevent fraudulent, manipulative and deceptive acts by broker-dealers. In the absence of the information collection required under Rule 15c2–7, investors and broker-dealers would have been unable to accurately determine the market depth of, and demand for, securities in an inter-dealer quotation system.

There are approximately 4,342 broker-dealers registered with the Commission. Any of these broker-dealers could be potential respondents for Rule 15c2–7, so the Commission is using that number as the number of respondents. Rule 15c2–7 applies only to quotations entered into an inter-dealer quotation system, such as the OTC Bulletin Board (''OTCBB'') or OTC Link (formerly ''Pink Sheets''), operated by OTC Markets Group Inc. (''OTC Link''). According to representatives of both OTC Link and the OTCBB, neither entity has recently received, or anticipates receiving any Rule 15c2–7 notices. However, because such notices could be made, the Commission estimates that one filing is made annually pursuant to Rule 15c2–7.

Based on prior industry reports, the Commission estimates that the average time required to enter a disclosure pursuant to the rule is .75 minutes, or 45 seconds. The Commission sees no reason to change this estimate. We estimate that impacted respondents spend a total of .0125 hours per year to comply with the requirements of Rule 15c2–7 (1 notice (×) 45 seconds/notice).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or by sending send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: December 23, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–30590 Filed 12–30–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73918; File Nos. SR–BATS–2014–055; SR–BYX–2014–030; SR–EDGA–2014–25; SR–EDGX–2014–25]

Self-Regulatory Organizations; BATS Exchange, Inc.; BATS Y-Exchange, Inc.; EDGA Exchange, Inc.; EDGX Exchange, Inc.; Notice of Amendments No. 2 and Order Granting Accelerated Approval to Proposed Rule Changes, as Modified by Amendments Nos. 1 and 2, To Establish a New Market Data Product Called the BATS One Feed

December 23, 2014

I. Introduction

On October 30, 2014, BATS Exchange, Inc. (''BATS''), BATS Y-Exchange, Inc. (''BYX''), EDGA Exchange, Inc. (''EDGA''), and EDGX Exchange, Inc.; (''EDGX'') (collectively, the ''Exchanges'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] proposed rule changes to establish a new market data product called the ''BATS One Feed.'' On November 13, 2014, each of the Exchanges filed an Amendment No. 1 to its proposed rule change. The proposed rule changes, each as amended by an Amendment No. 1, were published for comment in the **Federal Register** on November 20, 2014.[3] On December 15, 2014, each of the Exchanges filed an Amendment No. 2 to its proposed rule change. On December 15, 2014, each of the Exchanges submitted a comment letter on its proposed rule change, each of which included a redline showing the changes made by their Amendments No. 2.[4] No other comments on the proposed rule changes have been received. However, similar proposed rule changes were filed with the Commission by the Exchanges earlier this year and subsequently withdrawn; [5] three

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 73594 (Nov. 14, 2014), 79 FR 69142 (SR–BATS–2014–055); 73595 (Nov. 14, 2014) 79 FR 69160 (SR–BYX–2014–030); 73596 (Nov. 14, 2014), 79 FR 69148 (SR–EDGA–2014–25); and 73597 (Nov. 14, 2014), 79 FR 69180 (SR–EDGX–2014–25).

[4] *See* Letter from Chris Solgan, Assistant General Counsel, DirectEdge, dated December 12, 2014 (SR–BATS–2014–055); Letter from Chris Solgan, Assistant General Counsel, DirectEdge, dated December 12, 2014 (SR–BYX–2014–030); Letter from Chris Solgan, Assistant General Counsel, DirectEdge, dated December 12, 2014 (SR–EDGA–2014–25); and Letter from Chris Solgan, Assistant General Counsel, DirectEdge, dated December 12, 2014 (SR–EDGX–2014–25).

[5] Those proposed rule changes were published for comment in the **Federal Register** on August 1, 2014.

comment letters were received in response to two of those proposed rule changes.[6] The Commission is publishing this Notice and Order to solicit comment on the Amendments No. 2 and to approve each of the proposed rule changes, as modified by Amendments Nos. 1 and 2, on an accelerated basis.

II. Description of the Proposals

The Exchanges propose to establish a new market data product called the BATS One Feed, which would be offered by each of the Exchanges. The BATS One Feed would be a consolidated data feed based on market data derived from underlying data feeds offered by each of the Exchanges. Specifically, the Exchanges would use the following data feeds, which are also available to other vendors, to create the proposed BATS One Feed: the EdgeBook Depth feed for EDGX, the EdgeBook Depth feed for EDGA, the BYX PITCH Feed, and the BATS PITCH Feed. The Exchanges have represented that they will continue to make these individual underlying feeds available and that, as a result, the source of the market data they would use to create the proposed BATS One Feed would be the same as the source available to other vendors. As described more fully below, the BATS One Feed would be a data feed that disseminates, on a real-time basis, the aggregate best bid and offer (''BBO'') of all displayed orders for securities traded on the Exchanges and for which the Exchanges report quotes under the Consolidated Tape Association (''CTA'') Plan or the Nasdaq/UTP Plan. The BATS One Feed would also contain the individual last sale information for each of the Exchanges. In addition, the BATS One Feed would include messages from the Exchanges about trading on their markets. Finally, the BATS One Feed would contain an optional functionality that would enable recipients to elect to receive aggregated two-sided quotations from the Exchanges for up to five (5) price levels.

Description of the BATS One Feed

The BATS One Feed would contain the aggregate BBO of the Exchanges for all securities that are traded on the Exchanges and for which the Exchanges report quotes under the CTA Plan or the Nasdaq/UTP Plan. The aggregate BBO would include the total size of all orders at the BBO available on all Exchanges.[7] The BATS One Feed would also disseminate last sale information for each of the individual Exchanges. The last sale information would include the price, size, time of execution, and the individual Exchange on which the trade was executed. The last sale message would also include the cumulative number of shares executed on all Exchanges for that trading day. The Exchanges have represented that they would disseminate the aggregate BBO of the Exchanges and last sale information through the BATS One Feed no earlier than each individual Exchange provides its BBO and last sale information to the processors under the CTA Plan or the Nasdaq/UTP Plan.

The BATS One Feed would also include Symbol Summary, Market Status, Retail Liquidity Identifier on behalf of BYX, Trading Status, and Trade Break messages. The Symbol Summary message would include the total executed volume across all of the Exchanges. The Market Status message would be disseminated to reflect a change in the status of one of the Exchanges. For example, the Market Status message would indicate whether one of the Exchanges is experiencing a systems issue or disruption and quotation or trade information from that market is not currently being disseminated via the BATS One Feed as part of the aggregated BBO. The Market Status message would also indicate when an Exchange is no longer experiencing a systems issue or disruption to properly reflect the status of the aggregated BBO.

The Retail Liquidity Identifier indicator message would be disseminated via the BATS One Feed on behalf of the BYX only pursuant to BYX's Retail Price Improvement (''RPI'') Program.[8] The Retail Liquidity Identifier indicates when RPI interest priced at least $0.001 better than BYX's Protected Bid or Protected Offer for a particular security is available in the System. The Exchanges propose to disseminate the Retail Liquidity Indicator via the BATS One Feed in the same manner as it is currently disseminated through consolidated data streams (*i.e.,* pursuant to the Consolidated Tape Association Plan/Consolidated Quotation Plan, or CTA/CQ, for Tape A and Tape B securities, and the Nasdaq UTP Plan for Tape C securities) as well as through proprietary BYX data feeds. The Retail Liquidity Identifier reflects the symbol and the side (buy or sell) of the RPI interest, but does not include the price or size of the RPI interest. In particular, like CQ and UTP quoting outputs, the BATS One Feed would include a field for codes related to the Retail Price Improvement Identifier. The codes indicate RPI interest that is priced better than BYX's Protected Bid or Protected Offer by at least the minimum level of price improvement as required by the Program.

The Trade Break message would indicate when an execution on one of the Exchanges has been broken in accordance with the individual Exchange's rules.[9] The Trading Status message would indicate the current trading status of a security on each individual Exchange. For example, a Trading Status message would be sent when a short sale price restriction is in effect pursuant to Rule 201 of Regulation SHO (''Short Sale Circuit Breaker''),[10] or the security is subject to a trading halt, suspension or pause declared by the listing market. A Trading Status message would be sent whenever a security's trading status changes.

Optional Functionality for Aggregate Depth of Book. The BATS One Feed would also offer an additional, optional functionality that would enable recipients to receive two-sided quotations from the Exchanges for five (5) price levels for all securities that are traded on the Exchanges. The option for

See Securities Exchange Act Release Nos. 72688 (July 28, 2014), 79 FR 44941 (SR–BATS–2014–028); 72690 (July 28, 2014), 79 FR 44929 (SR–BYX–2014–011); 72689 (July 28, 2014), 79 FR 44917 (SR–EDGA–2014–16); and 56415 (July 28, 2014), 79 FR 44892 (SR–EDGX–2014–19). On September 15, 2014, the Commission extended its review period until October 30, 2014. *See* Securities Exchange Act Release Nos. 73099, 79 FR 56418 (Sept. 19, 2014) (SR–BATS–2014–028); 73102, 79 FR 56419 (Sept. 19, 2014) (SR–BYX–2014–011); 73098, 79 FR 56415 (Sept. 19, 2014) (SR–EDGA–2014–16); and 73099, 79 FR 56418 (Sept. 19, 2014) (SR–EDGX–2014–19). On October 29, 2014, the Exchanges withdrew these proposed rule changes.

[6] *See* Letter from Sal Arnuk and Joe Saluzzi, Themis Trading LLC, to Elizabeth M. Murphy, Secretary, Commission, dated August 21, 2014 (SR–BATS–2014–028) (''Themis Letter''); Letter from Ira D. Hammerman, General Counsel, SIFMA, to Kevin O'Neill, Deputy Secretary, Commission, dated August 22, 2014 (SR–BATS–2014–028) (''SIFMA Letter''); and Letter from Suzanne Hamlet Shatto to the Commission, dated August 19, 2014 (SR–EDGA–2014–16) (''Shatto Letter'').

[7] The Exchanges have stated that quotations of odd lot size, which is generally less than 100 shares, would be included in the total size of all orders at a particular price level in the BATS One Feed but are currently not reported by the Exchanges to the consolidated tape.

[8] For a description of BYX's RPI Program, *see* BYX Rule 11.24. *See also* Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) (SR–BYX–2012–019) (Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 2, to Adopt a Retail Price Improvement Program); Securities Exchange Act Release No. 67734 (August 27, 2012), 77 FR 53242 (August 31, 2012) (SR–BYX–2019–019) (Notice of Filing of Proposed Rule Change to Adopt a Retail Price Improvement Program).

[9] *See, e.g.,* Exchange and EDGA Rule 11.13 (Clearly Erroneous Executions) and BATS and BYX Rule 11.17 (Clearly Erroneous Executions).

[10] 17 CFR 242.200(g); 17 CFR 242.201.

receiving the BATS One Feed with this depth of book functionality is referred to as the ''BATS One Premium Feed;'' the option for receiving the BATS One Feed without this functionality is referred to as the ''BATS One Summary Feed.'' For each price level on one of the Exchanges, the BATS One Premium Feed option of the BATS One Feed would include a two-sided quote and the number of shares available to buy and sell at that particular price level.[11]

Distribution of the BATS One Feed. The Exchanges represent that they have taken into consideration their affiliated relationships in the design of the BATS One Feed to assure that vendors would be able to offer a similar product on the same terms as the Exchanges, both from the perspective of latency and cost. The Exchanges have stated that they propose to offer the BATS One Feed voluntarily in response to demand from vendors and subscribers that are interested in receiving the aggregate BBO and last sale information from the Exchanges as part of a single data feed. The Exchanges assert that the BATS One Feed can be used by industry professionals and retail investors looking for a cost effective, easy-to-administer, high quality market data product with the characteristics of the BATS One Feed. The Exchanges also assert that the BATS One Feed would help protect a free and open market by providing vendors and subscribers additional choices in receiving this type of market data, thus promoting competition and innovation.

With respect to latency, the Exchanges have represented that the path for distribution by the Exchanges of BATS One Feed would not be faster than the path for distribution that would be used by a vendor to distribute an independently created a BATS One-like product. Accordingly, the Exchanges have stated, the proposed BATS One data feed is a data product that a competing vendor could create and sell without being in a disadvantaged position relative to the Exchange. In recognition that the Exchanges are the source of their own market data and affiliated with one another, the Exchanges have represented that the source of the market data they would use to create the proposed BATS One Feed is available to other vendors. Specifically, the Exchanges have represented that they would use the following data feeds to create the proposed BATS One Feed, each of which is available to other vendors: the EdgeBook Depth feed for EDGX, the EdgeBook Depth feed for EDGA, the BYX PITCH Feed, and the BATS PITCH Feed. The Exchanges have also represented that they will continue to make available these individual underlying feeds and that, as a result, the source of the market data they would use to create the proposed BATS One Feed is the same as the source available to competing vendors.

The Exchanges have also made the following representations regarding the latency of the BATS One Feed and any consolidated feed to be offered by a competing vendor. In order to create the BATS One Feed, the system creating and supporting the BATS One Feed would need to receive the individual data feeds from each Exchange and, in turn, aggregate and summarize that data to create the BATS One Feed and then distribute it to end users. This is the same process a competing vendor would undergo should it create a market data product similar to the BATS One Feed to distribute to its end users. In addition, a competing vendor could locate its servers in the same facilities as the system creating and supporting the BATS One Feed and could therefore receive the individual data feeds from each Exchange at the same time as the system creating and supporting the BATS One Feed. Thus, the Exchanges have stated that they would not have any unfair advantage over competing vendors with respect to obtaining data from the individual Exchanges, because the technology supporting the BATS One Feed would similarly need to obtain the underlying data feeds and because this connection would be on a level playing field with a competing vendor located at the same facility as the Exchanges. Likewise, the BATS One data feed would not have a speed advantage vis-à-vis competing vendors with respect to access to end user customers, whether those end users are also located in the same data center or not.

With regard to cost, the Exchanges have represented that they will file a separate rule filing with the Commission to establish fees for BATS One Feed and that these fees would be designed to ensure that vendors could compete with the Exchanges by creating a similar product. To ensure a vendor can compete with the Exchanges by creating the same product as the BATS One Feed and selling it to their clients, the Exchanges have also represented that they would charge their clients for the BATS One Feed an amount that is no less than the cost to a market data vendor to obtain all the underlying feeds, plus an amount to be determined that would reflect the value of the aggregation and consolidation function. Thus, the pricing for the BATS One Feed would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no pricing disadvantage relative to the Exchanges.

Implementation Date

The Exchanges have represented that they anticipate making the BATS One Feed available as soon as practicable after approval of the proposed rule changes by the Commission and the effectiveness of rule filings to establish the fees for the BATS One Feed.[12]

III. Summary of Comments

As noted above, the Commission received three comment letters on previous versions of the proposed changes filed by some of the Exchanges.[13] In their current proposals, the Exchanges have responded to the points raised by these commenters.

The three commenters generally oppose the proposed BATS One Feed. The Shatto Letter expressed general concerns about the transparency of order flow information to regulators. The Themis Letter expressed objections to the proposed BATS One Feed on the grounds that it would introduce a new proprietary data feed and expressed concerns generally about the complexity arising from the proliferation of new data technologies. In their response to the commenters, the Exchanges argued that the Themis Letter and Shatto Letter are not responsive to the issues raised in the proposal or are aimed at existing elements of U.S. market structure that have been previously approved by the Commission.

The SIFMA Letter primarily argues that the fees for the proposed BATS One Feed do not meet the requirements of the Act, including the requirement that such fees be ''fair and reasonable'' under section 11A(c)(1)(C) of the Act. SIFMA also contends that BATS has circumvented the requirement to receive Commission approval for this product by offering and marketing the BATS One Feed since August 1, 2014. In their response to the SIFMA Letter, the Exchanges noted that the thrust of the SIFMA Letter is aimed at the initially proposed fees, which have now been removed from the proposed rule changes and are to be filed with the Commission via separate rule filings.

[11] Recipients who do not elect to receive the BATS One Premium Feed would receive the aggregate BBO of the Exchanges under the BATS Summary Feed, which, unlike the BATS Premium Feed, would not delineate the size available at the BBO on each individual Exchange.

[12] Each of the Exchanges intend to file a separate proposal establishing the fees for the BATS One Feed.

[13] *See* SIFMA Letter, Shatto Letter, and Themis Letter, *supra* note 6.

The Exchanges also noted that, while the SIFMA Letter correctly states that BATS has marketed the BATS One Feed since August 1, 2014, the SIFMA Letter incorrectly asserts that BATS has offered the BATS One Feed since that same date. The Exchanges have represented that all of their marketing materials have included statements that the BATS One Feed's implementation was pending to Commission approval, and at no point have the Exchanges offered the BATS One product for any use other than for testing and certification.

IV. Discussion and Commission Findings

After carefully considering the proposals and the comments submitted, the Commission finds that the proposed rule changes, as modified by Amendments Nos. 1 and 2, are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges.[14] In particular, the Commission finds that the proposed rule changes are consistent with the requirements of section 11A(c)(1)(C) of the Act [15] and with Rule 603(a)(2) of Regulation NMS thereunder,[16] which requires that any national securities exchange, national securities association, broker, or dealer that distributes information with respect to quotations for or transactions in an NMS stock to a securities information processor, broker, dealer, or other persons shall do so on terms that are not unreasonably discriminatory. The Commission also finds that the proposed rule changes are consistent with section 6(b)(5) of the Act, which requires that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest, and section 6(b)(8) of the Act, which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.[17]

The Commission notes that, to create the BATS One Feed, the Exchanges would use underlying data feeds that belong to the Exchanges: the EdgeBook Depth feed for EDGX, the EdgeBook Depth feed for EDGA, the BYX PITCH Feed, and the BATS PITCH Feed. Accordingly, the Commission's review of the Exchanges' proposals has focused, in particular, on whether the proposals would result in affiliated exchanges—which are separate self-regulatory organizations under the Act—making their data products or services available to one another at terms (*e.g.,* content, pricing, or latency) that are more favorable than those available to unaffiliated market participants.

The Exchanges have represented that the BATS One Feed would be created using underlying data feeds that are available for subscription by vendors. In recognition that the Exchanges are the source of their own market data and that they are affiliated with one another, the Exchanges have also represented that they will continue to make available all of the individual underlying feeds and that the source of the market data they would use to create the proposed BATS One Feed is the same as the source available to competing vendors.

With respect to latency, the Exchanges have represented that competing vendors could locate their servers in the same facilities as the system creating and supporting the BATS One Feed, and, therefore, could receive the underlying data feeds at the same time as the system creating and supporting the BATS One Feed. Therefore, the Exchanges have contended that, a competing vendor could obtain the underlying data feeds from the Exchanges on the same latency basis as the system that would be performing the aggregation and consolidation of the proposed BATS One Feed and could provide the same kind of product to its customers with the same latency they could achieve by purchasing the BATS One Feed from the Exchanges.[18] The Exchanges have also represented that they have designed the BATS One Feed so that they would have no advantages over a competing vendor with respect to the speed of access to the underlying feeds.

With respect to pricing, although specific fees to be charged for the BATS One Feed are not part of the proposed rule changes, the Exchanges have represented that they will assess a fee that is at least equal to the aggregate cost of the underlying feeds (*i.e.,* at least as much as the cost to a vendor of subscribing to each of the underlying data feeds), plus an additional amount (to be determined) that would reflect the value of the aggregation and consolidation function performed to create the BATS One Feed.[19]

Based on the Exchange's representations with respect to the content, latency, and pricing of the BATS One Feed—which are central to the Commission's analysis of the proposal—the Commission finds that the Exchanges' proposals are consistent with the Act and the rules and regulations thereunder applicable to national securities exchanges. The Commission believes that these representations are designed to ensure that BATS, BYX, EDGA, and EDGX, which are separate self-regulatory organizations, do not, because of their relationship as affiliates, offer one another products or services on a more favorable basis than that available to other competing market participants.

For the foregoing reasons, the Commission finds that the proposed rule changes, as amended, are consistent with section 11A(c)(1)(C) of the Act and Rule 603(a)(2) of Regulation NMS

[14] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] Section 11A(c)(1)(C) of the Act requires, among other things, that no self-regulatory organization, member thereof, securities information processor, broker or dealer make use of the mails or any means or instrumentality of interstate commerce to collect, process, distribute, publish or prepare for distribution or publication any information with respect to quotations for or transactions in any security other than an exempted security in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act to assure that all securities information processors may, for purposes of distribution and publication, obtain on fair and reasonable terms such information with respect to quotations for and transactions in such securities as is collected, processed, or prepared for distribution or publication by an exclusive processor of such information acting in such capacity. 15 U.S.C. 78k–1(c)(1)(C).

[16] 17 CFR 242.603(a)(2).

[17] 15 U.S.C. 78f(b)(5) and (b)(8).

[18] The Exchanges have represented that, in order to create the BATS One Feed, the system creating and supporting the BATS One Feed would need to receive the underlying data feeds from each Exchange and, in turn, aggregate and summarize that data to create the BATS One Feed and then distribute it to end users. The Exchanges have stated that this is the same process a competing vendor would undergo should it create a market data product similar to the BATS One Feed to distribute to its end users.

[19] SIFMA has objected to the BATS One Feed primarily over concerns about fees for this product being ''fair and reasonable,'' consistent with section 11A(c)(1)(C) of the Act. The Commission notes, however, that the proposed rule changes do not contain proposed fees and that Exchanges have represented that they will not offer the BATS One Feed until the requisite fee filings under section 19(b) of the Act have been filed and are effective. The Commission will review any such filings when they have been submitted.

SIFMA has also argued that BATS has circumvented the process of receiving Commission approval and has been actively offering and marketing the BATS One Feed for months. The Commission notes, however, that the Exchanges have represented that, although they have been marketing the BATS One Feed, all of their marketing materials have included statements that the BATS One Feed's implementation was pending to Commission approval and at no point have the Exchanges offered the BATS One product for any use other than for testing and certification.

thereunder,[20] and sections 6(b)(5) and (b)(8) of the Act.[21]

V. Accelerated Approval of Proposed Rule Changes, as Modified by Amendments No. 2

The Amendments No. 2 revised the proposed rule changes to: (i) Clarify how the BATS One Feed would be created, (ii) make additional clarifying statements with respect to the latency and cost of the BATS One Feed, and (iii) bring together the discussion of key aspects of the description of the proposal in the same section. Accordingly, the Commission does not believe that the Amendments No. 2 raises any novel regulatory issues and therefore finds that good cause exists to approve the proposals, as modified by Amendments Nos. 1 and 2, on an accelerated basis.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendments No. 2 to the proposed rule changes are 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 Numbers SR–BATS–2014–055; SR–BYX–2014–030; SR–EDGA–2014–25; or SR–EDGX–2014–25 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 Numbers SR–BATS–2014–055; SR–BYX–2014–030; SR–EDGA–2014–25; or SR–EDGX–2014–25. 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 Numbers SR–BATS–2014–055; SR–BYX–2014–030; SR–EDGA–2014–25; or SR–EDGX–2014–25 and should be submitted on or before January 21, 2015.

VII. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[22] that the proposed rule changes, as modified by Amendments Nos. 1 and 2, (SR–BATS–2014–055; SR–BYX–2014–030; SR–EDGA–2014–25; SR–EDGX–2014–25) be, and hereby are, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–30586 Filed 12–30–14; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78k–1(c)(1)(C) and 17 CFR 242.603(a)(2).

[21] 15 U.S.C. 78f(b)(5) and (b)(8).

[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 73927; File No. SR–Phlx–2014–80]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Strategy Fee Caps

December 23, 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 December 18, 2014, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Strategy Fee Caps which are currently located in the Exchange Fee Schedule at Section II, entitled ''Multiply Listed Options.''

While changes to the Pricing Schedule pursuant to this proposal are effective upon filing, the Exchange has designated the proposed amendment to be operative on January 2, 2015.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.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 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 this filing is to amend the Strategy Fee Caps which are currently located in Section II, entitled ''Multiply Listed Options.'' [3] Today, the Exchange caps transaction fees for certain dividend,[4] merger,[5] short stock

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] This includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed.

[4] A dividend strategy is defined as transactions done to achieve a dividend arbitrage involving the purchase, sale and exercise of in-the-money options of the same class, executed the first business day prior to the date on which the underlying stock goes ex-dividend.

[5] A merger strategy is defined as transactions done to achieve a merger arbitrage involving the purchase, sale and exercise of options of the same class and expiration date, executed the first business day prior to the date on which

interest,[6] reversal and conversion,[7] jelly roll [8] and box spread [9] floor option transaction strategies.

Today, fees paid by Specialist,[10] Market Maker,[11] Professional,[12] Firm [13] and Broker-Dealer [14] for floor option transaction in Multiply Listed Options are capped at $1,250 for dividend, merger and short stock interest strategies executed on the same trading day in the same options class when such members are trading in their own proprietary accounts. The Exchange proposes to increase this cap from $1,250 to $1,500. The Exchange will continue to cap at $700 the fees paid by Specialist, Market Maker, Professional, Firm and Broker-Dealer for reversal and conversion, jelly roll and box spread floor option transaction strategies that are executed on the same trading day in the same options class.

Today, the Exchange further separately caps dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread floor option transaction strategies in Multiply Listed Options, combined in a month when trading in their own proprietary accounts (''Monthly Strategy Cap''), at $50,000.[15] The Exchange proposes to increase the Monthly Strategy Cap from $50,000 to $60,000.

Despite the increased caps proposed herein, the Exchange believes that offering members and member organizations the opportunity to continue to cap transaction fees will benefit Phlx members and the Phlx market by encouraging members to transact greater liquidity.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[16] in general, and with Section 6(b)(4) and 6(b)(5) of the Act,[17] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that increasing the fee cap for dividend, merger and short stock interest strategies from $1,250 to $1,500 is reasonable because the Exchange desires to continue to incentivize market participants to transact dividend, merger and short stock interest floor option transactions in Multiply Listed Options and believes this proposal will continue to offer Specialists, Market Makers, Professionals, Firms and Broker-Dealers competitive fee caps.

The Exchange believes that increasing the fee cap for dividend, merger and short stock interest strategies from $1,250 to $1,500 is equitable and not unfairly discriminatory because the Exchange is offering the fee cap for floor option transaction charges in Multiply Listed Options to all market participants that pay transaction fees for these strategies in a uniform manner. Customers are not assessed transaction fees for these types of strategies.

The Exchange believes that continuing to offer a lower fee cap ($700) for reversal and conversion, jelly roll and box spread strategies and not requiring that the transactions be executed in the member's own proprietary account, as compared to other dividend, merger and short stock interest strategy executions, which have a higher cap ($1,500, as proposed) and require members execute transactions in their own proprietary accounts, is equitable and not unfairly discriminatory because the Exchange believes this incentive is necessary to create further trading opportunities for members on the Exchange's trading floor and is being offered uniformly to all floor members. The Exchange believes a similar incentive is not necessary for dividend, merger and short stock interest strategies. Also, today, the cap is higher for dividend, merger and short stock interest strategies ($1,250 as compared to $700). In addition, the Exchange believes that it is equitable and not unfairly discriminatory to continue to require that all fee cap strategies, which combine executions for purposes of the Monthly Strategy Cap, must be traded in a member's own proprietary account.

The Exchange's proposal to increase the Monthly Strategy Cap from $50,000 to $60,000 is reasonable because the Exchange seeks to continue to incentivize members to transact a greater number of strategies on the Exchange to benefit from the fee cap, despite the increase to the cap. The Exchange's proposal to increase the Monthly Strategy Cap from $50,000 to $60,000 is equitable and not unfairly discriminatory because the Exchange would offer members the opportunity to cap their floor equity options transaction in Multiply Listed Options fees for all strategies. Customers are excluded because they are not assessed a floor Options Transaction Charge.[18] Excluding Firm floor options transaction in Multiply Listed Options related to reversal and conversion, jelly roll and box spread strategies are from the Monthly Strategy Cap is reasonable, equitable and not unfairly discriminatory because these fees would continue to be capped as part of the Monthly Firm Fee Cap, which applies only to Firms. The Exchange believes that the exclusion of Firm floor options transaction charges in Multiply Listed Options related to reversal and

shareholders of record are required to elect their respective form of consideration, *i.e.,* cash or stock.

[6] A short stock interest strategy is defined as transactions done to achieve a short stock interest arbitrage involving the purchase, sale and exercise of in-the-money options of the same class.

[7] Reversal and conversion strategies are transactions that employ calls and puts of the same strike price and the underlying stock. Reversals are established by combining a short stock position with a short put and a long call position that shares the same strike and expiration. Conversions employ long positions in the underlying stock that accompany long puts and short calls sharing the same strike and expiration.

[8] A jelly roll strategy is defined as transactions created by entering into two separate positions simultaneously. One position involves buying a put and selling a call with the same strike price and expiration. The second position involves selling a put and buying a call, with the same strike price, but with a different expiration from the first position.

[9] A box spread strategy is a strategy that synthesizes long and short stock positions to create a profit. Specifically, a long call and short put at one strike is combined with a short call and long put at a different strike to create synthetic long and synthetic short stock positions, respectively.

[10] A ''Specialist'' is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

[11] A ''Market Maker'' includes Registered Options Traders (Rule 1014(b)(i) and (ii)), which includes Streaming Quote Traders (*see* Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders (*see* Rule 1014(b)(ii)(B)). Directed Participants are also market makers.

[12] The term ''Professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Rule 1000(b)(14).

[13] The term ''Firm'' applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC.

[14] The term ''Broker-Dealer'' applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

[15] Reversal and conversion, jelly roll and box spread strategy executions are not included in the Monthly Strategy Cap for a Firm. Reversal and conversion, jelly roll and box spread strategy executions (as defined in this Section II) are included in the Monthly Firm Fee Cap. All dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread strategy executions (as defined in this Section II) are excluded from the Monthly Market Maker Cap. Firms are subject to a maximum fee of $75,000 (''Monthly Firm Fee Cap''). Specialists and Market Makers are subject to a ''Monthly Market Maker Cap'' of $550,000 for: (i) Electronic and floor Option Transaction Charges; (ii) QCC Transaction Fees (as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e)); and (iii) fees related to an order or quote that is contra to a PIXL Order or specifically responding to a PIXL auction.

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78f(b)(4) and (5).

[18] *See* Section II of the Pricing Schedule.

conversion, jelly roll and box spread strategies from the Monthly Strategy Cap is equitable and not unfairly discriminatory because Firms, unlike other market participants, have the ability to cap transaction fees up to $75,000 per month. The Exchange would include floor option transaction charges related to reversal and conversion, jelly roll and box spread strategies in the Monthly Strategy Cap for Professionals, and Broker Dealers, when such members are trading in their own proprietary accounts, because these market participants are not subject to the Monthly Firm Fee Cap or other similar cap. While Specialists and Market Makers are subject to a Monthly Market Maker Cap on both electronic and floor options transaction charges, reversal and conversion, jelly roll and box spread transactions are excluded from the Monthly Market Maker Cap.[19] For the reasons described above, the Exchange believes continuing to include reversal and conversion, jelly roll and box spread strategies in the Monthly Firm Fee Cap is reasonable, equitable and not unfairly discriminatory because the cap provides an incentive for Firms to transact floor transactions on the Exchange, which brings increased liquidity and order flow to the floor for the benefit of all market participants.[20]

The Exchange believes that its proposal to continue to apply strategy fee caps to orders originating from the Exchange floor is reasonable because members pay floor brokers to execute trades on the Exchange floor. The Exchange believes that offering fee caps to members executing floor transactions would defray brokerage costs associated with executing strategy transactions and continue to incentivize members to utilize the floor for certain executions.[21] The Exchange believes that its proposal to continue to apply the fee caps to orders originating from the Exchange floor is equitable and not unfairly discriminatory because today, the fee caps are only applicable for floor transactions. The Exchange believes that a requirement that both the buy and sell sides of the order originate from the floor to qualify for the fee cap constitutes equal treatment of members.

[19] *Id.*

[20] Firms are eligible to cap floor options transactions charges and QCC Transaction Fees as part of the Monthly Firm Fee Cap. QCC Transaction Fees apply to QCC Orders as defined in Exchange Rule 1080(o) and Floor QCC Orders as defined in 1064(e). *See* Section II of the Pricing Schedule.

[21] The Exchange's proposal would only apply the fee cap to options transaction charges where buy and sell sides originate from the Exchange floor. *See* proposed rule text in Section II of the Pricing Schedule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes apply uniformly to all members that incur transaction charges.[22] The Exchange believes the proposal is consistent with robust competition and does not provide any unnecessary burden on competition. Further, floor members pay floor brokers to execute trades on the Exchange floor. The Exchange believes that offering fee caps to members executing floor transactions and not electronic executions does not create an unnecessary burden on competition because the fee caps defray brokerage costs associated with executing strategy transactions. Also, requiring that both the buy and sell sides of the order originate from the floor to qualify for the fee cap constitutes equal treatment of members.

The Exchange operates in a highly competitive market, comprised of twelve exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or rebates to be inadequate. Accordingly, the fees that are assessed and the rebates paid by the Exchange, as described in the proposal, are influenced by these robust market forces and therefore must remain competitive with fees charged and rebates paid by other venues and therefore must continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[23] 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.

[22] Customers are not assessed options transaction charges in Section II of the Pricing Schedule.

[23] 15 U.S.C. 78s(b)(3)(A)(ii).

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–Phlx–2014–80 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–Phlx–2014–80. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2014–80, and should be submitted on or before January 21, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Kevin O'Neill,

Deputy Secretary.

[FR Doc. 2014–30588 Filed 12–30–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73929; File No. SR–NSCC–2014–13]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Addendum A (Fee Structure) With Respect to Fees Related to NSCC's Obligation Warehouse Service

December 23, 2014.

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4[2] thereunder, notice is hereby given that on December 17, 2014, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by NSCC. NSCC filed the proposed rule change pursuant to section 19(b)(3)(A)[3] of the Act and Rule 19b–4(f)(2)[4] thereunder. The proposed rule change was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to Addendum A of the Rules & Procedures (''Rules'') of NSCC in order to adjust certain fees related to NSCC's Obligation Warehouse service, as more fully described below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency'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 revise NSCC's fee schedule (as listed in Addendum A of the Rules) in order to adjust certain fees related to NSCC's Obligation Warehouse (''OW''), a non-guaranteed, automated service that tracks, stores, and maintains unsettled ex-clearing and failed obligations, as well as obligations exited from NSCC's Continuous Net Settlement (''CNS'') system, non-CNS Automated Customer Account Transfer Service (''ACATS'') Receive and Deliver Instructions, Balance Orders, and Special Trades, as such terms are defined in the Rules. The OW service provides transparency, serves as a central storage of open (*i.e.* failed or unsettled) broker-to-broker obligations, and allows users to manage and resolve exceptions in an efficient and timely manner.

Currently, NSCC charges a fee to the recipient of a delivery notification request advisory, which informs the recipient that the submitting party has acknowledged that an OW obligation between those parties has settled, if that notification is aged two days or older (''Aged Delivery Advisories''); and also charges a fee to the recipient of a pending cancel request advisory, which requests that the recipient cancel a previously compared OW obligation, if that request is aged two days or older (''Aged Cancel Advisories''). NSCC is proposing to revise its fee schedule to increase the fees charged for Aged Delivery Advisories and Aged Cancel Advisories as marked on Exhibit 5 hereto.[5] The increase in these fees would encourage more timely action by the recipients of these advisories, and would align the fees associated with the OW service with the costs of delivering that service to NSCC's Members. NSCC also proposes to remove notations in Addendum A related to the phased-in implementation for fees charged for each pending comparison advisory that are aged 5 days or older.

The proposed rule change is marked on Exhibit 5 hereto as amendments to Addendum A to NSCC's Rules. No other changes to the Rules are contemplated by this proposed rule change. The proposed fee change would take effect on January 1, 2015.

2. Statutory Basis

The proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, in particular section 17A(b)(3)(D) of the Act,[6] which requires that the Rules provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. The proposed rule change would align NSCC's fees with the costs of delivering services to NSCC Members, and would allocate those fees equitably among the NSCC Members that use those services.

(B) Clearing Agency's Statement on Burden on Competition

NSCC does not believe that the proposed rule change would have any impact, or impose any burden, on competition. As stated above, the proposed change would align NSCC's fees with the costs of delivering services to its Members, and would not disproportionally impact any NSCC Members.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)[7] of the Act and paragraph (f) of Rule 19b–4[8] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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:

[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] The Commission notes that Exhibit 5 is attached to the filing, not to this Notice.

[6] 15 U.S.C. 78q–1(b)(3)(D).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f).

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–NSCC–2014–13 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–NSCC–2014–13. 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 NSCC and on DTCC's Web site at *http://dtcc.com/legal/sec-rule-filings.aspx*. 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–NSCC–2014–13 and should be submitted on or before January 21, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Brent J. Fields,

Secretary.

[FR Doc. 2014–30591 Filed 12–30–14; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73928; File No. SR–NYSEARCA–2014–145]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 6.76A by Revising the Order Allocation Methodology for Certain Orders of Five Contracts or Fewer

December 23, 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 December 22, 2014, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.76A by revising the order allocation methodology for certain orders of five contracts or fewer. 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 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 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 Rules 6.76A by revising the order allocation methodology for certain orders of five (5) contracts or fewer. As proposed, for all incoming orders of five contracts or fewer the Lead Market Maker (''LMM'') would be allocated the full contract size up to the size of the LMM's quote, provided the LMM is quoting at the NBBO and there is no Customer interest at the same price ranked ahead of the LMM.

Rule 6.76A sets forth the priority for the allocation of incoming orders against bids and offers in the Display Order Process at a particular price in the NYSE Arca System (''System''). Specifically, pursuant to Rule 6.76A(a)(1)(A), if there is an LMM quoting at the NBBO, and there is no Customer interest ranked ahead of the LMM, nor is the incoming order a Directed Order, the incoming order will be matched against the quote of the LMM for either: (a) An amount equal to 40% of the incoming order up to the LMM's disseminated quote size; or (b) the LMM's share in the order of ranking, whichever is greater. Generally speaking, this means an LMM receives a guaranteed 40% trade allocation on any incoming order provided the LMM is quoting at the NBBO, and there is no Customer interest ranked ahead of the LMM.

The Exchange is proposing to revise the order allocation methodology to provide that if the LMM is entitled to an allocation pursuant to Rule 6.76A(a)(1)(A) and the entire contract size of the incoming order is five (5) contracts or fewer, the LMM would be allocated the full contract size up to the size of the LMM's quote. As proposed, Rule 6.76A(1)(B) would state, ''If the LMM is entitled to an allocation pursuant to (a)(1)(A) above, for all incoming orders of five (5) contracts or fewer, the LMM will be allocated the full contract size up to the size of the LMM's quote.'' This proposed change would affect only those incoming orders of five contacts or fewer. The Exchange notes that the proposed rule is only available if the LMM is entitled to an allocation, which means that if there is Customer interest at the same price ranked ahead of the LMM, such Customer interest would continue to have priority, even for executions of five contracts or fewer. In addition, an LMM must be quoting at the NBBO to be entitled to trade with orders of five contracts or fewer.[3] The Exchange is not proposing any changes to the order

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] If the LMM is not quoting at the NBBO, or the LMM is quoting at the NBBO but for less size than the incoming order of five contracts or fewer, any remaining balance of the incoming order will be matched against orders and quotes in the Display Order Process in the order of their ranking.

allocation methodology for executions greater than five contracts.

The allocation of orders of five contracts or fewer to a specific type of market maker (*i.e.* LMM) is consistent with similar methodology for allocating small size orders on other options exchanges. For example, the Chicago Board Options Exchange (''CBOE'') may allocate all orders of five contracts or fewer to an LMM or Designated Primary Market Maker (''DPM''),[4] NYSE Amex Options allocates orders of five contracts or fewer to the Primary Specialist,[5] and the International Securities Exchange (''ISE'') allocates all orders of five contracts or fewer to the Primary Market Maker (''PMM'').[6] The Exchange's proposal would provide its LMMs the same guaranteed allocation of orders of five contracts or fewer as these exchanges provide to their DPMs, Specialist, or PMMs. Specifically, the Exchange, like NYSE Amex Options, and the ISE, would condition this guaranteed allocation on there being no Customer orders ranked ahead of the LMM, the LMM quoting at the NBBO, and the trade allocation not exceeding the number of contracts than the LMM is quoting.

The Exchange believes that the allocation of order of five contracts or fewer will not result in a significant portion of the Exchange's volume being executed by the LMM. Nevertheless, the Exchange would monitor the sizes of all orders received, and, on a quarterly basis, evaluate the percentage of volume constituted by orders of five contracts or fewer that were allocated to an LMM. If the percentage of the volume executed on the Exchange comprised of orders for five (5) contracts or fewer executed by an LMM is over forty percent (40%), the Exchange will reduce the size of the orders guaranteed to the LMM in this provision. Conducting a quarterly review of Exchange volume and analyzing the percentage of orders of five contracts or fewer is consistent with review processes at other exchanges with comparable allocation methodology for small size orders.[7] The Exchange proposes to include the evaluation process in new Commentary .02 to Rule 6.76A.

The proposed allocation methodology described above is part of NYSE Arca's careful balancing of the rewards and obligations that pertain to each of the Exchange's classes of memberships. This balancing is part of the overall market structure that is designed to encourage vigorous price competition among Market Makers, as well as to maximize the benefits of price competition resulting from the entry of Customer and non-Customer orders, while encouraging participants to provide market depth. The Exchange believes by offering LMMs a greater allocation on executions of five contracts or fewer, similar to what their counterparts on other exchanges receive, the proposed change, which guarantees participation rights for LMMs only when quoting at the best price, strikes the appropriate balance between the obligations of LMMs to provide meaningful depth and liquidity, and the rewards they receive for doing so. Furthermore, the Exchange believes that the revised trade allocation process, which is competitive with those offered on other exchanges,[8] will help to ensure that NYSE Arca is able to continue to attract quality LMMs willing to provide deep meaningful markets to the investing public.

The Exchange is also proposing minor non-substantive changes to the numbering convention of Rule 6.76A to accommodate the rule change described above.

The Exchange will issue a notice announcing the implementation date of the proposed rule change no later than 30 days after the effective date of this filing.

2. Statutory Basis

The Exchange believes that this proposed rule change is consistent with section 6(b) of the Securities Exchange Act of 1934 (''Act'') [9], in general, and furthers the objectives of Section 6(b)(5) of the Act [10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, and as described above, the Exchange believes the proposed rule change is part of the balancing of NYSE Arca's overall market structure, which is designed to encourage vigorous price competition between Market Makers. In addition, the Exchange believes the proposed rule change furthers the objectives of the Act because it is also designed to help ensure that NYSE Arca is able to attract quality LMMs willing to provide deep meaningful markets to the investing public. Increasing quote competition should lead to narrower spreads and more liquid markets and thus benefit investors. Narrower spreads and more liquid markets can serve as a catalyst to attracting additional order flow to the Exchange, enhancing price discovery and generally benefiting all participants on the Exchange.

The Exchange further believes that the proposed rule change would be not be unfairly discriminatory in allocating orders of five contracts or fewer to the LMM. To help ensure that one class of Market Maker is not unduly enriched by this proposal, the Exchange would monitor the sizes of all orders received, and by using objective criteria, if it determines that the proposed allocation process could be seen as discriminatory because of an unfair share of trade allocations going to the LMM, would reduce the eligible size for orders included in this provision.

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. In fact, the Exchange feels that the proposed change will increase competition amongst Market Makers seeking appointments as LMMs which should result in narrower spreads and more liquid markets for investors. In addition, by offering an allocation methodology similar to those offered at other exchanges, NYSE Arca will be in a better position to compete with those exchanges in attracting well capitalized Market Makers willing to make deep liquid markets while acting as an LMM.

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 [11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on

[4] *See* CBOE Rule 6.45B(a)(iii)(1).

[5] *See* NYSE MKT Rule 964NY(b)(2)(C)(iv).

[6] *See* ISE Rule 713 Supplementary Material .01(c).

[7] *See* NYSE MKT Rule 964NY Commentary .01, ISE Rule 713 Supplementary Material .01(c), and CBOE Rule 6.45B(a)(iii)(1)(A).

[8] *Supra* nn. 4, 5, and 6.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

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, it has become effective pursuant to section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14]

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–NYSEARCA–2014–145 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–2014–145. 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 NYSE Arca. 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–2014–145 and should be submitted on or before January 21, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–30589 Filed 12–30–14; 8:45 am]

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[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73919; File No. SR–NYSE–2014–71]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Operation of Its New Market Model Pilot, Until the Earlier of Securities and Exchange Commission Approval To Make Such Pilot Permanent or July 31, 2015

December 23, 2014

Pursuant to section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on December 18, 2014, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the operation of its New Market Model Pilot, currently scheduled to expire on December 31, 2014, until the earlier of Securities and Exchange Commission (''Commission'') approval to make such pilot permanent or July 31, 2015. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the operation of its New Market Model Pilot (''NMM Pilot''),[4] currently scheduled to

[4] *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46). *See also* Securities Exchange Act Release Nos. 60756 (October 1, 2009), 74 FR 51628 (October 7, 2009) (SR–NYSE–2009–100) (extending Pilot to November 30, 2009); 61031 (November 19, 2009), 74 FR 62368 (November 27, 2009) (SR–NYSE–2009–113) (extending Pilot to March 30, 2010); 61724 (March 17, 2010), 75 FR 14221 (March 24, 2010) (SR–NYSE–2010–25) (extending Pilot to September 30, 2010); 62819 (September 1, 2010), 75 FR 54937 (September 9, 2010) (SR–NYSE–2010–61) (extending Pilot to January 31, 2011); 63616 (December 29, 2010), 76 FR 612 (January 5, 2011) (SR–NYSE–2010–86) (extending Pilot to August 1, 2011); 64761 (June 28, 2011), 76 FR 39147 (July 5, 2011) (SR–NYSE–2011–29) (extending Pilot to January 31, 2012); 66046 (December 23, 2011), 76 FR 82340 (December 30, 2011) (SR–NYSE–2011–65) (extending Pilot to July 31, 2012); 67494 (July 25, 2012), 77 FR 45408 (July 31, 2012) (SR–NYSE–2012–26) (extending Pilot to January 31, 2013); 68558 (January 2, 2013), 78 FR 1288 (January 8, 2013) (SR–NYSE–2012–75) (extending Pilot to July 31, 2013); 69813 (June 20, 2013), 78 FR 38753 (June 27, 2013) (SR–NYSE–2013–43) (extending Pilot to January 31, 2014); 71345 (January 17, 2014), 79 FR 4221 (January 24, 2014) (SR–NYSE–2014–01) (extending Pilot to July

expire on December 31, 2014, until the earlier of Commission approval to make such pilot permanent or July 31, 2015.

The Exchange notes that parallel changes are proposed to be made to the rules of NYSE MKT LLC.[5]

Background [6]

In October 2008, the NYSE implemented significant changes to its market rules, execution technology and the rights and obligations of its market participants all of which were designed to improve execution quality on the Exchange. These changes are all elements of the Exchange's enhanced market model. Certain of the enhanced market model changes were implemented through a pilot program.

As part of the NMM Pilot, NYSE eliminated the function of specialists on the Exchange creating a new category of market participant, the Designated Market Maker or DMM.[7] The DMMs, like specialists, have affirmative obligations to make an orderly market, including continuous quoting requirements and obligations to re-enter the market when reaching across to execute against trading interest. Unlike specialists, DMMs have a minimum quoting requirement [8] in their assigned securities and no longer have a negative obligation. DMMs are also no longer agents for public customer orders.[9]

In addition, the Exchange implemented a system change that allowed DMMs to create a schedule of additional non-displayed liquidity at various price points where the DMM is willing to interact with interest and provide price improvement to orders in the Exchange's system. This schedule is known as the DMM Capital Commitment Schedule (''CCS'').[10] CCS provides the Display Book® [11] with the amount of shares that the DMM is willing to trade at price points outside, at and inside the Exchange Best Bid or Best Offer (''BBO''). CCS interest is separate and distinct from other DMM interest in that it serves as the interest of last resort.

The NMM Pilot further modified the logic for allocating executed shares among market participants having trading interest at a price point upon execution of incoming orders. The modified logic rewards displayed orders that establish the Exchange's BBO. During the operation of the NMM Pilot, orders or portions thereof that establish priority [12] retain that priority until the portion of the order that established priority is exhausted. Where no one order has established priority, shares are distributed among all market participants on parity.

The NMM Pilot was originally scheduled to end operation on October 1, 2009, or such earlier time as the Commission may determine to make the rules permanent. The Exchange filed to extend the operation of the Pilot on several occasions in order to prepare a rule filing seeking permission to make the above described changes permanent.[13] The Exchange is currently still preparing such formal submission but does not expect that filing to be completed and approved by the Commission before December 31, 2014.

Proposal To Extend the Operation of the NMM Pilot

The NYSE established the NMM Pilot to provide incentives for quoting, to enhance competition among the existing group of liquidity providers and to add a new competitive market participant. The Exchange believes that the NMM Pilot allows the Exchange to provide its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. As such, the Exchange believes that the rules governing the NMM Pilot should be made permanent. Through this filing the Exchange seeks to extend the current operation of the NMM Pilot until July 31, 2015, in order to allow the Exchange time to formally submit a filing to the Commission to convert the pilot rules to permanent rules.

The proposed change is not otherwise intended to address any other issues and the Exchange is not aware of any problems that member organizations would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[14] in general, and furthers the objectives of section 6(b)(5) of the Act,[15] in particular, because 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed rule change is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade because it seeks to extend a pilot program that has already been approved by the Commission. The Exchange believes the proposed rule change is designed to facilitate transactions in securities and to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system because the NMM Pilot provides its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. Moreover, requesting an extension of the NMM Pilot will permit adequate time for: (i) The Exchange to prepare and submit a filing to make the rules governing the NMM Pilot permanent; (ii) public notice and comment; and (iii) completion of the 19b–4 approval process. Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition. For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,[16] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The

31, 2014); and 72627 (July 16, 2014), 79 FR 42598 (July 22, 2014) (SR–NYSE–2014–33) (extending Pilot to December 31, 2014).

[5] *See* SR–NYSEMKT–2014–109.

[6] The information contained herein is a summary of the NMM Pilot. *See supra* note 4 for a fuller description.

[7] *See* NYSE Rule 103.

[8] *See* NYSE Rule 104.

[9] *See* NYSE Rule 60; *see also* NYSE Rules 104 and 1000.

[10] *See* NYSE Rule 1000.

[11] The Display Book system is an order management and execution facility. The Display Book system receives and displays orders to the DMMs, contains the order information, and provides a mechanism to execute and report transactions and publish the results to the Consolidated Tape. The Display Book system is connected to a number of other Exchange systems for the purposes of comparison, surveillance, and reporting information to customers and other market data and national market systems.

[12] *See* NYSE Rule 72(a)(ii).

[13] *See supra* note 4.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(8).

Exchange believes that extending the operation of the NMM Pilot will enhance competition among liquidity providers and thereby improve execution quality on the Exchange. The Exchange will continue to monitor the efficacy of the program during the proposed extended pilot period.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting the services it offers and the requirements it imposes to remain competitive with other U.S. equity exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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 foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act [17] and Rule 19b–4(f)(6) [18] thereunder because the proposal does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, 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.[19]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) [20] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay period so that the proposal may become operative before the pilot's expiration. The Exchange stated that an immediate operative date is necessary in order to immediately implement the proposed rule change so that member organizations could continue to benefit from the pilot program without interruption after December 31, 2014.

The Commission believes that waiver of the 30-day operative delay period is consistent with the protection of investors and the public interest. Specifically, the Commission believes that the proposal would allow the pilot to continue uninterrupted, thereby avoiding any potential investor confusion that could result from the temporary interruption in the pilot program. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, and designates the proposed rule change to be operative on December 31, 2014.[21]

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.[22]

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–NYSE–2014–71 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–NYSE–2014–71. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2014–71 and should be submitted on or before January 21, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–30587 Filed 12–30–14; 8:45 am]

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[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6).

[19] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78s(b)(3)(C).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73930; File No. SR–BATS–2014–072]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees of BATS Exchange, Inc.

December 23, 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 December 17, 2014, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 filed a proposal to amend Interpretation and Policy .03 to Rule 11.8 entitled ''Competitive Liquidity Provider Program for Exchange Traded Products,'' in order to reduce the annual basic CLP Fee [3] for CLP Securities [4] and to allow for the allocation of the daily CLP Rebate [5] to a third ETP CLP [6] in certain CLP Securities.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.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 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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 30, 2011, the Exchange received approval of rules applicable to the qualification, listing and delisting of securities of issuers on the Exchange.[7] More recently, the Exchange received approval to operate a pilot program that is designed to incentivize certain Market Makers [8] registered with the Exchange as CLPs to enhance liquidity on the Exchange in certain ETPs [9] listed on the Exchange and thereby qualify to receive part of a daily rebate (the ''CLP Program'') under Interpretation and Policy .03 to Rule 11.8.[10]

Currently, under the CLP Program, a Sponsor [11] may pay an annual basic fee of $10,000 (a ''Basic CLP Fee'') and a supplemental fee, which, combined with the Basic Fee shall not exceed $100,000 (a ''Supplemental CLP Fee,'' or, when combined with the Basic CLP Fee, the ''CLP Fees''), in order for the CLP Company,[12] on behalf of a CLP Security, to participate in the CLP Program. Such CLP Fees are credited to the BATS General Fund. The Exchange then pays the CLP Rebate out of the BATS General Fund in order to incentivize CLPs in the CLP Security to quote aggressively in the CLP Security by providing a CLP Rebate to one or more CLPs that make a quality market in the CLP Security pursuant to the Program.[13]

The Exchange currently allocates the daily CLP Rebates to Eligible ETP CLPs [14] as follows: (i) The ETP CLPs with the highest and second highest number of Bid SET Credits [15] will receive 60% and 40%, respectively, of half of the daily CLP Rebate for the CLP Security; and (ii) the ETP CLPs with the highest and second highest number of Offer SET Credits [16] will receive 60% and 40%, respectively, of half of the daily CLP Rebate for the CLP Security. Where there is only one Eligible ETP CLP for the bid or offer portion of the CLP Rebate, 100% of that half of the rebate will be provided to such ETP CLP.

The Exchange is proposing to make two changes to the CLP Program in this filing. First, the Exchange is proposing to amend Interpretation and Policy .03(d)(2)(A) in order to reduce the Basic CLP Fee from $10,000 to $5,000. The Exchange is proposing to lower the Basic CLP Fee to $5,000 in order to allow ETP issuers to participate in the CLP Program for the same price that they are able to participate in the lead market maker program on NYSE Arca, Inc. (''Arca'').[17]

Second, the Exchange is proposing to amend Interpretation and Policy .03(m)(1) in order to adjust the allocation of the daily CLP Rebate where the CLP Fees are equal to or greater than $40,000. Specifically, the Exchange is proposing to allocate the daily CLP Rebates to Eligible ETP CLPs as follows: For CLP Securities in which the CLP Fees are equal to or greater than $40,000, the ETP CLPs with the highest, second highest, and third highest number of Bid (Offer) SET Credits will receive 50%, 30%, and 20%, respectively, of half of the daily CLP Rebate for the CLP Security; where there are only two Eligible ETP CLPs, the ETP CLPs with the highest and second highest number of Bid (Offer) SET Credits will receive 60% and 40%, respectively, of half of the daily CLP Rebate for the CLP Security. The Exchange is not proposing to change the current allocation for CLP Securities where the CLP Fees are less than $40,000. The Exchange is also not proposing to amend the existing allocation where a single ETP CLP will receive 100% of the bid or offer portion of the CLP Rebate where that ETP CLP is the only Eligible ETP CLP. The Exchange notes that no ETPs listed on the Exchange have CLP Fees equal to or greater than $40,000.

The Exchange is also proposing to make a corresponding non-substantive change to Interpretation and Policy .03(m)(1) to Rule 11.8 in order to move the current ''**'' which refers readers to the definition of Size Event Tests to the first reference to Size Event Tests, which is included in the new language regarding the allocation of CLP Rebates in CLP Securities in which the CLP Fees are equal to or greater than $40,000.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the

[3] CLP Fee is defined in Interpretation and Policy .03(a) to BATS Rule 11.8.

[4] CLP Security is defined in Interpretation and Policy .03(b)(3) to BATS Rule 11.8.

[5] CLP Rebate is defined in Interpretation and Policy .03(a) to BATS Rule 11.8.

[6] ETP CLP is defined in Interpretation and Policy .03(b)(1) to BATS Rule 11.8.

[7] *See* Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[8] As defined in BATS Rules, the term ''Market Maker'' means a Member that acts a as a market maker pursuant to Chapter XI of BATS Rules.

[9] ETP is defined in Interpretation and Policy .03(b)(4) to Rule 11.8.

[10] *See* Securities Exchange Act Release No. 72692 (July 28, 2014), 79 FR 44908 (August 1, 2014) (SR–BATS–2014–022).

[11] Sponsor is defined in Interpretation and Policy .03(b)(5) to Rule 11.8.

[12] CLP Company is defined in Interpretation and Policy .03(b)(2) to Rule 11.8.

[13] The standards for a quality market include, for example, posting at least five round lots in a CLP Security at the NBB or NBO at the time of a SET in order to have a Winning Bid SET or Winning Offer SET, respectively, as well as requiring that a CLP is quoting at least a round lot at a price at or within 1.2% of the CLP's bid (offer) at the time of the SET in order to have a Winning Bid (Offer) Set. The two CLPs that have the most Winning Bid SETs and the two Eligible CLPs with the most Winning Offer SETs in a given CLP Security will split the CLP Credit on a pro-rata basis. *See* Interpretation and Policy .03(i) to Rule 11.8.

[14] Eligible ETP CLP is defined in Interpretation and Policy .03(i)(1)(A) to Rule 11.8.

[15] Bid SET Credits is defined in Interpretation and Policy .03(i)(1) to Rule 11.8.

[16] Offer SET Credits is defined in Interpretation and Policy .03(i)(1) to Rule 11.8.

[17] *See* Securities Exchange Act Release No. 61330 (January 12 2010), 75 FR 2896 (January 19, 2010) (SR–NYSEArca–2009–106). Listing fees for ETPs eligible to participate in the lead market maker program start at $5,000 annually.

requirements of section 6(b) of the Act.[18] In particular, the proposal is consistent with section 6(b)(4) and 6(b)(5) of the Act,[19] because it would provide for the equitable allocation of reasonable dues, fees, and other charges among Members and issuers and other persons using any facility or system which the Exchange operates or controls, and it is designed to promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and in general, to protect investors and the public interest.

The goal of the CLP Program is to incentivize Members to make high-quality, liquid markets, which supports the primary goal of the Act to promote the development of a resilient and efficient national market system. Along with furthering these goals, reducing the Basic CLP Fee to $5,000 is reasonable, equitable, and not unfairly discriminatory because it will be applied equally to all issuers of ETPs and will lower the financial burden for such ETPs to participate in and reap the benefits of the CLP Program. As noted above, $5,000 is also the minimum listing fee for ETPs listed on Arca to participate in the Arca lead market maker program. By aligning the pricing for the CLP Program with that of Arca, the Exchange believes that it will provide a better trading environment for investors and ETPs, and generally encourage greater competition between listing venues by allowing the Exchange to provide a program designed to enhance liquidity and market quality for the same price as a comparable program on Arca.

The Exchange also believes that allocating CLP Rebates among three ETP CLPs instead of two where the CLP Fees are equal to or greater than $40,000 will enhance quote competition, improve liquidity on the Exchange, support the quality of price discovery, promote market transparency, and increase competition for listings and trade executions, while reducing spreads and transaction costs in such securities. Maintaining and increasing liquidity in Exchange-listed securities will help raise investors' confidence in the fairness of the market and their transactions. Applying such allocation only to CLP Securities with CLP Fees greater than $40,000 is reasonable, equitable, and not unfairly discriminatory because the Exchange has determined, in consultation with issuers and Market Makers, that $40,000 is an appropriate level at which adding a third ETP CLP and reducing the percentage of the daily CLP Rebates allocated to the first and second ETP CLPs by 10% each would not be excessively dilutive while still providing a meaningful incentive for the third ETP CLP. As noted above, there are currently no ETPs with CLP Fees greater than $40,000, meaning that the proposed change would not represent a change to any ETPs currently listed on the Exchange.

Finally, the Exchange believes that the corresponding non-substantive change is reasonable as it will help to avoid confusion for those that review the Exchange's rules. The Exchange notes that this proposed change is not designed to amend any fees or rebates, nor alter the manner in which it assesses fees or calculates rebates. The Exchange believes that the proposed amendment is intended to make the Exchange's rules more clear and less confusing for potential investors and eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, the Exchange believes that the proposal will increase competition in both the listings market and in competition for market makers. The proposed reduction of the Basic CLP Fee will promote competition in the listings market by lowering the cost of participation in the CLP Program. Further, $5,000 is the same annual base fee that Arca charges listed ETPs that are participating in the Arca lead market maker program. As such, lowering the Basic CLP Fee to $5,000 will better enable the Exchange to compete as a listing venue.

The Exchange also believes that the proposed changes will enhance competition among participants by creating incentives for more market makers to compete to make better quality markets. By allowing an additional ETP CLP to receive a portion of the daily CLP Rebates where CLP Fees equal or exceed $40,000, the Exchange believes that competition for the CLP Rebates will be enhanced, Market Makers will be further incentivized to become an ETP CLP, and the quality of quotes on the Exchange will improve. This, in turn, will attract more liquidity to the Exchange and further improve the quality of trading in CLP Securities, which will also act to bolster the Exchange's listing business.

Additionally, the Exchange believes that the proposed non-substantive change would not affect intermarket nor intramarket competition because the changes do not alter any fees or rebates on the Exchange or the criteria associated therewith.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[20] and paragraph (f) of Rule 19b–4 thereunder.[21] 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.

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–BATS–2014–072 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–BATS–2014–072. 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

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(4) and (5).

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f).

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–BATS–2014–072, and should be submitted on or before January 21, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Brent J. Fields,

Secretary.

[FR Doc. 2014–30592 Filed 12–30–14; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 8989]

Notice of Meeting of the International Telecommunication Advisory Committee and Preparations for Upcoming International Telecommunications Meetings

This notice announces a meeting of the Department of State's International Telecommunication advisory Committee (ITAC) to review the activities of the Department of State in international meetings on international communications and information policy over the last quarter and prepare for similar activities in the next quarter. The ITAC will meet on January 22, 2015 at 2:00 p.m. EST at: 1300 I Street NW., (suite 400), Washington, DC, 20005 to provide an update on committee membership (see FR 2014–28411); review the preparations for and outcomes of international telecommunications meetings of the International Telecommunication Union (ITU), the Inter-American Telecommunications Commission, Organization for Economic Cooperation and Development, and Asia Pacific, and announce preparations for similar activities. In particular, preparations for the ITU Conference Preparatory Meeting (CPM) for the 2015 World Radiocommunication Conference will be highlighted.

Attendance at this meeting is open to the public as seating capacity allows. The public will have an opportunity to provide comments at this meeting at the invitation of the chair. Further details on this ITAC meeting will be announced on the Department of State's email list, *ITAC@lmlist.state.gov*. Use of the ITAC list is limited to meeting announcements and confirmations, distribution of agendas and other relevant meeting documents. The Department welcomes any U.S. citizen or legal permanent resident to remain on or join the ITAC listserv by providing his or her name, email address, and the company, organization, or community that he or she is representing, if any. Persons wishing to request reasonable accommodation during the meeting should contact *jacksonln@state.gov* or *gadsdensf@state.gov* not later than January 15, 2015. Requests made after that time will be considered, but might not be able to be fulfilled.

FOR FURTHER INFORMATION CONTACT: Please contact Franz Zichy at 202–647–5778, *zichyfj@state.gov*.

Dated: December 23, 2014.

Julie N. Zoller,

Senior Deputy Coordinator, International Communications and Information Policy, U.S. State Department.

[FR Doc. 2014–30713 Filed 12–30–14; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice 8988]

Shipping Coordinating Committee; Notice of Committee Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 a.m. on Tuesday January 20, 2015, in Room 8 of the DOT Conference Center which is in the West building, 1200 New Jersey Ave. SE., Washington, DC 20590. The primary purpose of the meeting is to prepare for the second Session of the International Maritime Organization's (IMO) Sub-Committee on Human Element, Training and Watchkeeping (HTW) to be held at the IMO Headquarters, United Kingdom, February 2–06, 2015.

The agenda items to be considered include:

—Decisions of other IMO bodies
—Validated model training courses
—Reports on unlawful practices associated with certificates of competency
— Revised guidelines for model course development, updating and validation processes
—Guidance for the implementation of the 2010 Manila Amendments
—Follow–up action to the STCW–F Conference resolutions 6 and 7
—Role of the human element
—Development of guidance for personnel involved with tug-barge operations
—Revision of guidance for model course development, updating and validation processes
—Mandatory Code for ships operating in polar waters
—Review of STCW passenger ship specific safety training
—Training in hot work procedures on crude oil tankers
—First outline of the detailed review of the Global Maritime Distress and Safety System (GMDSS)
—E–navigation strategy implementation plan
—Guidelines for shipowners and seafarers for implementation of relevant IMO instruments in relation to the carriage of dangerous goods in packaged form by sea
—Non-mandatory instrument on regulations for non-convention ships

Members of the public may attend this meeting up to the seating capacity of the room. To facilitate the building security process, and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, Mr. Davis J. Breyer, by email at *davis.j.breyer@uscg.mil,* by phone at (202) 372–1445, by fax at (202) 372–8283, or in writing at Commandant (CG–OES–1), U.S. Coast Guard Stop 7509, 2703 Martin Luther King Jr. Ave. SE., Washington, DC 20593–7509 not later than January 9, 2015, 11 days prior to the meeting. Requests made after January 9, 2015 might not be able to be accommodated. Please note that due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to the DOT Conference Center. The DOT Conference Center is accessible by taxi and privately owned conveyance (public transportation is not generally available). However, parking in the vicinity of the building is extremely

[22] 17 CFR 200.30–3(a)(12).

limited. Additional information regarding this and other IMO SHC public meetings may be found at: *www.uscg.mil/imo.*

Dated: December 18, 2014.

Marc Zlomek,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 2014–30711 Filed 12–30–14; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Office of Commercial Space Transportation; Notice of Availability and Request for Comment on the Draft Environmental Assessment for the Houston Spaceport, City of Houston, Harris County, Texas

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

ACTION: Notice of Availability, Notice of Public Comment Period, Notice of Public Meeting, and Request for Comment.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA; 42 United States Code 4321 *et seq.*), Council on Environmental Quality NEPA implementing regulations (40 Code of Federal Regulations parts 1500 to 1508), and FAA Order 1050.1E, Change 1, *Environmental Impacts: Policies and Procedures*, the FAA is announcing the availability of and requesting comments on the Draft Environmental Assessment for the Houston Spaceport (Draft EA).

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Czelusniak, Office of Commercial Space Transportation, Federal Aviation Administration, 800 Independence Ave. SW., Suite 325, Washington, DC 20591; phone (202) 267–5924; or email *houstonspaceportEA@houstontx.gov.*

SUPPLEMENTARY INFORMATION: The Draft EA was prepared to analyze the potential environmental impacts of Houston Airport System's (HAS's) proposal to establish and operate a commercial space launch site at the Ellington Airport (EFD), in Houston, Texas and offer the site to prospective commercial space launch operators for the operation of horizontal take-off and horizontal landing Concept X and Concept Z reusable launch vehicles (RLVs). To operate a commercial space launch site, HAS must obtain a commercial space launch site operator license from the FAA. Under the Proposed Action addressed in the Draft EA, the FAA would: (1) Issue a launch site operator license to HAS for the operation of a commercial space launch site at EFD; (2) issue launch licenses to prospective commercial space launch operators that would allow them to conduct launches of horizontal take-off and horizontal landing Concept X and Concept Z RLVs from EFD, and (3) provide unconditional approval to the Airport Layout Plan (ALP) modifications that reflect the designation of a spaceport boundary and construction of planned spaceport facilities and infrastructure. Proposed launch operations would begin in 2015 and continue through 2019 in accordance with the terms of the launch site operator license. HAS proposes to provide RLV operators the ability to conduct up to 50 launches and landings (or 100 operations) per year, with approximately five percent of the operations expected to occur during night-time hours.

The Draft EA addresses the potential environmental impacts of implementing the Proposed Action and the No Action Alternative. Under the No Action Alternative, the FAA would not issue a launch site operator license to HAS, and thus no launch licenses to individual commercial space launch vehicle operators to operate at EFD. Also, there would be no need to update the EFD ALP, and thus there would be no FAA approval of a revised ALP. Existing operations would continue at EFD, which is currently classified as a commercial primary small-hub airport.

The environmental impact categories considered in the Draft EA include air quality; climate; coastal resources; compatible land use; Department of Transportation Act: Section 4(f); fish, wildlife, and plants; floodplains; hazardous materials, pollution prevention, and solid waste; historical, architectural, archaeological, and cultural resources; light emissions and visual impacts; natural resources and energy supply; noise; socioeconomics, environmental justice, and children's environmental health and safety risks; water quality; and wetlands. The Draft EA also considers the potential cumulative environmental impacts.

The FAA has posted the Draft EA on the FAA Office of Commercial Space Transportation Web site: *http://www.faa.gov/about/office_org/headquarters_offices/ast/environmental/nepa_docs/review/documents_progress/.*

A paper copy and electronic version (CD) of the Draft EA may be reviewed for comment during regular business hours at the following libraries:

- Clear Lake City-County Freeman Branch Library, 16616 Diana Lane, Houston, TX 77062
- Friendswood Public Library, 416 South Friendswood Drive, Friendswood, TX 77546
- Alvin Library, 105 South Gordon Street, Alvin, TX 77511
- Hitchcock Public Library, 8005 Barry Avenue, Hitchcock, TX 77563

The FAA will hold an open house public meeting to solicit comments from the public concerning the scope and content of the Draft EA. Details of the meeting are as follows:

- January 22, 2015, 5:30 p.m. to 8:30 p.m., Space Center Houston, Silvermoon Conference Room (1st floor), 1601 NASA Parkway, Houston, TX 77058

The public will be able to speak to project representatives one-on-one and submit written comments and/or provide oral comments to a stenographer. Oral and written comments are weighted evenly.

DATES: The FAA encourages all interested parties to provide comments concerning the scope and content of the Draft EA. To ensure that all comments can be addressed in the Final EA, comments on the draft must be received by the FAA on or before January 31, 2015, or 30 days from the date of publication of this **Federal Register** (*FR*) notice, whichever is later.

Comments should be as specific as possible and address the analysis of potential environmental impacts and the adequacy of the Proposed Action or merits of alternatives being considered. Reviewers should organize their comments to be meaningful and inform the FAA of their interests and concerns by quoting or providing specific references to the text of the Draft EA. Matters that could have been raised with specificity during the comment period on the Draft EA may not be considered if they are raised for the first time later in the decision process. This commenting procedure is intended to ensure that substantive comments and concerns are made available to the FAA in a timely manner so that the FAA has an opportunity to address them.

ADDRESSES: Please submit comments in writing to Mr. Daniel Czelusniak, Office of Commercial Space Transportation, Federal Aviation Administration, 800 Independence Ave. SW., Suite 325, Washington, DC 20591, or by email at *houstonspaceportEA@houstontx.gov.*

Issued in Washington, DC on December 22, 2014.

Daniel Murray,

Manager, Space Transportation Development Division.

[FR Doc. 2014–30558 Filed 12–30–14; 8:45 am]

BILLING CODE 4310–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Thirtieth Meeting: RTCA Special Committee 224, Airport Security Access Control Systems

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

ACTION: Meeting Notice of RTCA Special Committee 224, Airport Security Access Control Systems.

SUMMARY: The FAA is issuing this notice to advise the public of the thirtieth meeting of the RTCA Special Committee 224, Airport Security Access Control Systems.

DATES: The meeting will be held on January 28th, 2015 from 10:00 a.m.–2:00 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, Washington, DC, 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC, 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 224. The agenda will include the following:

January 28th 2015

- Welcome/Introductions/ Administrative Remarks.
- Review/Approve Previous Meeting Summary
- Report from the TSA.
- Report on Safe Skies Document Distribution
- Program Management Committee Direction for Consideration of Operational Guidance
- Revised Terms of Reference—Review/Approval
- Individual Document Section Reports
- Action Items for Next Meeting
- Time and Place of Next Meeting
- Any Other Business
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on December 22, 2014.

Mohannad Dawoud,

Management Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2014–30548 Filed 12–30–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Sixty-Second Meeting: RTCA Special Committee 186, Automatic Dependent Surveillance-Broadcast (ADS-B)

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

ACTION: Meeting Notice of RTCA Special Committee 186, Automatic Dependent Surveillance-Broadcast (ADS-B).

SUMMARY: The FAA is issuing this notice to advise the public of the sixty second meeting of the RTCA Special Committee 186, Automatic Dependent Surveillance-Broadcast (ADS-B).

DATES: The meeting will be held January 23, 2015 from 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at the RTCA Headquarters—NBAA & Colson Conference Rooms, 1150 18th Street NW., Suite 910, Washington, DC 20036

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC, 20036, or by telephone at (202) 330–0662/(202) 833–9339, fax (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 186. The agenda will include the following:

January 23 2015

- Chairman's Introductory Remarks
- Review of Meeting Agenda
- Review/Approval of the 61st Meeting Summary, RTCA Paper No. RTCA Paper No. 169–14/SC186–335
- Surveillance Broadcast Services (SBS) Program Status
- European Activities
- Updated SC–186 Terms of Reference
- WG–4—Application Technical Requirements
  - Flight Deck-based Interval Management (FIM) MOPS Status & Schedule
  - Cockpit Assisted Pilot Procedures (CAPP)
  - Preliminary look at recent MITRE HITL
- Advanced Interval Management (A–IM) Development
- Coordination with SC–214/WG–78 for ADS-B Application Data Link Rqts–Status
- FAA information briefings
  - Equip 2020
  - Planned TIS–B Service Changes
  - Recent Regulatory/Guidance/Policy updates
  - Summary of Avionics Monitoring results
- Date, Place and Time of Next Meeting
- New Business
  - Overview of 1090 MHz Phase Modulation Research
- Other Business.
  - Status brief on Wake Vortex Tiger Team
- Review Action Items/Work Programs
- Adjourn Plenary

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting.

Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC on December 22, 2014.

Mohannad Dawoud,

Management Analyst, Program Oversight and Administration, NextGen, Management Services, Federal Aviation Administration.

[FR Doc. 2014–30551 Filed 12–30–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2014–0040]

Agency Information Collection Activities: Notice of Request for Reinstatement of a Previously Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for extension of currently approved information collection.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995

(44 U.S.C. 3501–3521), this notice announces that FHWA will submit the collection of information described below to the Office of Management and Budget (OMB) for review and comment. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 8, 2014. The PRA submission describes the nature of the information collection and its expected cost and burden.

DATES: Please submit comments by January 30, 2015.

ADDRESSES: You may 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 DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket number FHWA–2014–0040.

FOR FURTHER INFORMATION CONTACT: Mark Glaze, 202 366–4053, Office of Natural Environment, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Congestion Mitigation and Air Quality Improvement (CMAQ) Program.

OMB Control Number: 2125–0614.

Background: Section 1113 of the Moving Ahead for Progress in the 21st Century Act (MAP–21) calls for an Evaluation and Assessment of CMAQ Projects. The statute calls for the identification and analysis of a representative sample of CMAQ projects and the development and population of a database that describes the impacts of the program both on traffic congestion levels and air quality. To establish and maintain this database, the FHWA is requesting States to submit annual reports on their CMAQ investments that cover projected air quality benefits, financial information, a brief description of projects, and several other factors outlined in the Interim Program Guidance for the CMAQ program. States are requested to provide the end of year summary reports via the automated system provided through FHWA by the first day of March of each year, covering the prior Federal fiscal year.

Respondents: 51 (each State DOT, and Washington, DC).

Frequency: Annually.

Estimated Average Burden per Response: 125 hours per annual report.

Estimated Total Annual Burden Hours: 6,375 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection of information is necessary for the U.S. DOT's performance, including whether the information will have practical utility; (2) the accuracy of the U.S. DOT's estimate of the burden of the proposed information collection; (3) ways to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: December 19, 2014.

Michael Howell,

Information Collection Officer.

[FR Doc. 2014–30693 Filed 12–30–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0311]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions request for comments.

SUMMARY: FMCSA announces receipt of applications from 69 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before January 30, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0311 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line 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:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, R.N., Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 69 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Joseph L. Allen

Mr. Allen, 41, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Allen understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Allen meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

Cory T. Anderson

Mr. Anderson, 23, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Anderson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Anderson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Kentucky.

Ammon Ashby

Mr. Ashby, 33, has had ITDM since 1987. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ashby understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ashby meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable non-proliferative diabetic retinopathy. He holds an operator's license from Utah.

Wayne A. Aukes

Mr. Aukes, 71, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Aukes understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Aukes meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Ira M. Avant

Mr. Avant, 62, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Avant understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Avant meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Utah.

Eric W. Beasley

Mr. Beasley, 30, has had ITDM since 1996. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Beasley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Beasley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Georgia.

Freddie W. Bermudez, Jr.

Mr. Bermudez, 27, has had ITDM since 2000. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bermudez understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bermudez meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Illinois.

Evelin B. Black

Ms. Black, 50, has had ITDM since 2013. Her endocrinologist examined her in 2014 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Black understands diabetes management and monitoring has stable control of her diabetes using insulin,

and is able to drive a CMV safely. Ms. Black meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2014 and certified that she does not have diabetic retinopathy. She holds a Class A CDL from California.

Derrell K. Blanton

Mr. Blanton, 49, has had ITDM since 2008. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Blanton understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Blanton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Richard A. Boor

Mr. Boor, 63, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Boor understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Boor meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Virginia.

Jimmy R. Bradley

Mr. Bradley, 67, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bradley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bradley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Oklahoma.

Stephen R. Brown

Mr. Brown, 61, has had ITDM since 2000. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Brown understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Brown meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from New Hampshire.

Kenneth E. Chastain

Mr. Chastain, 57, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Chastain understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Chastain meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Tennessee.

Jeffery C. Colbert

Mr. Colbert, 48, has had ITDM since 1972. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Colbert understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Colbert meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Arkansas.

Nathan W. Cooper

Mr. Cooper, 25, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cooper understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cooper meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a chauffer's license from Indiana.

Gregory F. Darmody

Mr. Darmody, 47, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Darmody understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Darmody meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Rhode Island.

David A. Decker

Mr. Decker, 62, has had ITDM since 2005. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or

more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Decker understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Decker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Maryland.

Kenny I. Dickerson

Mr. Dickerson, 64, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dickerson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dickerson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Georgia.

James M. DiClaudio

Mr. DiClaudio, 64, has had ITDM since 2007. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. DiClaudio understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. DiClaudio meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Jersey.

Steven A. Dion

Mr. Dion, 58, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dion understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dion meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from New York.

Dean R. Duquette

Mr. Duquette, 47, has had ITDM since 1995. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Duquette understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Duquette meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Maine.

Joseph J. Eckstrom

Mr. Eckstrom, 25, has had ITDM since 1992. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Eckstrom understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Eckstrom meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from New York.

Ashford N. Eskaran

Mr. Eskaran, 45, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Eskaran understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Eskaran meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Hawaii.

Tyrone A. Green

Mr. Green, 44, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Green understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Green meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from New York.

Morgan D. Hale, Jr.

Mr. Hale, 60, has had ITDM since 2002. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hale understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hale meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kentucky.

James J. Hartman

Mr. Hartman, 46, has had ITDM since 1979. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hartman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hartman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from South Dakota.

Dale H. Hintz

Mr. Hintz, 61, has had ITDM since 1979. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hintz understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hintz meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Benjamin D. Horton

Mr. Horton, 50, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Horton understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Horton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Virginia.

Danny R. Jackson, Jr.

Mr. Jackson, 52, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jackson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jackson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Oregon.

Brian C. Jagdman

Mr. Jagdman, 42, has had ITDM since 1982. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jagdman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jagdman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable proliferative diabetic retinopathy. He holds an operator's license from Maryland.

Terry J. Johnson

Mr. Johnson, 60, has had ITDM since 2006. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Johnson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Johnson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Maryland.

Robert L. Johnson, Jr.

Mr. Johnson, 44, has had ITDM since 2008. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Johnson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Johnson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Oklahoma.

John F. Jones

Mr. Jones, 53, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jones understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jones meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Ohio.

Michael W. Jones

Mr. Jones, 65, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jones understands

diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jones meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Jersey.

Carl J. Kern, Jr.

Mr. Kern, 62, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kern understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kern meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

William C. Knight

Mr. Knight, 25, has had ITDM since 1991. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Knight understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Knight meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Tennessee.

Monte J. Lakosky

Mr. Lakosky, 54, has had ITDM since 2006. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lakosky understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lakosky meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a chauffer's license from Michigan.

Aaron J. Larson

Mr. Larson, 39, has had ITDM since 1999. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Larson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Larson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Roger L. Larson

Mr. Larson, 60, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Larson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Larson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from South Dakota.

Jeffrey G. Lawrence

Mr. Lawrence, 47, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lawrence understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lawrence meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Arkansas.

Leo D. Maggioli

Mr. Maggioli, 61, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Maggioli understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Maggioli meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Massachusetts.

Ryan M. McClatchey

Mr. McClatchey, 23, has had ITDM since 1999. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. McClatchey understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McClatchey meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Tennessee.

Carl A. Mears, Jr.

Mr. Mears, 70, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no

severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mears understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mears meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Vermont.

Laurence R. Middendorf

Mr. Middendorf, 67, has had ITDM since 1991. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Middendorf understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Middendorf meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Robert P. Miller

Mr. Miller, 62, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Miller understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Miller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

James E. Neeley

Mr. Neeley, 48, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Neeley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Neeley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Missouri.

Nicholas M. Palocy

Mr. Palocy, 28, has had ITDM since 2001. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Palocy understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Palocy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

Andrew S. Parks

Mr. Parks, 24, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Parks understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Parks meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from California.

John D. Patterson

Mr. Patterson, 44, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Patterson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Patterson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Michael W. Perez

Mr. Perez, 52, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Perez understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Perez meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Ohio.

Jerry J. Platero

Mr. Platero, 65, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Platero understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Platero meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist

examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Mexico.

Darrell K. Rau

Mr. Rau, 68, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rau understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rau meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Iowa.

Andrew B. Renninger

Mr. Renninger, 48, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Renninger understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Renninger meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

Ryan T. Rock

Mr. Rock, 25, has had ITDM since 1999. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rock understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rock meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Idaho.

Wilfredo Rodriguez

Mr. Rodriguez, 46, has had ITDM since 1971. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rodriguez understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rodriguez meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative and stable proliferative diabetic retinopathy. He holds a Class B CDL from New York.

James T. Rogers

Mr. Rogers, 49, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rogers understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rogers meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Mark A. Santana

Mr. Santana, 55, has had ITDM since 2008. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Santana understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Santana meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Pennsylvania.

Donald E. Scovil

Mr. Scovil, 51, has had ITDM since 2008. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Scovil understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Scovil meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Hampshire.

David E. Shinen

Mr. Shinen, 24, has had ITDM since 2010. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Shinen understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Shinen meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from California.

Patrick A. Shryock

Mr. Shryock, 60, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or

more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Shryock understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Shryock meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Arkansas.

Trevor J. Swanson

Mr. Swanson, 31, has had ITDM since 1999. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Swanson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Swanson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Minnesota.

Joshua C. Thompson

Mr. Thompson, 36, has had ITDM since 2006. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Thompson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Thompson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Arizona.

Jeffrey D. Thomson

Mr. Thomson, 55, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Thomson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Thomson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Marshall L. Wainwright

Mr. Wainwright, 29, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wainwright understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wainwright meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Illinois.

Robert L. Whipple, Sr.

Mr. Whipple, 68, has had ITDM since 2011. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Whipple understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Whipple meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Pennsylvania.

Glenn Whitehouse

Mr. Whitehouse, 52, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Whitehouse understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Whitehouse meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Jennifer R. Williams

Ms. Williams, 39, has had ITDM since 2006. Her endocrinologist examined her in 2014 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Williams understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Williams meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2014 and certified that she does not have diabetic retinopathy. She holds a Class B CDL from Pennsylvania.

John E. Yates

Mr. Yates, 47, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Yates understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Yates meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined

him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

Jeffrey S. Zimmer

Mr. Zimmer, 39, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Zimmer understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Zimmer meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Hampshire.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C.. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

IV. Submitting Comments

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 that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2014–0311 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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 this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2014–0311 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: December 22, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–30684 Filed 12–30–14; 8:45 am]

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[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 355 (Sub-No. 42X]

Springfield Terminal Railway Company—Discontinuance of Service Exemption—in Essex County, MA

Springfield Terminal Railway Company (ST) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over a line of railroad known as the Manchester and Lawrence Branch in Lawrence, Mass., extending from milepost 0.00 to milepost 1.4 in Essex County, Mass. (the Line). The Line traverses United States Postal Service Zip Code 01840.

ST has certified that: (1) No local traffic has moved over the Line for at least two years; (2) there is no overhead traffic on the Line; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will become effective on January 31, 2015, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2),[1] must be filed by January 12, 2015.[2] Petitions to reopen must be filed by January 20, 2015, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to ST's representative: Robert B. Burns, Pan Am Railways, Iron Horse Park, Billerica, MA 01862.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: December 19, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–30610 Filed 12–30–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 23, 2014.

The Department of the Treasury will submit the following information collection request 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 January 30, 2015 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.*

Departmental Offices

OMB Number: 1505–0228.

Type of Review: Revision of a currently approved collection.

Title: Small Business Lending Fund (SBLF) Supplemental Reports.

Form: TD F 102.3A, TD F 102.4.

Abstract: Once accepted into the SBLF program, the participating bank is required to submit a Supplemental Report each quarter. The Supplemental Report is used to determine the institution's small business lending baseline and allows Treasury to assess the change in the small business lending for the previous quarter.

Affected Public: Businesses or other for-profits.

Estimated Annual Burden Hours: 4,032.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2014–30571 Filed 12–30–14; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 24, 2014.

The Department of the Treasury will submit the following information collection request 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 January 30, 2015 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.*

Departmental Offices

OMB Number: 1505–0152.

Type of Review: Revision of a currently approved collection.

Title: Request for Transfer of Property Seized/Forfeited by a Treasury Agency.

Form: TD F 92–22.46.

Abstract: Form TD F 92–22.46 is necessary for the application for receipt of seized assets by State and Local Law Enforcement agencies.

Affected Public: State, Local, and Tribal Governments.

Estimated Annual Burden Hours: 3,500.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2014–30611 Filed 12–30–14; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Requirements: Information Collection Renewal; Submission for OMB Review; Debt Cancellation Contracts and Debt Suspension Agreements

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

[1] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

[2] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historic documentation is required here under 49 CFR 1105.6(c) and 49 CFR 1105.8(b), respectively.

In accordance with the requirements of the PRA, the OCC 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.

Currently, the OCC is soliciting comment concerning its renewal of an information collection titled ''Debt Cancellation Contracts and Debt Suspension Agreements.'' The OCC is also giving notice that it has sent the collection to OMB for review.

DATES: You should submit written comments by: January 30, 2015. Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0224, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *regs.comments@occ.treas.gov*. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–0224, U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503, or by email to: *oira submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Johnny Vilela or Mary H. Gottlieb, OCC Clearance Officers, (202) 649–5490, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from 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) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party.

The OCC is proposing to extend OMB approval of the following information collection:

Title: Debt Cancellation Contracts and Debt Suspension Agreements.

OMB Control No.: 1557–0224.

Description: This submission covers an existing regulation, 12 CFR 37, and involves no change to the regulation or the information collection. The OCC requests that OMB approve its revised estimates and renew its approval of the information collection. The estimates have been revised to reflect the current number of national banks.

Twelve U.S.C. 24(Seventh) authorizes national banks to enter into Debt Cancellation Contracts (DCCs) and Debt Suspension Agreements (DSAs). Part 37 requires national banks and Federal branches and agencies of foreign banks (banks) to disclose information about a DCC or a DSA using either a short or long form disclosure. The short form disclosure usually is made orally and issued at the time the bank firsts solicits the purchase of a contract. The long form disclosure usually is made in writing and issued before the customer completes the purchase of the contract. There are special rules for transactions by telephone, solicitations using written mail inserts or ''take one'' applications, and electronic transactions. Part 37 provides two forms of disclosure that serve as models for satisfying the requirements of the rule. Use of the forms is not mandatory, however, and a bank may adjust the form and wording of its disclosures so long as it meets the requirements of the regulation. The requirements of part 37 enhance consumer protections for customers who purchase DCCs and DSAs from banks and ensure that banks offer these products in a safe and sound manner by requiring them to effectively manage their risk exposure.

Section 37.6

Section 37.6 requires the form of the disclosures to be readily understandable and meaningful. The content of the short and long form may vary, depending on whether a bank elects to provide a summary of the conditions and exclusions in the long form disclosures or refer the customer to the pertinent paragraphs in the contract. For example, the short form disclosure requires a bank to instruct the customer to read carefully both the long form disclosures and the contract for a full explanation of the contract terms, while the long form gives a bank the option of either summarizing the limitations or advising the customer that a complete explanation of the eligibility requirements, conditions, and exclusions is available in the contract and identifying the paragraphs where a customer may find that information.

Section 37.6 and Appendices A and B to part 37 require a bank to provide the following disclosures (summarized below), as appropriate:

- Optional (anti-tying)—A bank must inform the customer that purchase of the product is optional and neither its decision whether to approve the loan nor the terms and conditions of the loan are conditioned on the purchase of a DCC or DSA (short and long form).
- Explanation of debt suspension agreement—A bank must disclose that if a customer activates the agreement, the customer's duty to pay the loan principal and interest is only suspended and the customer must fully repay the loan after the period of suspension has expired (long form).
- Amount of the fee—A bank must make disclosures regarding the amount of the fee. The content of the disclosure depends on whether the credit is open-end or closed-end. In the case of closed-end credit, the bank must disclose the total fee. In the case of open-end credit, the bank must either disclose that the periodic fee is based on the account balance multiplied by a unit cost and provide the unit cost or disclose the formula used to compute the fee (long form).
- Lump sum payment of fee—A bank must disclose, where appropriate, that a customer has the option to pay the fee in a single payment or in periodic payments. This disclosure is not appropriate in the case of a DCC or DSA provided in connection with a home mortgage loan because the option to pay the fee in a single payment is not available in that case. Banks must also disclose that adding the fee to the amount borrowed will increase the cost of the contract (short and long form).
- Lump sum payment of fee with no refund—A bank must disclose that the customer has the option to choose a contract with or without a refund provision. This disclosure also states that prices of refund and no-refund products are likely to differ (short and long form).
- Refund of fee paid in lump sum—If a bank permits a customer to pay the fee in a single payment and to add the fee to the amount borrowed, the bank must disclose its cancellation policy.

The disclosure informs the customer of the bank's refund policy, as applicable, *i.e.,* that the DCC or DSA may be: (i) Canceled at any time for a refund; (ii) cancelled within a specified number of days for a full refund; or (iii) cancelled at any time with no refund (short and long form).

• Whether use of credit line is restricted—A bank must inform a customer if the customer's activation of the contract would prohibit the customer from incurring additional charges or using the credit line (long form).

• Termination of a DCC or DSA— If termination is permitted during the life of the loan, a bank must explain the circumstances under which a customer or the bank may terminate the contract (long form).

• Additional disclosures—A bank must inform consumers that it will provide additional information before the customer is required to pay for the product (short form).

• Eligibility requirements, conditions, and exclusions—A bank must describe any material limitations relating to the DCC or DSA (short and long form).

Section 37.7

Section 37.7 requires a bank to obtain a customer's written affirmative election to purchase a contract and written acknowledgment of receipt of the disclosures required by § 37.6. The section further provides that the election and acknowledgment must be conspicuous, simple, direct, readily understandable, and designed to call attention to their significance. Pursuant to § 37.7(b), if the sale of the contract occurs by telephone, the customer's affirmative election to purchase and acknowledgment of receipt of the required short form may be made orally, provided the bank: (i) Maintains sufficient documentation to show that the customer received the short form disclosures and then affirmatively elected to purchase the contract; (ii) mails the affirmative written election and written acknowledgment, together with the long form disclosures required by § 37.6, to the customer within 3 business days after the telephone solicitation and maintains sufficient documentation to show it made reasonable efforts to obtain the documents from the customer; and (iii) permits the customer to cancel the purchase of the contract without penalty within 30 days after the bank has mailed the long form disclosures to the customer.

Pursuant to § 37.7(c), if the DCC or DSA is solicited through written materials such as mail inserts or ''take one'' applications and the bank provides only the short form disclosures in the written materials, then the bank shall mail the acknowledgment, together with the long form disclosures, to the customer. The bank may not obligate the customer to pay for the contract until after the bank has received the customer's written acknowledgment of receipt of disclosures, unless the bank takes certain steps, maintains certain documentation, and permits the customer to cancel the purchase within 30 days after mailing the long form disclosures to the customer. Section 37.6(d) permits the affirmative election and acknowledgment to be made electronically.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Number of Respondents: 1,219.

Total Annual Responses: 1,219.

Frequency of Response: On occasion.

Total Annual Burden Hours: 29,256 hours.

On October 20, 2014, the OCC issued a notice for 60 days of comment regarding this collection. 79 FR 62710. No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information shall have practical utility;

(b) The accuracy of the OCC'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 on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 22, 2014.

Stuart E. Feldstein,

Director, Legislative & Regulatory Activities Division.

[FR Doc. 2014–30397 Filed 12–30–14; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Prompt Payment Interest Rate; Contract Disputes Act

AGENCY: Bureau of the Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: For the period beginning January 1, 2015, and ending on June 30, 2015, the prompt payment interest rate is 2⅛ per centum per annum.

ADDRESSES: Comments or inquiries may be mailed to: E-Commerce Division, Bureau of the Fiscal Service, 401 14th Street SW., Room 306F, Washington, DC 20227. Comments or inquiries may also be emailed to *PromptPayment@fiscal.treasury.gov.* A copy of this notice is available at *http://www.fms.treas.gov/prompt/index.html.*

DATES: Effective January 1, 2015, to June 30, 2015.

FOR FURTHER INFORMATION CONTACT: Thomas M. Burnum, E-Commerce Division, (202) 874–6430; or Thomas Kearns, Attorney-Advisor, Office of the Chief Counsel, (202) 874–7036.

SUPPLEMENTARY INFORMATION: An agency that has acquired property or service from a business concern and has failed to pay for the complete delivery of property or service by the required payment date shall pay the business concern an interest penalty. 31 U.S.C. 3902(a). The Contract Disputes Act of 1978, Sec. 12, Public Law 95–563, 92 Stat. 2389, and the Prompt Payment Act, 31 U.S.C. 3902(a), provide for the calculation of interest due on claims at the rate established by the Secretary of the Treasury.

The Secretary of the Treasury has the authority to specify the rate by which the interest shall be computed for interest payments under section 12 of the Contract Disputes Act of 1978 and under the Prompt Payment Act. Under the Prompt Payment Act, if an interest penalty is owed to a business concern, the penalty shall be paid regardless of whether the business concern requested payment of such penalty. 31 U.S.C. 3902(c)(1). Agencies must pay the interest penalty calculated with the interest rate, which is in effect at the time the agency accrues the obligation to pay a late payment interest penalty. 31 U.S.C. 3902(a). ''The interest penalty shall be paid for the period beginning on the day after the required payment date and ending on the date on which payment is made.'' 31 U.S.C. 3902(b).

Therefore, notice is given that the Secretary of the Treasury has determined that the rate of interest applicable for the period beginning January 1, 2015, and ending on June 30, 2015, is 2⅛ per centum per annum.

David A. Lebryk,

Fiscal Assistant Secretary.

[FR Doc. 2014–30533 Filed 12–30–14; 8:45 am]

BILLING CODE 4810–AS–P

FEDERAL REGISTER

Vol. 79 Wednesday,
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Part II

Department of the Treasury

Internal Revenue Service

26 CFR Parts 1, 53, and 602
Additional Requirements for Charitable Hospitals; Community Health Needs Assessments for Charitable Hospitals; Requirement of a Section 4959 Excise Tax Return and Time for Filing the Return; Final Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 53, and 602

[TD 9708]

RIN 1545–BK57; RIN 1545–BL30; RIN 1545–BL58

Additional Requirements for Charitable Hospitals; Community Health Needs Assessments for Charitable Hospitals; Requirement of a Section 4959 Excise Tax Return and Time for Filing the Return

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations that provide guidance regarding the requirements for charitable hospital organizations added by the Patient Protection and Affordable Care Act of 2010. The regulations will affect charitable hospital organizations.

DATES: *Effective Date:* The final regulations are effective on December 29, 2014.

Applicability Date: For dates of applicability, see §§ 1.501(r)–7(a); 1.6033–2(k)(4); 53.4959–1(b); and 53.6071–1(i)(2).

FOR FURTHER INFORMATION CONTACT: Amy F. Giuliano, Amber L. MacKenzie, or Stephanie N. Robbins at (202) 317–5800 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–0047. The collection of information in the final regulations is in §§ 1.501(r)–3, 1.501(r)–4, and 1.501(r)–6(c). The collection of information is required for hospital organizations to receive the benefits of being described in section 501(c)(3) of the Internal Revenue Code (Code) and flows from section 501(r)(3), which requires a hospital organization to conduct a community health needs assessment (CHNA) and adopt an implementation strategy to meet the community health needs identified through the CHNA at least once every three years; section 501(r)(4), which requires a hospital organization to establish a written financial assistance policy (FAP) and a written policy related to care for emergency medical conditions; and section 501(r)(6), which requires a hospital organization to make reasonable efforts to determine whether an individual is eligible for assistance under a FAP before engaging in extraordinary collection actions. The expected recordkeepers are hospital organizations described in sections 501(c)(3) and 501(r)(2).

1. 2012 Proposed Regulations

On June 26, 2012, the Department of the Treasury (Treasury Department) and the IRS published a notice of proposed rulemaking (NPRM) (REG–130266–11; 77 FR 38148) that contained proposed regulations regarding the requirements of sections 501(r)(4) through 501(r)(6) relating to FAPs, limitations on charges, and billing and collections (the 2012 proposed regulations). The 2012 proposed regulations estimated that the collection of information in the proposed regulations relating to sections 501(r)(4) and 501(r)(6) would result in an average annual paperwork burden per recordkeeper of 11.5 hours. (The requirements of section 501(r)(3) were addressed in different proposed regulations, released in 2013, and the collection of information associated with those proposed regulations is addressed in section 2 of this portion of the preamble relating to the Paperwork Reduction Act.)

In response to this burden estimate, the Treasury Department and the IRS received 15 comments generally stating that the estimates set forth in the 2012 proposed regulations were too low and that the burden was significantly higher, with some commenters offering estimates ranging between 15 and 38,500 hours annually. However, these commenters provided insufficient information regarding the hours necessary to comply with the information collection requirements of §§ 1.501(r)–4 and 1.501(r)–6(c) of the 2012 proposed regulations for the IRS to determine why, or by how much, the proposed burden estimate should be increased. A few commenters noted that they would have to devote significant resources up-front to amending policies and procedures and altering information systems.

The Treasury Department and the IRS anticipated an up-front commitment of resources when they derived the 11.5-hour annual burden estimate proposed in the 2012 proposed regulations by dividing an estimated 34.5-hour burden over three years (the maximum OMB approval period for a collection of information burden estimate) by three. It was anticipated that a large share of those 34.5 hours would be devoted to updating policies, procedures, and information systems in the first year. The Treasury Department and the IRS also expected that hospitals would be building upon existing policies and processes rather than establishing entirely new policies. For example, § 1.501(r)–6(c)(2) of the 2012 proposed regulations was intended to enable hospitals to notify patients about the FAP primarily by adding information to billing statements, necessitating some time to change the template of the billing statement but presumably relatively little time thereafter. However, in light of the comments received, the Treasury Department and the IRS have increased their estimate of the average amount of time a hospital organization will devote to amending policies and procedures and altering information systems in the first year to come into compliance with §§ 1.501(r)–4 and 1.501(r)–6(c) to 60 hours (with additional time needed each year to implement the requirements).

One commenter stated that hospitals' experience in administering charity care programs under existing state law required more than 100 annual staff hours per hospital, and that the 2012 proposed regulations would increase that burden. However, the total amount of time spent administering charity care programs in general under the commenter's state law is not equivalent to the amount of time necessary to comply with the collection of information requirements, in particular, in the 2012 proposed regulations.

Most of the 38,500 burden hours that one commenter estimated for the paperwork burden resulting from the 2012 proposed regulations was based on the time the commenter estimated would be spent by 16 financial counseling staff members to provide direct patient counseling. While providing direct patient financial counseling is a commendable activity that would help ensure that patients obtain the financial assistance for which they are eligible, the burden estimates under the Paperwork Reduction Act are limited to collections of information authorized or imposed by the statute and regulations, and, therefore, such counseling activity would not be captured in the estimates.

The Treasury Department and the IRS also note that, in response to comments, these final regulations contain several changes intended to reduce the paperwork burden of the 2012 proposed regulations. Most significantly, numerous commenters noted that the requirement in § 1.501(r)–6(c)(2) to include a plain language summary of the FAP with all (and at least three) billing statements during a 120-day

notification period would add significantly to the cost of mailing the billing statements and be a waste of paper. In response to these comments, rather than requiring a plain language summary with every bill issued during the notification period, the final regulations instead require a hospital facility to include on each billing statement a conspicuous written notice that notifies and informs patients about the availability of financial assistance, including both a telephone number of the office or department that can provide information about the FAP and FAP application process and the direct Web site address (or URL) where copies of the FAP, FAP application form, and plain language summary of the FAP may be obtained. Additionally, the final regulations require a plain language summary to be included with only one post-discharge communication and give a hospital facility the flexibility to send this one plain language summary only to the subset of patients against whom the hospital facility actually intends to engage in extraordinary collection actions. These changes are intended to maintain the frequent reminders to patients of the availability of financial aid while reducing the burden and cost of mailing multiple copies of a plain language summary of the FAP.

The one change in the final regulations that may materially increase the paperwork burden relates to translations of the FAP and related documents. The 2012 proposed regulations required a hospital facility to translate its FAP (as well as the FAP application form and plain language summary of the FAP) into the primary language of any populations with limited English proficiency (LEP) that constitute more than 10 percent of the residents of the community served by the hospital facility. In response to comments discussed in section 4.a.iv.F of this preamble, the final regulations change that threshold to 5 percent or 1,000, whichever is less, of the population of individuals likely to be affected or encountered by the hospital facility. This may increase the overall number of translations that hospital organizations affected by the final regulations will be required to make.

Taking into account all of the comments received, as well as the changes made in these final regulations that will affect the paperwork burden, the Treasury Department and the IRS have adjusted their burden estimate for §§ 1.501(r)–4 and 1.501(r)–6(c) to 60 hours per recordkeeper of up-front time to update information systems and draft and amend policies, procedures, and template billing statements and notifications, plus 15 hours per recordkeeper per year for each of three years to implement the collection of information requirements. This results in a total of 105 hours over a three-year period, or an average of 35 hours per year per recordkeeper, up from the estimate of 11.5 hours per year per recordkeeper proposed in the 2012 proposed regulations. The Treasury Department and the IRS note that the burden estimates must be updated every three years and that future estimates can be amended to reflect hospitals' actual experience in implementing the collection of information requirements in §§ 1.501(r)–4 and 1.501(r)–6(c).

2. 2013 Proposed Regulations

On April 5, 2013, the Treasury Department and the IRS published a NPRM (REG–106499–12; 78 FR 20523) that contained proposed regulations regarding the CHNA requirements under section 501(r)(3) (the 2013 proposed regulations). The 2013 proposed regulations estimated that the collection of information in the proposed regulations would result in an average annual paperwork burden per recordkeeper of 80 hours. In response to this burden estimate, the Treasury Department and the IRS received 10 comments stating generally that the estimates set forth in the 2013 proposed regulations were too low and that the burden was significantly higher, with most commenters stating that satisfying the requirements described in the 2013 proposed regulations would necessitate ''thousands of hours.'' However, because commenters provided little specific information regarding the hourly burden of activities that are required to comply with the collection of information required by section 501(r)(3), it is difficult for the Treasury Department and the IRS to determine how to appropriately revise the burden estimate.

The Treasury Department and the IRS note that a hospital organization only has to satisfy the CHNA requirements once every three years, and the burden estimate reflected in the 2013 proposed regulations was 240 hours per CHNA, averaged over three years. In addition, the Treasury Department and the IRS recognize that the amount of time hospitals devote to their CHNAs will vary greatly depending on their size and resources and whether they choose to collaborate with other organizations and facilities in conducting their CHNAs.

One commenter asked that the IRS clarify its definition of ''recordkeeper'' to indicate that the estimate is for a hospital organization with a single hospital facility and that a hospital organization with multiple hospital facilities would have an estimated burden that would be multiplied by the number of hospital facilities. However, both the 2013 proposed regulations and these final regulations allow hospital organizations with multiple hospital facilities to collaborate and produce one joint CHNA report and implementation strategy for all of its hospital facilities, provided the hospital facilities define their communities to be the same. As a result, the Treasury Department and the IRS do not believe the burden estimate will necessarily increase in direct relation to the number of hospital facilities operated. On the other hand, the Treasury Department and the IRS do recognize that some hospital facilities operated by the same organization will define their communities to be different and will therefore conduct separate CHNAs and produce separate CHNA reports. For purposes of estimating the total paperwork burden, and in the absence of data on which hospital facilities will conduct joint CHNAs and which will not, the Treasury Department and the IRS have assumed that hospital facilities operated by hospital organizations with three or fewer hospital facilities will produce joint CHNA reports and hospital facilities operated by hospital organizations with more than three hospital facilities will conduct separate CHNA reports. Based on the latest available IRS data on the number of hospital organizations and facilities, the assumption that hospital organizations operating more than three hospital facilities will conduct separate CHNAs for each hospital facility increases the average annual burden associated with the CHNA requirements per hospital organization from 80 to 101 hours. The Treasury Department and the IRS note that the burden estimates must be updated every three years and that future estimates can be amended to reflect hospitals' actual experience in implementing the collection of information requirements in § 1.501(r)–3.

3. Adjusted Burden Estimates for Final Regulations

After taking into account all the comments and information available and based on the latest IRS data on the number of hospital organizations and facilities, the Treasury Department and the IRS have reached the following reporting burden estimates:

Estimated total annual reporting burden: 401,905.

Estimated average annual burden hours per recordkeeper: 136 hours.

Estimated number of recordkeepers: 2,955.

Estimated frequency of collections of such information: Annual.

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 control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103.

Background

Section 501(r) was added to the Code by the Patient Protection and Affordable Care Act, Public Law 111–148 (124 Stat. 119 (2010)) (the Affordable Care Act), enacted March 23, 2010, and imposes additional requirements on charitable hospital organizations. Section 501(r)(1) provides that a hospital organization described in section 501(r)(2) will not be treated as a tax-exempt organization described in section 501(c)(3) unless the organization meets the requirements of sections 501(r)(3) through 501(r)(6). Section 501(r)(3) requires a hospital organization to conduct a community health needs assessment (CHNA) at least once every three years and to adopt an implementation strategy to meet the community health needs identified through the CHNA. Section 501(r)(4) requires a hospital organization to establish a written financial assistance policy (FAP) and a written policy relating to emergency medical care. Section 501(r)(5) requires a hospital organization to not use gross charges and to limit amounts charged for emergency or other medically necessary care provided to individuals eligible for assistance under the organization's FAP (FAP-eligible individuals) to not more than the amounts generally billed to individuals who have insurance covering such care (AGB). Section 501(r)(6) requires a hospital organization to make reasonable efforts to determine whether an individual is FAP-eligible before engaging in extraordinary collection actions. Section 501(r)(2)(B) requires a hospital organization to meet each of these requirements separately with respect to each hospital facility it operates.

The statutory requirements of section 501(r) (except for section 501(r)(3)) apply to taxable years beginning after March 23, 2010. Section 501(r)(3) applies to taxable years beginning after March 23, 2012. A hospital organization has had to comply with the statutory requirements of section 501(r) since these applicability dates.

The Affordable Care Act also added section 4959, which imposes a $50,000 excise tax on a hospital organization that fails to meet the CHNA requirements for any taxable year, and amended section 6033 to add certain reporting requirements related to section 4959 and the CHNA requirements and to require hospital organizations to file a copy of their audited financial statements with their annual information returns.

In May 2010, the Department of the Treasury (Treasury Department) and the IRS issued Notice 2010–39 (2010–24 IRB 756 (June 14, 2010)), which solicited comments regarding the additional requirements imposed by section 501(r). Approximately 125 comments were received in response to Notice 2010–39.

In July 2011, the Treasury Department and the IRS issued Notice 2011–52 (2011–30 IRB 60 (July 25, 2011)), which described (and solicited comments regarding) provisions related to the CHNA requirements that the Treasury Department and the IRS anticipated would be included in proposed regulations. More than 80 comments were received in response to Notice 2011–52.

On June 26, 2012, the Treasury Department and the IRS published a notice of proposed rulemaking in the **Federal Register** (REG–130266–11, 77 FR 38148) (2012 proposed regulations) that contained proposed regulations regarding the requirements of sections 501(r)(4) through 501(r)(6) relating to FAPs, limitations on charges, and billing and collections. The 2012 proposed regulations also defined key terms used throughout the regulations, such as ''hospital organization'' and ''hospital facility.'' More than 200 written comments were received in response to the 2012 proposed regulations, and a public hearing was held on December 5, 2012.

On April 5, 2013, the Treasury Department and the IRS published a notice of proposed rulemaking in the **Federal Register** (REG–106499–12, 78 FR 20523) (2013 proposed regulations) that contained proposed regulations regarding the CHNA requirements of section 501(r)(3), the related reporting obligations under section 6033, the excise tax under section 4959, and the consequences for failing to meet any of the section 501(r) requirements. The 2013 proposed regulations also added a few additional defined terms and made minor amendments to the definitions of ''hospital organization'' and ''hospital facility'' contained in the 2012 proposed regulations. More than 90 written comments were received in response to the 2013 proposed regulations. No public hearing was requested or held.

On August 15, 2013, the Treasury Department and the IRS published final and temporary regulations and a cross-reference notice of proposed rulemaking in the **Federal Register** (TD 9629, 78 FR 49681; REG–115300–13, 78 FR 49700) under sections 6011 and 6071, which provided guidance regarding the requirement that a return accompany payment of the section 4959 excise tax for failure to meet the CHNA requirements for any taxable year. Specifically, the temporary regulations direct hospital organizations liable for the tax imposed by section 4959 to file Form 4720, ''Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code,'' by the 15th day of the fifth month after the end of the organization's taxable year in which the liability was incurred. The cross-reference notice of proposed rulemaking solicited public comments. No public comments were received, and no public hearing was requested or held.

In January 2014, the Treasury Department and the IRS published Notice 2014–2 (2014–3 IRB 407 (January 13, 2014)) to confirm that hospital organizations could rely on both the 2012 proposed regulations and the 2013 proposed regulations, pending the publication of final regulations or other applicable guidance. This Treasury decision obsoletes Notice 2014–2, but the final regulations contained in this Treasury decision continue to allow reliance on both the 2012 proposed regulations and the 2013 proposed regulations until a hospital organization's first taxable year beginning after December 29, 2015.

Also in January 2014, the Treasury Department and the IRS published Notice 2014–3 (2014–3 IRB 408 (January 13, 2014)), which contained, and solicited public comments on, a proposed revenue procedure that provides correction and reporting procedures under which certain failures to meet the requirements of section 501(r) will be excused for purposes of sections 501(r)(1) and 501(r)(2)(B). The Treasury Department and the IRS received six comments in response to Notice 2014–3.

After consideration of the comments received on the 2012 and 2013 proposed regulations, both sets of proposed regulations under section 501(r) are adopted as amended by this Treasury decision. In addition, this Treasury decision removes the temporary regulations under sections 6011 and

6071 and adopts as amended the proposed regulations that cross-referenced the text of those temporary regulations. The major areas of comment and the revisions are discussed in this preamble. The comments are available for public inspection at *www.regulations.gov* or on request.

Summary of Comments and Explanation of Revisions

These final regulations provide guidance on the requirements described in section 501(r), the entities that must meet these requirements, and the reporting obligations relating to these requirements under section 6033. In addition, the final regulations provide guidance on the consequences described in sections 501(r)(1), 501(r)(2)(B), and 4959 for failing to satisfy the section 501(r) requirements.

1. Hospital Facilities and Organizations

a. In General

In accordance with section 501(r)(2)(A)(i) and consistent with the proposed regulations, the final regulations define ''hospital organization'' as an organization recognized (or seeking to be recognized) as described in section 501(c)(3) that operates one or more hospital facilities and define ''hospital facility'' as a facility that is required by a state to be licensed, registered, or similarly recognized as a hospital. The final regulations refer to hospital facilities taking certain actions, and such references are intended to include instances in which the hospital organization operating the hospital facility takes action through or on behalf of the hospital facility.

Section 501(r)(2)(A)(ii) provides that a hospital organization also includes ''any other organization that the Secretary determines has the provision of hospital care as its principal function or purpose constituting the basis for its exemption'' under section 501(c)(3). One commenter requested that this language be incorporated into the definition of ''hospital organization'' contained in the final regulations.

At this time, the Treasury Department and the IRS have not identified any additional categories of organizations or facilities (other than hospital facilities and organizations operating them) with the principal function or purpose of providing hospital care. If any such categories of organizations or facilities are later identified, the Treasury Department and the IRS will issue proposed regulations identifying them, with the expanded definition applying prospectively only if, and when, the proposed regulations are finalized, after an opportunity for notice and comment.

b. Multiple Buildings Under a Single Hospital License

The definition of ''hospital facility'' in the 2012 proposed regulations provided that a hospital organization ''may treat'' multiple buildings operated under a single state license as a single hospital facility. To increase the certainty and consistency in the designation of hospital facilities, the 2013 proposed regulations revised this definition to indicate that multiple buildings operated by a hospital organization under a single state license ''are'' considered a single hospital facility for purposes of section 501(r).

In response to the 2013 proposed regulations, several commenters stated that buildings in different geographic locations that share a license (for example, a hospital facility with satellite sites in various locations) may serve distinct communities and stakeholders, whose needs could be missed or unaddressed if they are aggregated into one large community served for purposes of the CHNA requirements. Multiple commenters asked that such a hospital facility be given the flexibility to conduct separate CHNAs for its separate buildings, noting that state law may require the facility to file separate implementation strategies for each building describing how each building plans to meet the health needs in its community.

The Treasury Department and the IRS believe that a fixed rule regarding the treatment of multiple buildings under a single state license will provide for consistency and certainty in tax administration and increase the ability of both the IRS and the public to understand and to evaluate information reported on hospital organizations' Forms 990 from year to year. Accordingly, the final regulations continue to provide that multiple buildings operated by a hospital organization under a single state license are considered to be a single hospital facility. The final regulations also clarify that, in the case of a hospital facility consisting of multiple buildings that operate under a single state license and serve different geographic areas or populations, the community served by the hospital facility is the aggregate of such areas or populations. However, in such a case, the hospital facility consisting of multiple buildings could, if desired, assess the health needs of the different geographic areas or populations served by the different buildings separately and document the assessments in separate chapters or sections of the hospital facility's CHNA report and implementation strategy.

c. One Building Under Multiple State Licenses

A few commenters asked that the final regulations allow a hospital organization to treat operations in a single building under more than one state license as a single ''hospital facility,'' a situation the proposed regulations did not address. These commenters stated that entities operating within the same building have a high degree of integration and similar patient populations and that requiring each licensed facility to comply separately with section 501(r) would impose burdens without benefitting the community served.

The final regulations do not adopt this suggestion because the Treasury Department and the IRS believe that having one definition of ''hospital facility'' based on state licensure alone is simpler and more administrable. However, the Treasury Department and the IRS note that, as discussed in section 4.c of this preamble, separate hospital facilities within the same building may have identical FAPs and other policies established for them or share one policy document as long as the information in the policy or policies is accurate for all such facilities and any joint policy clearly states that it is applicable to each facility. Furthermore, as discussed in sections 3.a.v and 3.b.iii of this preamble, separate hospital facilities within the same building that define their communities to be the same may conduct a joint CHNA and adopt a joint implementation strategy addressing the significant health needs identified in the joint CHNA. Thus, the final regulations allow for hospital facilities within the same building to jointly comply with many of the section 501(r) requirements.

d. Government Hospital Organizations

The statutory language of section 501(r) applies to all hospital organizations that are (or seek to be) recognized as described in section 501(c)(3) and does not provide an exception for government hospital organizations. Accordingly, the preamble to the 2012 proposed regulations stated that the Treasury Department and the IRS intend to apply section 501(r) to every hospital organization that has been recognized (or seeks recognition) as an organization described in section 501(c)(3), regardless of whether a hospital organization is a government hospital organization. However, in recognition of the unique position of government

hospital organizations, the Treasury Department and the IRS also requested comments regarding alternative methods a government hospital organization could use to satisfy the requirements of section 501(r).

A number of commenters noted that government hospital organizations have long-standing relationships with their communities, are already known as ''safety net'' health care providers, and are already obligated to provide care regardless of ability to pay (although care is sometimes limited to or prioritized for citizens of the locality that is supporting the hospital). Commenters also stated that government hospital organizations disproportionately serve patients who are uninsured, Medicaid beneficiaries, or hard to reach (such as homeless individuals, migrant workers, and undocumented individuals), and have governance structures that reflect a level of public accountability. Commenters added that, as stewards of public funds, government hospital organizations have an obligation to local taxpayers to ensure that scarce financial resources go toward patient care and not toward unnecessary administrative costs. However, rather than offering alternative methods a government hospital organization could use to satisfy the requirements of section 501(r), these commenters instead effectively requested that the Treasury Department and the IRS provide exemptions from the requirements imposed by section 501(r) for government hospital organizations. For example, commenters recommended that government hospital organizations be exempted from all of the documentation requirements related to CHNAs, be deemed to have met the FAP requirements by virtue of their public status, or be permitted to charge some FAP-eligible individuals more than AGB as long as the average annual discounted charge provided to FAP-eligible individuals did not exceed AGB.

Other commenters expressed support for applying the requirements of section 501(r) to government hospital organizations, stating that no exceptions for particular categories of section 501(c)(3) organizations are permitted by the statute. Commenters also stated that, from the point of view of individuals seeking or receiving care, most government hospital organizations are indistinguishable from any other section 501(c)(3) hospital organization and that their practices with regard to charges, billing, and collections are substantially the same.

Because section 501(r) has no express or implicit exceptions for government hospital organizations, the final regulations require the section 501(r) requirements to be met by all hospital organizations that are (or seek to be) recognized as described in section 501(c)(3), including those that are government hospital organizations. The Treasury Department and the IRS note, however, that government hospital organizations that have previously been recognized as described in section 501(c)(3) but do not wish to comply with the requirements of section 501(r) may submit a request to voluntarily terminate their section 501(c)(3) recognition as described in section 7.04(14) of Rev. Proc. 2014–4 (2014–1 IRB 125) (or a successor revenue procedure).

A number of commenters asked whether and how government hospital organizations can satisfy the reporting requirements related to CHNAs, given that they are excused from filing a Form 990, ''Return of Organization Exempt From Income Tax,'' under Rev. Proc. 95–48 (1995–2 CB 418). The Affordable Care Act did not change the requirements regarding which organizations are required to file a Form 990. Rev. Proc. 95–48 provides that certain government entities are relieved from any requirement to file a Form 990 (and therefore are relieved from having to disclose information or documents on or with a Form 990). Accordingly, a government hospital organization (other than one that is described in section 509(a)(3)) described in Rev. Proc. 95–48 or a successor revenue procedure is not required to file a Form 990 or include any CHNA-related information with a Form 990. However, to be treated as described in section 501(c)(3), government hospital organizations still must meet all section 501(r) requirements that do not involve disclosure on or with the Form 990, including making their CHNA reports and FAPs widely available on a Web site.

e. Accountable Care Organizations

Several commenters asked that separate entities cooperating in accountable care organizations (ACOs) or similar integrated care models be treated as a single ''hospital organization'' for purposes of section 501(r), arguing that this would create administrative efficiencies as the participating organizations develop one standard set of policies and procedures and result in less confusion for patients as they move through a ''continuum of care.'' The final regulations do not adopt this suggestion, but the Treasury Department and the IRS note that, as discussed in section 4.c of this preamble, multiple hospital facilities may have identical FAPs and other policies established for them or share one joint policy document as long as the information in the policy or policies is accurate for all such facilities and any joint policy clearly states that it is applicable to each facility. Furthermore, as discussed in sections 3.a.v and 3.b.iii of this preamble, separate hospital facilities that define their community to be the same may conduct a joint CHNA and adopt a joint implementation strategy addressing the significant health needs identified in the joint CHNA. Thus, the final regulations provide opportunities for separate hospital facilities participating in an ACO to jointly comply with many of the section 501(r) requirements.

f. ''Operating'' a Hospital Facility

The 2013 proposed regulations generally provided that an organization operates a hospital facility if it owns a capital or profits interest in an entity treated as a partnership for federal tax purposes that operates the hospital facility. The final regulations maintain this general rule with two additions.[1] First, the final regulations clarify that an organization is considered to own a capital or profits interest in an entity treated as a partnership for federal tax purposes if it owns such an interest directly or indirectly through one or more lower-tier entities that are treated as partnerships for federal tax purposes.[2]

Second, the final regulations clarify how the question of whether an organization ''operates'' a hospital facility relates to the question of whether the organization needs to meet the requirements of section 501(r) (and, therefore, would be subject to any

[1] The final regulations delete the specific reference to joint ventures and limited liability companies contained in the 2013 proposed regulations because those entities are sufficiently covered by the general phrase ''entity treated as a partnership for federal tax purposes.'' The final regulations also delete the reference to ''members of'' an entity treated as a partnership for federal tax purposes because the intended organizations should be captured by the references to owners of a capital or profits interest in the partnership. These changes are not intended to be substantive changes.

[2] The final regulations also provide that an organization operates a hospital facility if it is the sole member or owner of a disregarded entity that operates the hospital facility. Section 301.7701–2(a) provides that a disregarded entity's activities are treated in the same manner as a branch or division of the owner. Accordingly, if a hospital organization is the sole owner of one disregarded entity that is, in turn, the sole owner of another disregarded entity that operates a hospital facility, the hospital organization would be considered to operate the hospital facility.

consequences for failing to meet such requirements). Specifically, § 1.501(r)–2(e) of the final regulations clarifies that a hospital organization is not required to meet the requirements of section 501(r) with respect to any hospital facility it is not ''operating'' within the meaning of that defined term. In addition, as stated in the preamble to the 2013 proposed regulations, the final regulations provide that a hospital organization is not required to meet the requirements of section 501(r) with respect to the operation of a facility that is not a ''hospital facility'' because it is not required by a state to be licensed, registered, or similarly recognized as a hospital. The final regulations also provide that a hospital organization is not required to meet the requirements of section 501(r) with respect to any activities that constitute an unrelated trade or business described in section 513 with respect to the hospital organization.

g. Providing Care in a Hospital Facility Through Hospital-Owned Entities

A number of commenters asked that the final regulations clarify the extent to which certain section 501(r) requirements apply to hospital-owned physician practices providing care in the hospital, with a few commenters requesting that the section 501(r) requirements apply to all care provided in a hospital facility by such practices.[3]

Whether or not the section 501(r) requirements apply to hospital-owned physician practices or other entities providing care in a hospital facility depends upon how the entities are classified for federal tax purposes. For example, a hospital facility would not be required to meet the section 501(r) requirements with respect to a taxable corporation providing care in the hospital facility, even if the corporation is wholly or partially owned by the hospital organization that operates the hospital facility, because the corporation is a separate taxable entity to which section 501(r) does not apply.

By contrast, if a hospital organization is the sole member or owner of an entity providing care in one of its hospital facilities and that entity is disregarded as separate from the hospital organization for federal tax purposes, the care provided by the entity would be considered to be care provided by the hospital organization through its hospital facility. Accordingly, the hospital organization would be required to meet the section 501(r) requirements with respect to care provided by the disregarded entity in any hospital facility that the hospital organization operates.

If a hospital organization owns a capital or profits interest in an entity providing care in a hospital facility that is treated as a partnership for federal tax purposes, the activities of the partnership are treated as the activities of the hospital organization for purposes of determining whether the hospital organization is operated exclusively for exempt purposes or engaged in an unrelated trade or business under generally applicable tax principles. *See* Rev. Rul. 2004–51 (2004–1 CB 974); Rev. Rul. 98–15 (1998–1 CB 718). Accordingly, emergency or other medically necessary care provided in a hospital facility by a partnership in which the hospital organization operating the facility has a capital or profits interest is treated as care provided by the hospital organization in its hospital facility for purposes of section 501(r). If the provision of such care by the partnership is an unrelated trade or business with respect to the hospital organization, the hospital organization does not have to meet the section 501(r) requirements with respect to the care because, as noted in section 1.f of this preamble, the final regulations provide that a hospital organization is not required to meet the requirements of section 501(r) with respect to any activity that constitutes an unrelated trade or business with respect to the hospital organization. On the other hand, if the provision of emergency or other medically necessary care by the partnership is not an unrelated trade or business with respect to the hospital organization, the final regulations clarify that the hospital organization must meet the requirements of sections 501(r)(4) through 501(r)(6) with respect to such care. The final regulations use a new defined term, ''substantially-related entity,'' to refer to an entity that is treated as a partnership for federal tax purposes in which a hospital organization owns a capital or profits interest (or a disregarded entity of which the hospital organization is the sole owner or member) and that provides, in a hospital facility operated by the hospital organization, emergency or other medically necessary care that is not an unrelated trade or business with respect to the hospital organization.[4]

h. Authorized Body

The 2013 proposed regulations defined the term ''authorized body of a hospital facility'' to include: (1) The governing body (that is, the board of directors, board of trustees, or equivalent controlling body) of the hospital organization; (2) a committee of, or other party authorized by, the governing body of the hospital organization, to the extent permitted under state law; or (3) in the case of a hospital facility that has its own governing body and is recognized as an entity under state law but is a disregarded entity for federal tax purposes, the governing body of that hospital facility, or a committee of, or other party authorized by, that governing body to the extent permitted under state law.

In cases in which a hospital organization owns a capital or profits interest in a partnership that operates a hospital facility, the Treasury Department and the IRS believe the governing body of the partnership should also be considered an authorized body of the hospital facility, and the final regulations are amended to reflect this change. In particular, the final regulations provide that an authorized body of a hospital facility may include the governing body of an entity that operates the hospital facility and is disregarded or treated as a partnership for federal tax purposes (or a committee of, or other party authorized by, that governing body to the extent such committee or other party is permitted under state law to act on behalf of the governing body), and thus either the governing body (or committee or other authorized party) of the hospital organization or of the disregarded entity or partnership may be considered the authorized body of the hospital facility.

Some questions have arisen regarding whether adoption of a CHNA report, implementation strategy, FAP, or other policy by one authorized official of a hospital facility would constitute adoption by an authorized body of the hospital facility for purposes of the regulatory requirements. Under the regulatory definition of ''authorized body of a hospital facility'' in both the 2013 proposed regulations and these final regulations, a single individual may constitute either a committee of the

[3] As discussed in section 4.a of this preamble, in response to comments, the final regulations require a hospital facility's FAP to identify the providers, other than the hospital facility itself, that may deliver emergency or other medically necessary care in the hospital facility and specify which providers are covered by the hospital facility's FAP and which are not.

[4] The final regulations also clarify that the term ''substantially-related entity'' does not include any partnership that qualifies for a grandfather rule included in the 2013 proposed regulations and adopted in the final regulations. Under that rule, an organization will not be considered to ''operate'' a hospital facility despite owning a capital or profits interest in an entity treated as a partnership for federal tax purposes that operates the hospital facility if it has met certain conditions since March 23, 2010.

governing body or a party authorized by the governing body to act on its behalf, provided that state law allows a single individual to act in either of these capacities.[5]

2. Failures To Satisfy the Requirements of Section 501(r)

The Treasury Department and the IRS recognize that errors may occur even in circumstances in which a hospital facility has practices and procedures in place that are reasonably designed to facilitate overall compliance with section 501(r) and has implemented safeguards reasonably calculated to prevent errors. Thus, the 2013 proposed regulations provided that a hospital facility's omission of required information from a policy or report described in § 1.501(r)–3 or § 1.501(r)–4, or an error with respect to the implementation or operational requirements described in §§ 1.501(r)–3 through 1.501(r)–6, would not be considered a failure to meet a requirement of section 501(r) if: (1) The omission or error was minor, inadvertent, and due to reasonable cause, and (2) the hospital facility corrected such omission or error as promptly after discovery as is reasonable given the nature of the omission or error.

In addition, to provide an incentive for hospital facilities to take steps not only to avoid errors but also to correct and provide disclosure when they occur, the 2013 proposed regulations provided that a hospital facility's failure to meet one or more of the requirements described in §§ 1.501(r)–3 through 1.501(r)–6 that is neither willful nor egregious would be excused if the hospital facility corrects and makes disclosure in accordance with guidance set forth by revenue procedure, notice, or other guidance published in the Internal Revenue Bulletin. On January 13, 2014, the Treasury Department and the IRS published Notice 2014–3, which contained a proposed revenue procedure setting forth procedures for correction and disclosure of such failures and solicited public comments regarding the proposed revenue procedure. The Treasury Department and the IRS intend to release a revenue procedure finalizing the guidance proposed in Notice 2014–3 in the near future.

[5] This interpretation of ''authorized body of a hospital facility'' is consistent with the interpretation of the term ''authorized body'' under Treas. Reg. § 53.4958–6(c)(1)(i). *See* TD 8978 (67 FR 3076, 3082).

a. Minor Omissions and Errors

Several commenters supported the proposed approach to minor and inadvertent omissions and errors that are due to reasonable cause, agreeing that if they are promptly corrected upon discovery they should not result in sanctions. Accordingly, the final regulations retain this general approach, with some modifications.

One commenter suggested modifying the proposed rule so that it will apply to omissions or errors that are minor, inadvertent, ''or'' due to reasonable cause (rather than ''and''), stating that an omission or error was unlikely to satisfy all three conditions. The same commenter noted that ''reasonable cause'' may be interpreted differently in a variety of circumstances, potentially making this safe harbor too narrow. The Treasury Department and the IRS believe that the insignificance of an omission or error should always be a necessary condition for receiving the benefit of correcting under § 1.501(r)–2(b) without any obligation to disclose to the IRS or the public. Thus, the final regulations require an omission or error to be minor in order to be corrected and not considered a failure under § 1.501(r)–2(b). However, in response to this comment, the final regulations provide that the option for correction without disclosure provided in § 1.501(r)–2(b) will be available if the omission or error is minor and either inadvertent or due to reasonable cause. As noted later in this section of the preamble, the final regulations also clarify the meaning of ''reasonable cause'' for purposes § 1.501(r)–2(b).

Numerous commenters asked for further guidance and specific examples with respect to the types of omissions and errors that would be considered minor, inadvertent, and/or due to reasonable cause, as opposed to those that are excused only if they are corrected and disclosed, as discussed in section 2.b of this preamble. As more experience is gained regarding the types of omissions or errors that typically occur in implementing the section 501(r) requirements, the Treasury Department and the IRS will consider issuing further guidance in this area. In the meantime, the final regulations provide additional guidance regarding the factors that will be considered in determining whether an omission or error is minor and either inadvertent or due to reasonable cause. With respect to minor, the final regulations clarify that, in the case of multiple omissions or errors, the omissions or errors are considered minor only if they are minor in the aggregate. The final regulations further provide that the fact that the same omission or error has occurred and been corrected previously is a factor tending to show that an omission or error is not inadvertent. Finally, with respect to reasonable cause, the final regulations provide that a hospital facility's establishment of practices or procedures (formal or informal) reasonably designed to promote and facilitate overall compliance with the section 501(r) requirements prior to the occurrence of an omission or error is a factor tending to show that the omission or error was due to reasonable cause.

Commenters also asked for guidance and examples demonstrating how minor omissions or errors should be remedied to avoid sanctions. The final regulations specify that correction of minor omissions or errors must include establishment (or review and, if necessary, revision) of practices or procedures (formal or informal) that are reasonably designed to achieve overall compliance with the requirements of section 501(r). As more experience is gained regarding the types of omissions or errors that typically occur in implementing the section 501(r) requirements, the Treasury Department and the IRS will consider issuing further guidance on the correction of minor omissions or errors.

A few commenters asked that hospital facilities be required to disclose the minor omissions or errors that they correct, either on a Web site or on the Form 990, to increase transparency and encourage continuous improvement. The Treasury Department and the IRS expect that minor omissions or errors will not have a significant impact on individuals in a hospital facility's community and, therefore, will be sufficiently inconsequential that they do not justify the additional burden of disclosure. Instead, as discussed in section 2.b of this preamble, disclosure is a requirement reserved for those omissions and errors that rise above the level of ''minor'' and have a broader scope and greater impact on individuals within the hospital facility's community, as well as those that are neither inadvertent nor due to reasonable cause and thus involve a degree of culpability on the part of the hospital facility.

b. Excusing Certain Failures If a Hospital Facility Corrects and Makes Disclosure

The 2013 proposed regulations provided that a hospital facility's failure to meet one or more of the requirements described in §§ 1.501(r)–3 through 1.501(r)–6 that is neither willful nor egregious would be excused if the

hospital facility corrects and provides disclosure in accordance with guidance set forth by revenue procedure, notice, or other guidance published in the Internal Revenue Bulletin. The 2013 proposed regulations indicated that, for purposes of this provision, a ''willful'' failure would be interpreted consistent with the meaning of that term in the context of civil penalties, which would include a failure due to gross negligence, reckless disregard, or willful neglect. Several commenters indicated that the reference to ''civil penalties'' was unclear. In response, the final regulations delete the reference to civil penalties, but continue to provide that a ''willful'' failure includes a failure due to gross negligence, reckless disregard, and willful neglect—all terms with well-established meanings in case law—to assist hospital facilities in distinguishing between a failure that is willful and a failure that may be excused if it is corrected and disclosed.

Similarly, several commenters asked for guidance on what would qualify as ''egregious'' noncompliance, recommending that the term should be reserved for actions that are of the utmost seriousness and that would undermine the intent of section 501(r) as a whole. The Treasury Department and the IRS agree with commenters that the term ''egregious'' should encompass only very serious failures, taking into account the severity of the impact and the number of affected persons, and the final regulations are amended to reflect this. As the Treasury Department and the IRS gain additional experience with the types of failures to meet section 501(r) that occur, examples of failures that are or are not willful or egregious may be provided in future guidance.

A number of commenters suggested that the final regulations should create a rebuttable presumption that a failure that is corrected and disclosed is neither willful nor egregious. Commenters reasoned that such a presumption would ensure that hospital facilities that correct and disclose failures would get some benefit in return for their efforts and reduce uncertainty regarding their section 501(c)(3) status. The final regulations do not provide for such a presumption because correction and disclosure of a failure are not determinative of a hospital facility's willfulness or the egregiousness of the failure. However, the Treasury Department and the IRS do believe that a hospital facility that corrects and discloses a failure to meet a section 501(r) requirement is less likely to have acted willfully in failing to meet that requirement, and thus the final regulations provide that correction and disclosure of a failure is a factor tending to show that an error or omission was not willful.

A few commenters questioned whether a system of correction and disclosure should be sufficient to prevent revocation of section 501(c)(3) status, with one commenter asking that proposed § 1.501(r)–2(c) be struck in its entirety. The Treasury Department and the IRS believe that the statute's objectives of promoting transparency of hospital facilities' CHNAs and FAPs and of providing protections to FAP-eligible patients with respect to charges and collections are well served by a system that encourages hospitals to adopt practices that prevent failures and promptly discover and correct any failures that happen to occur. In addition, disclosure of failures and what has been done to correct them provides significant transparency. Accordingly, the final regulations retain § 1.501(r)–2(c).

The 2013 proposed regulations stated that a hospital facility may, in the discretion of the IRS, be subject to an excise tax under section 4959 for a failure to meet the CHNA requirements, notwithstanding the hospital facility's correction and disclosure of the failure in accordance with the relevant procedures. Several commenters expressed confusion as to whether and how the tax under section 4959 would apply in the event of a failure that was corrected and disclosed. Although some commenters did not think the excise tax should apply upon correction and disclosure, at least one commenter suggested that the statute does not permit the excise tax to be excused.

To eliminate the uncertainty, the final regulations under section 4959 provide that a hospital facility failing to meet the CHNA requirements ''will'' (rather than ''may, in the discretion of the IRS'') be subject to an excise tax under section 4959, notwithstanding its correction and disclosure of the failure. However, as discussed in section 2.a of this preamble, a hospital facility's omission or error with respect to the CHNA requirements will not be considered a failure to meet the CHNA requirements if the omission or error is minor and either inadvertent or due to reasonable cause and if the hospital facility corrects the omission or error in accordance with § 1.501(r)–2(b)(1)(ii) of the final regulations. Accordingly, the final regulations under section 4959 also make clear that such a minor omission or error related to the CHNA requirements that is corrected will not give rise to an excise tax under section 4959.

c. Facts and Circumstances Considered in Determining Whether To Revoke Section 501(c)(3) Status

Consistent with the 2013 proposed regulations, the final regulations provide that the IRS will consider all relevant facts and circumstances when determining whether revocation of section 501(c)(3) status is warranted as a result of a failure to meet one or more requirements of section 501(r).

Several commenters asked that the regulatory text of the final regulations include the statement found in the preamble to the 2013 proposed regulations that application of these facts and circumstances will ordinarily result in revocation of section 501(c)(3) status only if the organization's failures to meet the requirements of section 501(r) are willful or egregious. On the other hand, one commenter expressed concern that this statement signals that revocation could result due to failures that are willful, but not serious or material.

The final regulations provide that all of the relevant facts and circumstances will be considered in determining whether to revoke a hospital organization's section 501(c)(3) status, including the size, scope, nature, and significance of the organization's failure, as well as the reason for the failure and whether the same type of failure has previously occurred. The IRS will also consider whether the hospital organization had, prior to the failure, established practices or procedures (formal or informal) reasonably designed to promote and facilitate overall compliance with the section 501(r) requirements; whether such practices or procedures were being routinely followed; and whether the failure was corrected promptly.

d. Taxation of Noncompliant Hospital Facilities

Like the 2013 proposed regulations, the final regulations provide for a facility-level tax for a hospital organization operating more than one hospital facility that fails to meet one or more of the requirements of section 501(r) separately with respect to a hospital facility during a taxable year. Specifically, this facility-level tax applies to a hospital organization that continues to be recognized as described in section 501(c)(3) but would not continue to be so recognized based on the facts and circumstances described in section 2.c of this preamble if the noncompliant facility were the only hospital facility operated by the organization. The facility-level tax is applied to income derived from the

noncompliant hospital facility during the taxable year of non-compliance and is computed as provided in section 11 (or as provided in section 1(e) if the hospital organization is a trust described in section 511(b)(2)).

The 2013 proposed regulations also stated that the application of the facility-level tax to income derived from a noncompliant hospital facility would not, by itself, affect the tax-exempt status of bonds issued to finance the noncompliant hospital facility. Numerous commenters requested that the final regulations further specify that a noncompliant hospital facility subject to the facility-level tax will not be treated as an unrelated trade or business for purposes of tax-exempt bonds issued to finance the noncompliant facility. In response to these comments, the final regulations clarify that application of the facility-level tax will not, by itself, result in the operation of the noncompliant hospital facility being considered an unrelated trade or business described in section 513.

3. Community Health Needs Assessments

Consistent with section 501(r)(3)(A), the final regulations provide that a hospital organization meets the requirements of section 501(r)(3) in any taxable year with respect to a hospital facility it operates only if the hospital facility has conducted a CHNA in such taxable year or in either of the two immediately preceding taxable years and an authorized body of the hospital facility has adopted an implementation strategy to meet the community health needs identified through the CHNA.

a. Conducting a Community Health Needs Assessment

Consistent with the 2013 proposed regulations, the final regulations provide that, in conducting a CHNA, a hospital facility must define the community it serves and assess the health needs of that community. In assessing the community's health needs, the hospital facility must solicit and take into account input received from persons who represent the broad interests of its community. The hospital facility must also document the CHNA in a written report (CHNA report) that is adopted for the hospital facility by an authorized body of the hospital facility. Finally, the hospital facility must make the CHNA report widely available to the public. A hospital facility is considered to have conducted a CHNA on the date it has completed all of these steps, including making the CHNA report widely available to the public.

Several commenters suggested that a hospital facility should be considered to have conducted a CHNA if it updates a previously conducted CHNA, as opposed to being required to create an entirely new CHNA every three years. The Treasury Department and the IRS expect that, in conducting CHNAs, hospital facilities will build upon previously-conducted CHNAs, and nothing in either the 2013 proposed regulations or the final regulations is intended to prevent this practice. Hospital facilities should note, however, that both the 2013 proposed regulations and these final regulations require the solicitation and consideration of input from persons representing the broad interests of the community anew with each CHNA, even if the CHNA builds upon a previously conducted CHNA.

i. Community Served by the Hospital Facility

The 2013 proposed regulations provided that a hospital facility may take into account all of the relevant facts and circumstances in defining the community it serves, including the geographic area served by the hospital facility, target populations served (for example, children, women, or the aged), and principal functions (for example, focus on a particular specialty area or targeted disease). The 2013 proposed regulations further provided that a hospital facility may define its community to include populations in addition to its patient populations and geographic areas outside of those in which its patient populations reside. However, the 2013 proposed regulations did not permit a hospital facility to define its community in a way that excluded medically underserved, low-income, or minority populations who are served by the hospital facility, live in the geographic areas in which its patient populations reside (unless such populations are not part of the hospital facility's target population or affected by its principal functions), or otherwise should be included based on the method used by the hospital facility to define its community.

A few commenters expressed concern that the sentence suggesting that a hospital facility could define its community to include populations in addition to its patient populations and geographic areas outside of those in which its patient populations reside could create confusion among both hospital organizations and the public, as it implies that the community that is defined for CHNA purposes may not actually be the community served by the hospital facility. To avoid potential confusion, the final regulations delete this language. However, the final regulations continue to give hospital facilities broad flexibility to define the communities they serve or intend to serve (both in addressing needs identified through their CHNAs and otherwise) taking into account all relevant facts and circumstances, provided that they do not exclude medically underserved, low-income, or minority populations.

With respect to the provision in the 2013 proposed regulations that a hospital facility may not define its community in a way that excludes medically underserved, low-income, or minority populations, several commenters asked that the final regulations prohibit exclusion of additional populations, such as populations with limited English proficiency (LEP) or potential patients within the community who are not currently receiving care. With respect to potential patients not currently receiving care, commenters noted that individuals may live within a hospital facility's service community but not use the facility for reasons that include cost, lack of transportation, lack of adequate language access services, stigma, or other barriers.

The 2013 proposed regulations and these final regulations define ''medically underserved'' populations as including populations ''at risk of not receiving adequate medical care as a result of being uninsured or underinsured or due to geographic, language, financial, or other barriers.'' The reference to language barriers in the definition of medically underserved already encompasses LEP populations. In addition, the definition of ''medically underserved'' already prevents the exclusion of those living within a hospital facility's service area but not receiving adequate medical care from the facility because of cost, transportation difficulties, stigma, or other barriers. The final regulations also provide that hospital facilities may not exclude low-income or minority populations living ''in the geographic areas from which the hospital facility draws its patients,'' and not only those already receiving care from the facility. Accordingly, the Treasury Department and the IRS believe the concerns addressed by these commenters are addressed by the final regulations.

ii. Assessing Community Health Needs

The 2013 proposed regulations provided that, to assess the health needs of its community, a hospital facility must identify the significant health needs of its community, prioritize those health needs, and identify potential

measures and resources (such as programs, organizations, and facilities in the community) available to address the health needs. For these purposes, the 2013 proposed regulations stated that health needs include requisites for the improvement or maintenance of health status both in the community at large and in particular parts of the community (such as particular neighborhoods or populations experiencing health disparities). The preamble added that requisites for the improvement or maintenance of health status in a community may include improving access to care by removing financial and other barriers to care, such as a lack of information regarding sources of insurance designed to benefit vulnerable populations. Numerous commenters asked for clarification that the term ''health needs'' also encompasses needs in addition to access to care, such as access to proper nutrition and housing, the mitigation of social, environmental, and behavioral factors that influence health, or emergency preparedness. In response to these comments, the final regulations expand the examples of health needs that a hospital facility may consider in its CHNA to include not only the need to address financial and other barriers to care but also the need to prevent illness, to ensure adequate nutrition, or to address social, behavioral, and environmental factors that influence health in the community. The Treasury Department and the IRS note that the list of possible health needs in the final regulations is only a list of examples, and a hospital facility is not required to identify all such types of health needs in its CHNA report if all such types are not determined by the hospital facility to be significant health needs in its community.

The 2013 proposed regulations provided that a hospital facility may use any criteria to prioritize the significant health needs it identifies, including, but not limited to, the burden, scope, severity, or urgency of the health need; the estimated feasibility and effectiveness of possible interventions; the health disparities associated with the need; or the importance the community places on addressing the need. One commenter supported the flexibility provided to hospital facilities in determining how to prioritize significant health needs, while several other commenters expressed concern that the language in the proposed rule that a hospital facility may use ''any'' criteria when prioritizing significant health needs could be read to include criteria that disregard community preferences. Two commenters recommended requiring hospital facilities to use the listed criteria, with one such commenter noting that these are commonly-used criteria in health planning and program evaluation.

Section 501(r)(3) does not mandate the use of particular prioritization criteria. Accordingly, the list of prioritization criteria in the final regulations remains a non-exhaustive list of examples, and hospital facilities have flexibility to choose how best to prioritize the significant health needs of their particular communities. However, to ensure transparency with respect to a hospital facility's prioritization, the final regulations, like the 2013 proposed regulations, require a hospital facility's CHNA report to describe the process and criteria used in prioritizing the significant health needs identified. In addition, the final regulations require a hospital facility to take into account community input not only in identifying significant health needs but also in prioritizing them.

A few commenters asked for clarification regarding the requirement in the 2013 proposed regulations that hospital facilities identify potential measures and resources (such as programs, organizations, and facilities in the community) available to address significant health needs. For example, one commenter asked whether the term ''measures'' referred to how the hospital facility would measure the scope of the health need, rather than actions the hospital facility might take to address the health need. Another commenter interpreted the proposed requirement as referring to the potential measures and resources only of parties in the community other than the hospital facility itself. To eliminate any confusion associated with the use of the term ''measures,'' the final regulations eliminate the term and require a hospital facility to identify resources potentially available to address the significant health needs, with the term ''resources'' including programs, organizations, or facilities. In addition, the final regulations clarify that resources of the hospital facility itself may be identified.

Numerous commenters recommended removing the requirement that a CHNA include potential measures and resources to address the significant health needs identified, stating that the implementation strategy was a better place to discuss the means to address health needs. Other commenters supported this requirement, with one such commenter stating that it is important to consider potential measures and resources early in the CHNA process to provide a framework for determining which health needs to address in the implementation strategy. The Treasury Department and the IRS agree that a vital part of assessing and prioritizing health needs is to begin considering what resources in the community could potentially be harnessed to help address those health needs and thus believe that hospital facilities should get community input on this important aspect of assessing health needs while the CHNA is being conducted. The opportunity for contemporaneous community input on potentially available resources would not exist if such resources were identified as part of the implementation strategy because a hospital facility is not required to take into account input on an implementation strategy until it is conducting the subsequent CHNA. Accordingly, the final regulations retain the requirement that a CHNA identify resources potentially available to address significant health needs.

iii. Input From Persons Representing the Broad Interests of the Community

The 2013 proposed regulations provided that, in assessing the health needs of its community, a hospital facility must take into account input received from, at a minimum, the following three sources: (1) At least one state, local, tribal, or regional governmental public health department (or equivalent department or agency) with knowledge, information, or expertise relevant to the health needs of the community; (2) members of medically underserved, low-income, and minority populations in the community, or individuals or organizations serving or representing the interests of such populations; and (3) written comments received on the hospital facility's most recently conducted CHNA and most recently adopted implementation strategy.

Several commenters asked that the final regulations address the situation in which a hospital facility, despite its best efforts, is unable to secure input on its CHNA from a required category of persons. In response, the final regulations retain the three categories of persons representing the broad interests of the community specified in the 2013 proposed regulations but clarify that a hospital facility must ''solicit'' input from these categories and take into account the input ''received.'' The Treasury Department and the IRS expect, however, that a hospital facility claiming that it solicited, but could not obtain, input from one of the required categories of persons will be able to document that it made reasonable

efforts to obtain such input, and the final regulations require the CHNA report to describe any such efforts.

Numerous commenters requested that the final regulations provide for public input on the identification and prioritization of significant health needs, with a few of these commenters expressing a particular interest in ensuring ample opportunity for community input and feedback on which community health needs should be deemed ''significant.'' By requiring hospital facilities to take into account public input ''in assessing the health needs of the community'' and defining ''assessing the health needs of the community'' to include identifying and prioritizing significant health needs, the 2013 proposed regulations already required public input on the identification and prioritization of significant health needs. The final regulations clarify that the requirement to take into account input in assessing the health needs of the community includes taking into account input in identifying and prioritizing significant health needs, as well as identifying resources potentially available to address those health needs.

Finally, the final regulations do not adopt a suggestion from several commenters that a hospital facility be required to take into account public input in defining its community because such a requirement would be circular, as a hospital facility must define its community before it can take into account input from persons who represent the broad interests of that community.

A. Governmental Public Health Departments

Numerous commenters supported requiring hospital facilities to take into account input from a governmental public health department (or equivalent department or agency), noting that governmental health departments typically have access to statistical and other data that may be helpful in assessing and prioritizing community health needs and, in many cases, conduct community health assessments of their own.

One commenter asked what is meant by ''or equivalent department or agency'' and whether the term was intended to be an exception to the requirement that hospital facilities collaborate with governmental public health departments. The parenthetical reference to an ''equivalent department or agency'' in the 2013 proposed regulations and the final regulations is not intended to be an exception. Rather, it is included in recognition of the fact that governments may have different names for the particular unit with jurisdiction over and expertise in public health. For example, the particular unit of a government with jurisdiction over and expertise in public health might be called an ''agency,'' ''division,'' ''authority,'' ''bureau,'' ''office,'' or ''center'' rather than a department and may or may not have the term ''public health'' in its name. As long as a hospital facility is soliciting and taking into account input received from the unit of a local, state, tribal, or regional government with jurisdiction over and expertise in public health, it will satisfy the requirement to solicit and take into account input received from a governmental public health department.

The 2013 proposed regulations provided flexibility in allowing a hospital facility to choose the level of government that it concluded was most appropriate for its CHNA, and did not require a hospital facility to solicit input from a local public health department, in particular, because not all jurisdictions will have local public health departments available to participate in the CHNA process. Several commenters asked that the final regulations require a hospital facility to solicit input from a local public health department if one exists in its community. Other commenters, however, expressly supported allowing flexibility to choose the particular governmental health department from which to seek input.

The Treasury Department and the IRS believe that public health departments represent the broad interests of the jurisdictions they serve and have special knowledge of and expertise in public health, regardless of whether they are local, state, tribal, or regional departments. Several commenters noted that local public health departments may vary greatly in their capacity to participate in a CHNA process. In addition, the community served by a hospital facility may span the jurisdictions of multiple local public health departments. Thus, even when a hospital facility's locality has a local public health department, the hospital facility still might reasonably decide that a public health department at a different jurisdictional level may be a more appropriate source of input for its CHNA. Accordingly, the final regulations preserve the flexible approach of the 2013 proposed regulations and allow a hospital facility to select the jurisdictional level (local, state, tribal or regional) of the public health department that is most appropriate for its CHNA.

One commenter asked that the final regulations identify State Offices of Rural Health (SORHs) as governmental public health entities from which hospital facilities may seek input. This commenter stated that SORHs operate on a statewide basis and routinely conduct rural health planning efforts, including both health service access assessments and population health status assessments. The Treasury Department and the IRS note that the substantial majority of SORHs are located in state health departments, such that rural hospital facilities soliciting input from these state SORHs would presumably be soliciting input from a state public health department. However, because some SORHs are located in state universities or other nonprofits or government departments other than public health departments, the final regulations separately identify SORHs as a source of input from which hospital facilities may solicit and take into account input to satisfy the relevant requirement.

One commenter stated that hospital facilities are increasingly employing or contracting with public health experts. This commenter further stated that it would seem illogical for a hospital facility to be considered to have failed to meet the CHNA requirements because it relied on more specific, in-depth advice and input from a public health expert without necessarily working with a public health agency with strained available resources that is attempting to serve a larger geographic area with a broader set of public health needs than those the hospital facility might address. The Treasury Department and the IRS note that public health expertise alone does not result in a person's representing the broad interests of the community, while a governmental public health department both offers public health expertise and is responsible for ensuring that the broad interests of the community are represented. Thus, while hospital facilities are free to contract with public health experts to assist with their CHNAs, the final regulations require a hospital facility to solicit and take into account input received from a governmental public health department.

B. Medically Underserved, Low-Income, and Minority Populations

Several commenters asked that hospital facilities be required to seek input from certain specified groups, such as the disabled, individuals with chronic diseases, women and children, and LEP populations, in addition to the requirement in the 2013 proposed regulations to seek input from medically

underserved, low-income, and minority populations. As noted in section 3.a.i of this preamble, ''medically underserved'' populations are defined in the 2013 proposed regulations and these final regulations as populations ''at risk of not receiving adequate medical care as a result of being uninsured or underinsured or due to geographic, language, financial, or other barriers.'' The Treasury Department and the IRS believe this definition (along with the inclusion of low-income and minority populations) should be sufficiently broad to encompass many of the populations cited by commenters to the extent such populations are at risk of not receiving adequate medical care. Moreover, even if a hospital facility does not solicit input from a particular population while conducting its CHNA, any person can participate in the CHNA process by submitting written comments on the hospital facility's most recently conducted CHNA and most recently adopted implementation strategy, as described in section 3.a.iii.C of this preamble. Accordingly, the final regulations do not expand the populations from whom a hospital facility is required to solicit input beyond medically underserved, minority, and low-income populations.

One commenter asked that the final regulations define the broader category of ''minority populations'' to include certain sub-categories of persons, such as persons with disabilities and LEP individuals, and require hospital facilities to consult a member or representative of each such sub-category identified in their community served. Because the sub-categories within the broad categories of minority and medically underserved populations will likely vary greatly from community to community, the final regulations continue to provide hospital facilities with the flexibility to identify the significant minority and medically underserved populations in their communities with whom they should consult and do not mandate any specific approach.

C. Written Comments

While some comments in response to Notice 2011–52 recommended a requirement that a hospital facility take into account public input on a draft version of its CHNA report before finalizing the report, this recommendation was not adopted in the 2013 proposed regulations due to the complexity of the additional timeframes and procedures such a process would require. Instead, the 2013 proposed regulations required hospital facilities to consider written comments received from the public on the hospital facility's most recently conducted CHNA and most recently adopted implementation strategy. Because a new CHNA must be conducted and an implementation strategy adopted at least once every three years, the Treasury Department and the IRS intended for this requirement to establish the same sort of continual feedback on CHNA reports suggested by commenters, albeit over a different timeframe.

In response to the 2013 proposed regulations, some commenters continued to advocate for requiring comments on a draft CHNA report before it is finalized, stating that the burdens of such a rule would be reasonable and commensurate with the benefits of giving interested individuals additional opportunities to participate in the CHNA. These commenters added that without a mandatory opportunity to comment on the draft CHNA report, interested individuals and organizations may not be aware that a hospital facility is conducting its CHNA until the CHNA is complete, and that opening up the CHNA report for comment in ''real time'' would yield findings more indicative of community priorities and provide a better framework for collaboration. Other commenters, however, supported the proposed requirement that hospital facilities take into account input in the form of written comments received on the hospital facility's most recently conducted CHNA and most recently adopted implementation strategy, stating that such comments may provide extremely valuable information to guide future assessments and implementation strategies and that this is a practical way of taking various perspectives into account.

The Treasury Department and the IRS continue to believe that the opportunity for the public to submit written comments on previously adopted CHNA reports and implementation strategies will result in a meaningful exchange over time and that the longer timeframe will both give the public sufficient time to provide comments (including comments reflecting changing circumstances) and give hospital facilities sufficient time to take the comments into account when conducting their next CHNA. The Treasury Department and the IRS also note that hospital facilities' CHNA processes will be taking into account input in ''real time'' from various community stakeholders, including, at a minimum, governmental public health departments and medically underserved, low-income, and minority populations (or persons serving or representing them). Accordingly, the final regulations retain the requirement that a hospital facility take into account written comments on the hospital facility's most recently conducted CHNA report and most recently adopted implementation strategy and do not adopt an additional requirement to post a draft CHNA report for public comment before it is finalized. In addition, the Treasury Department and the IRS note that hospital facilities may choose to post a draft CHNA report for public comment, and both the 2013 proposed regulations and these final regulations facilitate this option by specifying that the posting of a draft CHNA report will not trigger the start of a hospital facility's next three-year CHNA cycle.

A few commenters asked how the public is expected to comment on the implementation strategy if the information is not made available outside of the Form 990 reporting process. As discussed in section 8.a of this preamble, a hospital organization must either attach to its Form 990 a copy of the most recently adopted implementation strategy for each hospital facility it operates or provide on the Form 990 the URL(s) of the Web page(s) on which it has made each implementation strategy widely available on a Web site. Section 6104 requires Forms 990 to be made available to the public by both the filing organization and the IRS, and members of the public may obtain a copy of a hospital organization's Forms 990 from one of the privately-funded organizations that gathers and disseminates Forms 990 online or by completing IRS Form 4506–A, ''Request for Public Inspection or Copy of Exempt or Political Organization IRS Form.''

One commenter requested clarification on how hospital facilities should be collecting written comments from the public, asking, for example, if written comments must be collected via a form on a Web site or by email or mailed letter. The final regulations do not require a specific method for collection of these written comments, providing hospital facilities with the flexibility to set up a collection and tracking system that works with their internal systems and makes the most sense for their particular community.

A few commenters asked that the final regulations clarify how hospital facilities should respond to written comments received from the public. One commenter proposed that a hospital facility designate a representative or division responsible for providing substantive responses to written comments to demonstrate that the hospital facility has received the

comment and to ensure that the public will be able to provide continual feedback during the interim period between formal CHNAs. In contrast, another commenter stated that requiring hospitals to individually address each community concern through feedback could become burdensome. As discussed in section 3.a.iv of this preamble, the final regulations require hospital facilities to describe generally any input received in the form of written comments (or from any other source) in their CHNA reports. The Treasury Department and the IRS expect that this description in the CHNA report will provide sufficient confirmation that comments have been received and considered and intend that hospital facilities will otherwise have flexibility in determining whether further responses are necessary. Thus, the final regulations do not adopt any specific requirements regarding how hospital facilities must respond to written comments received from the public.

Finally, one commenter sought confirmation that the requirement to take into account written comments on the hospital facility's ''most recently conducted CHNA'' means that hospital facilities must take into account public comments submitted after the CHNA or implementation strategy is finalized to inform and influence future CHNAs and implementation strategies. This is an accurate description of this provision in both the 2013 proposed regulations and these final regulations. The Treasury Department and the IRS intend that the phrase ''most recently conducted CHNA'' refers not to a CHNA that is in process but rather to the last CHNA that was ''conducted,'' typically determined as of the date the hospital facility makes an adopted and complete CHNA report widely available to the public.

D. Additional Sources of Input

The 2013 proposed regulations provided that, in addition to soliciting input from the three required sources, a hospital facility may take into account input from a broad range of persons located in or serving its community, including, but not limited to, health care consumers and consumer advocates, nonprofit and community-based organizations, academic experts, local government officials, local school districts, health care providers and community health centers, health insurance and managed care organizations, private businesses, and labor and workforce representatives.

Numerous commenters requested that the final regulations require, rather than simply permit, hospital facilities to solicit input from additional sources, including from patient and health care consumer organizations located in or serving the hospital facility's community, county governing boards, experts in nutrition or the local food system, and housing service providers. While these sources may have valuable input to contribute to a hospital facility's CHNA, mandating input from some or all of these sources could result in a final rule that is unsuited for particular communities and further complicate the CHNA process and the ability to collaborate. Accordingly, the final regulations do not require hospitals to solicit input from additional persons, although a hospital facility is free to solicit input from the suggested sources (as well as other sources) and must take into account input received from any person (including these sources) in the form of written comments on the most recently conducted CHNA or most recently adopted implementation strategy.

E. Input on Financial and Other Barriers

The 2012 proposed regulations requested comments on the potential link between the needs of a hospital facility's community, as determined through the hospital facility's most recently conducted CHNA, and a hospital facility's FAP. The preamble to the 2013 proposed regulations recognized that the need to improve access to care by removing financial barriers can be among the significant health needs assessed in a CHNA, and the 2013 proposed regulations themselves provided that input from persons representing the broad interests of the community includes, but is not limited to, input on any financial and other barriers to access to care in the community.

Several commenters stated that the CHNA process offers an opportunity to inquire about financial and other barriers to care, which could provide useful information to a hospital facility in updating and evaluating its FAP. However, other commenters noted that section 501(r) does not require a link between a hospital facility's CHNA and its FAP. These commenters further stated that because CHNAs are already required to take into account input from persons who represent the broad interests of the community and the decision of how to meet those needs is the responsibility of the hospital's governing board, a linkage should be allowed at the discretion of the hospital facility but not required.

In acknowledgement of the importance of assessing financial barriers to care in the CHNA process, the final regulations expressly provide that the health needs of a community may include the need to address financial and other barriers to access to care in the community. However, consistent with the approach taken in Notice 2011–52 and the 2013 proposed regulations, the final regulations focus on ensuring transparency regarding the health needs identified through a CHNA rather than requiring hospital facilities to identify any particular categories of health needs. As with all significant health needs identified through a CHNA, a hospital facility's decision as to whether and how to address a significant health need involving financial barriers to care (including through an amendment to a hospital facility's FAP) will be disclosed publicly in the hospital facility's implementation strategy and subject to public comments in preparing the next CHNA. Thus, the final regulations do not require any additional link between a hospital facility's CHNA and its FAP.

iv. Documentation of a CHNA

Similar to the 2013 proposed regulations, the final regulations provide that a hospital facility must document its CHNA in a CHNA report that is adopted by an authorized body of the hospital facility and includes: (1) A definition of the community served by the hospital facility and a description of how the community was determined; (2) a description of the process and methods used to conduct the CHNA; (3) a description of how the hospital facility solicited and took into account input received from persons who represent the broad interests of the community it serves; (4) a prioritized description of the significant health needs of the community identified through the CHNA, along with a description of the process and criteria used in identifying certain health needs as significant and prioritizing those significant health needs; and (5) a description of resources potentially available to address the significant health needs identified through the CHNA.

Both the 2013 proposed regulations and these final regulations provide that a CHNA report will be considered to describe the process and methods used to conduct the CHNA if the CHNA report describes the data and other information used in the assessment, as well as the methods of collecting and analyzing this data and information, and identifies any parties with whom the hospital facility collaborated, or with whom it contracted for assistance, in conducting the CHNA. Some commenters requested that this provision be modified to permit the referencing of publicly available source

materials (for example, public health agency data) on which the hospital facility relied in conducting its CHNA. The final regulations clarify that a hospital facility may rely on (and the CHNA report may describe) data collected or created by others in conducting its CHNA and, in such cases, may simply cite the data sources rather than describe the ''methods of collecting'' the data.

A few commenters requested clarification on how a hospital facility's CHNA report should describe input received in the form of written comments, with one such commenter asking if a general summary of the input provided, the number of comments received, and the time period during which the comments were received will be sufficient. The final regulations retain the provisions of the 2013 proposed regulations, which stated that a CHNA report will be considered to describe how the hospital facility took into account community input if it summarizes, in general terms, the input provided and how and over what time period it was provided. This language applies to written comments, as well as to any other type of input provided. In addition, like the 2013 proposed regulations, the final regulations provide that a CHNA report does not need to name or otherwise identify any specific individual providing input on the CHNA, which would include input provided by individuals in the form of written comments.

v. Collaboration on CHNA Reports

The 2013 proposed regulations provided that a hospital organization may choose to conduct its CHNA in collaboration with other organizations and facilities, including related and unrelated hospital organizations and facilities, for-profit and government hospitals, governmental departments, and nonprofit organizations. In general, every hospital facility must document its CHNA in a separate CHNA report. However, the 2013 proposed regulations made clear that portions of a hospital facility's CHNA report may be substantively identical to portions of the CHNA reports of other facilities or organizations, if appropriate under the facts and circumstances. The 2013 proposed regulations further provided that collaborating hospital facilities that define their community to be the same and that conduct a joint CHNA process may produce a joint CHNA report. The final regulations amend the proposed regulations to clarify that joint CHNA reports must contain all of the same basic information that separate CHNA reports must contain (discussed in section 3.a.iv of this preamble).

Numerous commenters expressed support for allowing joint CHNA reports, noting that the purpose of collaboration is to make the most efficient use of resources in assessing community needs and devising strategies to address those needs and that communities would benefit from strengthened collaborative partnerships that help build broad-based support for community-wide solutions to the underlying causes of health problems. In addition, several of these commenters stated that joint CHNA reports would more effectively leverage the health data expertise of governmental public health departments without placing an unreasonable burden on departments that serve jurisdictions with more than one tax-exempt hospital facility. Another commenter stated that joint CHNA reports both enhance overall community health and lessen confusion in the community by providing a more comprehensive view of the identified needs and associated strategies for addressing those needs. For these reasons, the final regulations continue to permit collaborating hospital facilities to produce joint CHNA reports.

Several commenters recommended that the final regulations go beyond simply permitting collaboration to expressly encouraging, or even requiring, hospital facilities located in the same jurisdiction to collaborate in conducting a CHNA and developing an implementation strategy. One of these commenters stated that this would help ensure that the community is not overburdened by multiple CHNA efforts, noting that a ''go it alone'' approach in a jurisdiction with multiple hospitals is likely to be neither the most efficient nor the most effective way to improve the overall health of the community. Another commenter, however, stated that the discretion to work collaboratively with others should be left to each particular hospital facility, given the many health care providers operating in a typical community.

Like the 2013 proposed regulations, the final regulations encourage and facilitate collaboration among hospital facilities by allowing for joint CHNA reports. However, section 501(r) applies separately to each hospital organization (and, in the case of hospital organizations operating more than one hospital facility, each hospital facility) and, therefore, it is not appropriate to require hospital organizations to meet the section 501(r)(3) requirements collaboratively with other organizations. Accordingly, the final regulations facilitate, but do not require, collaboration.

Two commenters asked whether the requirement that collaborating hospital facilities must ''conduct a joint CHNA process'' to adopt a joint CHNA report means that the collaborating hospital facilities must make the joint CHNA report widely available to the public (including posting the CHNA report on a Web site) on the same day. The Treasury Department and the IRS do not intend for collaborating hospital facilities to have to make a joint CHNA report widely available to the public on the same day. Thus, in response to these comments and to avoid potential confusion, the final regulations remove the reference to a joint CHNA process.

A. Defining a Common Community

Several commenters expressed concern regarding the requirement that hospital facilities that collaborate on a CHNA and intend to produce a joint CHNA report must define their communities to be the same. Two of these commenters requested that a hospital facility collaborating on a CHNA being conducted for a larger shared community also be able to identify and address needs that are highly localized in nature or occurring within only a small portion of that community. The 2013 proposed regulations and these final regulations define ''health needs'' to include requisites for the improvement or maintenance of health status in particular parts of the community, such as particular neighborhoods or populations experiencing health disparities. Accordingly, a joint CHNA conducted for a larger area could identify as a significant health need a need that is highly localized in nature or occurs within only a small portion of that larger area. In addition, nothing in the final regulations prevents a hospital facility collaborating on a CHNA from supplementing a joint CHNA report with its own assessment of more highly localized needs. Because the 2013 proposed regulations already allowed collaborating hospital facilities to address highly localized needs experienced in a particular part of their shared community, the final regulations do not amend the proposed regulations in response to these comments.

One commenter requested that collaborating hospital facilities that serve different communities be allowed to adopt a joint CHNA report, stating that requiring all hospital facilities participating in a joint CHNA report to define their community to be the same would appear to prohibit collaboration between general and specialized

hospital facilities in the same geographic area if the specialized hospital facilities define their communities in terms of service area or principal function and the general hospital facilities define their communities geographically.

The 2013 proposed regulations and these final regulations permit hospital facilities with different but overlapping communities to collaborate in conducting a CHNA and to include substantively identical portions in their separate CHNA reports if appropriate under the facts and circumstances. The final regulations elaborate upon this point with an example of two hospital facilities with overlapping, but not identical, communities that are collaborating in conducting a CHNA and state that, in such a case, the portions of each hospital facility's CHNA report relevant to the shared areas of their communities may be identical. Thus, the final regulations not only expressly permit hospital facilities with different communities (including general and specialized hospitals) to collaborate but also allow such hospital facilities to adopt substantively identical CHNA reports to the extent appropriate.

A few commenters recommended that the final regulations make clear that, to the extent that the communities served by collaborating hospital facilities differ, a CHNA report must reflect the unique needs of the community of the particular hospital facility adopting the report. By stating that collaborating hospital facilities with different but overlapping communities may include substantively identical portions in their separate CHNA reports only ''if appropriate under the facts and circumstances,'' the 2013 proposed regulations and these final regulations convey that the CHNA reports of collaborating hospital facilities should differ to reflect any material differences in the communities served by those hospital facilities.

B. Collaborating With Public Health Departments

Two commenters requested that hospital facilities be permitted to adopt the CHNA of a local public health department in the event that: (1) The hospital facility has the same community as the local public health department (as defined by the hospital facility), and (2) the CHNA adopted by the local public health department meets the requirements set forth in these regulations. The final regulations clarify that if a governmental public health department has conducted a CHNA for all or part of a hospital facility's community, portions of the hospital facility's CHNA report may be substantively identical to those portions of the health department's CHNA report that address the hospital facility's community. The final regulations also clarify that a hospital facility that collaborates with a governmental public health department in conducting its CHNA may adopt a joint CHNA report produced by the hospital facility and public health department, as long as the other requirements applicable to joint CHNA reports are met.

vi. Making the CHNA Report Widely Available to the Public

The 2013 proposed regulations provided that a hospital facility must make its CHNA report widely available to the public both by making the CHNA report widely available on a Web site and by making a paper copy of the CHNA report available for public inspection without charge at the hospital facility. The 2013 proposed regulations further provided that the CHNA report must be made widely available to the public in this manner until the date the hospital facility has made widely available to the public its two subsequent CHNA reports.

A few commenters recommended that the final regulations require the CHNA report to be translated into multiple languages. Commenters also recommended that the hospital facility be required to make paper copies of the CHNA report available in locations other than the hospital facility that may be more accessible to the community at large and proactively inform the community when the report is available.

The Treasury Department and the IRS note that section 501(r)(3) requires the CHNA to be made ''widely available'' to the public, in contrast to the requirement in section 501(r)(4) regarding measures to ''widely publicize'' the FAP. The Treasury Department and the IRS have interpreted the term ''widely publicize'' to require proactive efforts to inform, and make a document available in, the community at large, but have not so interpreted the term ''widely available.'' The Treasury Department and the IRS interpret ''widely available'' in a manner consistent with how that term is defined for purposes of section 6104 (relating to disclosure of annual information returns). *See* § 301.6104(d)–2(b) (interpreting the term ''widely available'' in section 6104(d)(4) to include the posting of information returns and exemption applications on a Web page). Accordingly, the final regulations retain the definition of ''widely available'' set forth in the proposed regulations and decline to adopt a definition that would include the suggested measures to translate and proactively publicize the CHNA report within the community served by the hospital facility.

Additional commenters requested that hospital facilities be required to post their CHNA reports (and implementation strategies) on a national, searchable Web site. Given that hospital facilities are already required to conspicuously post their CHNA reports on a Web site, any individual interested in a particular hospital facility's CHNA report should be able to locate it. The Treasury Department and the IRS do not have, and cannot require a third party to host, a comprehensive Web site containing all hospital facilities' CHNA reports. Accordingly, the final regulations do not adopt this additional suggested requirement.

One commenter asked that the final regulations clarify how a hospital facility is required to make a paper copy of its CHNA report available for public inspection and, specifically, whether a paper copy of the CHNA report must be publicly displayed or, rather, may be made available only upon request. The final regulations clarify that a hospital facility need only make a paper copy of the CHNA report available for public inspection upon request.

vii. Frequency of the CHNA Cycle

The 2013 proposed regulations provided that, to satisfy the CHNA requirements for a particular taxable year, a hospital facility must conduct a CHNA in that taxable year or in either of the two taxable years immediately preceding such taxable year. A few commenters requested that the final regulations provide flexibility in the timeline to limit impediments to collaboration amongst hospital facilities with different taxable years. Commenters also requested that the CHNA cycle match the five-year cycle that local public health departments follow in conducting their community health assessments for national accreditation by the Public Health Accreditation Board. One such commenter stated that adopting this five-year timeline would avoid duplication of effort and incentivize hospital facilities to collaborate more fully with local public health departments. Because section 501(r)(3)(A)(i) requires a hospital organization to conduct a CHNA in the current or one of the two prior taxable years, the final regulations do not adopt these suggestions.

b. Implementation Strategies

The final regulations provide, consistent with the 2013 proposed regulations, that a hospital facility's implementation strategy is a written plan that, with respect to each significant health need identified through the CHNA, either: (1) Describes how the hospital facility plans to address the health need, or (2) identifies the health need as one the hospital facility does not intend to address and explains why the hospital facility does not intend to address the health need.

The preamble to the 2013 proposed regulations further provided that although an implementation strategy must consider the significant health needs identified through a hospital facility's CHNA, the implementation strategy is not limited to considering only those health needs and may describe activities to address health needs that the hospital facility identifies in other ways. Several commenters supported this proposed flexibility to discuss health needs identified in ways other than through conducting a CHNA, with two such commenters requesting that this language appear in the regulatory text of the final regulations. Another commenter, however, stated that CHNA reports and implementation strategies should be tightly integrated and expressed concern that allowing or encouraging hospital facilities to introduce in the implementation strategy additional needs beyond those identified in the CHNA may undermine the role of community input.

In general, the final regulations under section 501(r) provide detail only with respect to the minimum elements that must be included in the various documents and policies required under sections 501(r)(3) and 501(r)(4), preserving flexibility for hospital facilities to otherwise determine the contents of such documents and policies. Consistent with this approach, the final regulations do not prohibit implementation strategies from discussing health needs identified through means other than a CHNA, provided that all of the significant health needs identified in the CHNA are also discussed.

Many commenters recommended that the statutory requirements that a CHNA ''take into account input from persons who represent the broad interests of the community'' and ''be made widely available to the public'' should also apply to implementation strategies to allow communities to monitor, assist, and provide input on hospital facilities' efforts to address health needs. With respect to making the implementation strategy more accessible to the public, commenters also asked that the final regulations clarify how the public may access an implementation strategy that is attached to the Form 990.

Section 501(r)(3)(B) applies the requirements regarding community input and wide availability to the public only to CHNAs. In addition, only section 501(r)(3)(A)(i), which refers to CHNAs, and not section 501(r)(3)(A)(ii), which refers to implementation strategies, cross-references the requirements regarding community input and wide availability to the public contained in section 501(r)(3)(B). Accordingly, the final regulations do not adopt the suggested changes. However, the 2013 proposed regulations and these final regulations respond to commenters' requests to require public input on the implementation strategy by requiring a hospital facility to take into account comments received on the previously adopted implementation strategy when the hospital facility is conducting the subsequent CHNA. Furthermore, as discussed in section 8.a of this preamble, the 2013 proposed regulations and these final regulations respond to commenters' requests to require the implementation strategy to be made widely available to the public by requiring a hospital organization to attach to its Form 990 a copy of the most recently adopted implementation strategy for each hospital facility it operates (or provide on the Form 990 the URL(s) of the Web page(s) on which it has made each implementation strategy widely available on a Web site). As noted in section 3.a.iii.C of this preamble, section 6104 requires Forms 990 to be made available to the public by both the filing organization and the IRS, and members of the public may easily obtain a copy of a hospital organization's Forms 990 from one of the privately-funded organizations that gathers and disseminates Forms 990 online or by completing IRS Form 4506–A.

i. Describing How a Hospital Facility Plans To Address a Significant Health Need

In describing how a hospital facility plans to address a significant health need identified through the CHNA, the 2013 proposed regulations provided that the implementation strategy must: (1) Describe the actions the hospital facility intends to take to address the health need, the anticipated impact of these actions, and the plan to evaluate such impact; (2) identify the programs and resources the hospital facility plans to commit to address the health need; and (3) describe any planned collaboration between the hospital facility and other facilities or organizations in addressing the health need.

Many commenters supported the proposed requirement that a hospital facility include a plan to evaluate the impact of its efforts in its implementation strategy and further recommended that the final regulations require hospital facilities to actually perform the planned evaluation and publish the results of the evaluation. Some of these commenters recommended publication of the results in the subsequent CHNA report. Other commenters requested permission for hospital facilities to accomplish the ''plan to evaluate the impact'' of the implementation strategy through the process of conducting the next CHNA. In response to these comments, the final regulations replace the proposed requirement that the implementation strategy describe a plan to evaluate its impact with a requirement that the CHNA report include an evaluation of the impact of any actions that were taken since the hospital facility finished conducting its immediately preceding CHNA to address the significant health needs identified in the hospital facility's prior CHNA(s).

The preamble to the 2013 proposed regulations provided the example that if a hospital facility's CHNA identified high rates of financial need or large numbers of uninsured individuals and families in the community as a significant health need in its community, its implementation strategy could describe a program to address that need by expanding its financial assistance program and helping to enroll uninsured individuals in sources of insurance such as Medicare, Medicaid, Children's Health Insurance Program (CHIP), and the new Health Insurance Marketplaces (also known as Exchanges), as appropriate. A few commenters stated that, in addition to examples involving access to health care, it would be helpful to have examples of other interventions designed to prevent illness or to address social, behavioral, and environmental factors that influence community health. An implementation strategy may describe the actions the hospital facility intends to take to address any significant health needs identified through the CHNA process, and, as noted in section 3.a.ii of this preamble, the final regulations specify that the health needs identified through a CHNA may, for example, include the need to prevent illness, to ensure adequate nutrition, or to address social, behavioral, and environmental factors that influence health in the community.

Thus, the final regulations make clear that an implementation strategy may describe interventions designed to prevent illness or to address social, behavioral, and environmental factors that influence community health.

ii. Describing Why a Hospital Facility Is Not Addressing a Significant Health Need

The 2013 proposed regulations provided that a hospital facility may provide a brief explanation of its reason for not addressing a significant health need, including, but not limited to, resource constraints, relative lack of expertise or competencies to effectively address the need, a relatively low priority assigned to the need, a lack of identified effective interventions to address the need, and/or the fact that the need is being addressed by other facilities or organizations in the community. Several commenters thought hospital facilities should not be able to cite ''resource constraints'' or ''lack of expertise'' as reasons for not addressing a significant health need. These commenters state that a hospital facility that is unable, for reasons of lack of resources or expertise or other factors, to address a community health need should instead collaborate with community partners to address that need. Other commenters supported allowing hospital facilities to provide any explanation as to why some health needs will not be addressed, consistent with the proposed rule.

As discussed in section 3.a.v of this preamble, the final regulations permit but do not require collaboration. Thus, the final regulations preserve the ability for a hospital facility to explain its reasons for not addressing a significant health need (including resource constraints or a lack of expertise), even if those reasons could be mitigated through collaboration.

iii. Joint Implementation Strategies

The 2013 proposed regulations provided that a hospital facility adopting a joint CHNA report along with other hospital facilities and organizations (as described in section 3.a.v of this preamble) may also adopt a joint implementation strategy as long as it meets certain specified requirements.

Numerous commenters generally supported joint implementation strategies, with some of these commenters stating that such collaboration is an important way to conserve resources, promote cross-system strategies, and yield better outcomes. Commenters also noted that the proposed approach avoids the need to create duplicative separate documents while still ensuring that information for each hospital facility is clearly presented. Accordingly, the final regulations adopt the proposed provision allowing for joint implementation strategies.

iv. When the Implementation Strategy Must Be Adopted

To satisfy the CHNA requirements with respect to any taxable year, section 501(r)(3)(A)(ii) requires a hospital facility to adopt an implementation strategy to meet the health needs identified through the CHNA described in section 501(r)(3)(A)(i). The 2013 proposed regulations provided that, to satisfy this requirement, an authorized body of the hospital facility must adopt an implementation strategy to meet the health needs identified through a hospital facility's CHNA by the end of the same taxable year in which the hospital facility finishes conducting the CHNA. In addition, the Treasury Department and the IRS sought comments on whether this rule would materially inhibit the ability of hospital facilities with different taxable years to collaborate with each other or otherwise burden hospital facilities unnecessarily.

Some commenters requested additional time in which to adopt the implementation strategy to accommodate collaboration between hospital facilities, public health departments, and community organizations with different fiscal years and on different CHNA schedules. Suggestions from these commenters ranged from an additional four and a half months to 12 months after the end of the taxable year in which the CHNA was conducted.

In response to these comments, the final regulations provide hospital facilities with an additional four and a half months to adopt the implementation strategy, specifically requiring an authorized body of the hospital facility to adopt an implementation strategy to meet the health needs identified through a CHNA on or before the 15th day of the fifth month after the end of the taxable year in which the hospital facility finishes conducting the CHNA. By matching the date by which an authorized body of the hospital facility must adopt the implementation strategy to the due date (without extensions) of the Form 990 filed for the taxable year in which the CHNA is conducted, this approach does not materially reduce transparency, because an implementation strategy (or the URL of the Web site on which it is posted) is made available to the public through the Form 990. The final regulations do not go further and permit a hospital facility to delay adoption of an implementation strategy until the due date for the Form 990 including extensions. This is because hospital facilities need to report on Form 4720 any excise tax they owe under section 4959 as a result of failing to meet the CHNA requirements in a taxable year by the 15th day of the fifth month following the end of that taxable year and thus need to know whether they have met the requirement to adopt an implementation strategy by that date.

Because all hospital organizations now have until the 15th day of the fifth month following the close of the taxable year in which they conduct a CHNA to adopt the associated implementation strategy, the final regulations remove the transition rule that allowed for this result for CHNAs conducted in a hospital facility's first taxable year beginning after March 23, 2012.

c. Exception for Hospital Facilities That Are New, Newly Acquired, or Newly Subject to Section 501(r)

The 2013 proposed regulations provided that a hospital facility that was newly acquired or placed into service by a hospital organization, or that became newly subject to section 501(r) because the hospital organization that operated it was newly recognized as described in section 501(c)(3), must meet the CHNA requirements by the last day of the second taxable year beginning after the date, respectively, the hospital facility was acquired, placed into service, or newly subject to section 501(r).

Several commenters interpreted the 2013 proposed regulations as providing new and newly acquired hospital facilities with only two taxable years to meet the CHNA requirements. Two such commenters requested that these hospital facilities be given three taxable years, to correspond to the length of the CHNA cycle provided in the statute.

The 2013 proposed regulations gave hospital facilities two complete taxable years plus the portion of the taxable year of acquisition, licensure, or section 501(c)(3) recognition (as applicable) to meet the CHNA requirements. As noted in the preamble to the 2013 proposed regulations, a short taxable year of less than twelve months is considered a taxable year for purposes of section 501(r). Thus, the portion of the taxable year in which a hospital facility is acquired or placed into service, or becomes newly subject to section 501(r), is a taxable year for purposes of the CHNA requirements, regardless of whether that taxable year is less than twelve months. As a result, a deadline of the last day of the second taxable year

beginning after the date of acquisition, licensure, or section 501(c)(3) recognition provides these new hospital facilities with three taxable years (even if less than three full calendar years) to meet the section 501(r)(3) requirements. By contrast, a deadline of the last day of the third taxable year beginning after the date of acquisition, licensure, or section 501(c)(3) recognition would provide these new hospital facilities with more than three taxable years, and possibly close to four taxable years, to meet the CHNA requirements. Accordingly, the final regulations continue to require hospital facilities that are newly acquired or placed into service (or become newly subject to section 501(r)) to meet the CHNA requirements by the last day of the second taxable year beginning after the later of the date of acquisition, licensure, or recognition of section 501(c)(3) status.

i. Acquired Hospital Facilities

The 2013 proposed regulations provided that a hospital facility that was newly acquired must meet the CHNA requirements by the last day of the second taxable year beginning after the date the hospital facility was acquired. Several commenters asked for guidance on whether and how this rule for acquisitions applies in the case of a merger of two hospital organizations.

The final regulations provide that, in the case of a merger that results in the liquidation of one organization and survival of another, the hospital facilities formerly operated by the liquidated organization will be considered ''acquired,'' meaning they will have until the last day of the second taxable year beginning after the date of the merger to meet the CHNA requirements. Thus, the final regulations treat mergers equivalently to acquisitions.

ii. New Hospital Organizations

One commenter asked whether a new hospital organization must meet the CHNA requirements by the last day of the second taxable year beginning after the date of licensure or section 501(c)(3) recognition if the organization seeks and obtains recognition of section 501(c)(3) status based on its planned activities before the hospital facility it plans to operate is licensed and placed into service. A facility is not considered a ''hospital facility'' until it is licensed, registered, or similarly recognized as a hospital by a state, and an organization operating a hospital facility is not subject to section 501(r) until it is recognized as described in section 501(c)(3). Thus, the Treasury Department and the IRS intend that a new hospital organization must meet the CHNA requirements by the last day of the second taxable year beginning after the later of the effective date of the determination letter or ruling recognizing the organization as described in section 501(c)(3) or the first date a facility operated by the organization was licensed, registered, or similarly recognized by its state as a hospital. The final regulations are amended to make this clarification.

iii. Transferred or Terminated Hospital Facilities

One commenter recommended that a hospital organization should not be required to meet the CHNA requirements in a particular taxable year with respect to a hospital facility if, before the end of that taxable year, the hospital organization transfers the hospital facility to an unaffiliated organization or otherwise terminates its operation of that hospital facility. This commenter reasoned that requiring a hospital organization to invest time and energy in conducting a CHNA and developing an implementation strategy for a hospital facility will create inefficiencies if the organization is transferring or terminating its operation of the hospital facility, as the new hospital organization may have different perceptions of the community's needs and the optimal channels for addressing those needs. In response to this comment, the final regulations provide that a hospital organization is not required to meet the requirements of section 501(r)(3) with respect to a hospital facility in a taxable year if the hospital organization transfers all ownership of the hospital facility to another organization or otherwise ceases its operation of the hospital facility before the end of the taxable year. The same rule applies if the facility ceases to be licensed, registered, or similarly recognized as a hospital by a state during the taxable year.

Another commenter asked whether a government hospital organization that voluntarily terminates its section 501(c)(3) status must meet the CHNA requirements in the taxable year of termination to avoid an excise tax under section 4959. As noted in section 1.d of this preamble, government hospital organizations that have previously been recognized as described in section 501(c)(3) but do not wish to comply with the requirements of section 501(r) may submit a request to voluntarily terminate their section 501(c)(3) recognition as described in section 7.04(14) of Rev. Proc. 2014–4 (or a successor revenue procedure). A government hospital organization that terminates its section 501(c)(3) recognition in this manner is no longer considered a ''hospital organization'' within the meaning of these regulations and therefore will not be subject to excise tax under section 4959 for failing to meet the CHNA requirements during the taxable year of its termination.

4. Financial Assistance Policies and Emergency Medical Care Policies

In accordance with the statute and the 2012 proposed regulations, the final regulations require hospital organizations to establish written FAPs as well as written emergency medical care policies.

a. Financial Assistance Policies

Consistent with the 2012 proposed regulations, the final regulations provide that a hospital organization meets the requirements of section 501(r)(4)(A) with respect to a hospital facility it operates only if the hospital organization establishes for that hospital facility a written FAP that applies to all emergency and other medically necessary care provided by the hospital facility.

A number of commenters noted that patients, including emergency room patients, are commonly seen (and separately billed) by private physician groups or other third-party providers while in the hospital setting. Commenters asked for clarification on the extent to which a hospital facility's FAP must apply to other providers a patient might encounter in the course of treatment in a hospital facility, including non-employee providers in private physician groups or hospital-owned practices. Some of these commenters noted that patients are often unaware of the financial arrangements between various providers in the hospital facility and may unknowingly be transferred to a provider that separately bills the patients for care. A few commenters noted that emergency room physicians in some hospital facilities separately bill for emergency medical care provided to patients and recommended that the section 501(r) requirements apply to such emergency room physicians.

In response to comments and to provide transparency to patients, the final regulations require a hospital facility's FAP to list the providers, other than the hospital facility itself, delivering emergency or other medically necessary care in the hospital facility and to specify which providers are covered by the hospital facility's FAP (and which are not). As discussed in section 1.g of this preamble, the final

regulations also clarify that a hospital facility's FAP must apply to all emergency and other medically necessary care provided in a hospital facility by a partnership owned in part by, or a disregarded entity wholly owned by, the hospital organization operating the hospital facility, to the extent such care is not an unrelated trade or business with respect to the hospital organization. In addition, the Treasury Department and the IRS note that if a hospital facility outsources the operation of its emergency room to a third party and the care provided by that third party is not covered under the hospital facility's FAP, the hospital facility may not be considered to operate an emergency room for purposes of the factors considered in Rev. Rul. 69–545 (1969–2 CB 117) (providing examples illustrating whether a nonprofit hospital claiming exemption under section 501(c)(3) is operated to serve a public rather than a private interest, with one activity of the section 501(c)(3) hospital being the operation of a full time emergency room).

i. Eligibility Criteria and Basis for Calculating Amounts Charged to Patients

Section 501(r)(4)(A)(i) and (ii) require a hospital facility's FAP to specify the eligibility criteria for financial assistance, whether such assistance includes free or discounted care, and the basis for calculating amounts charged to patients. Accordingly, the 2012 proposed regulations provided that a hospital facility's FAP must specify all financial assistance available under the FAP, including all discounts and free care and, if applicable, the amount(s) (for example, gross charges) to which any discount percentages will be applied. The 2012 proposed regulations also provided that a hospital facility's FAP must specify all of the eligibility criteria that an individual must satisfy to receive each discount, free care, or other level of assistance.

A number of commenters asked that hospital facilities be allowed to offer patients certain discounts—including self-pay discounts, certain discounts mandated under state law, and discounts for out-of-state patients—outside of their FAPs and that this assistance not be subject to the requirements of sections 501(r)(4) through 501(r)(6), including the AGB limitation of section 501(r)(5)(A). Several commenters noted that subjecting all assistance provided by hospital facilities to the AGB limitation could result in hospitals offering fewer discounts or less assistance than they might otherwise provide to certain categories of patients.

The Treasury Department and the IRS recognize that not all discounts a hospital facility might offer its patients are properly viewed as ''financial assistance'' and intend that hospital facilities may offer payment discounts or other discounts outside of their FAPs and may charge discounted amounts in excess of AGB to individuals that are not FAP-eligible. Accordingly, the final regulations only require the FAP to describe discounts ''available under the FAP'' rather than all discounts offered by the hospital facility.[6] The Treasury Department and the IRS note, however, that only the discounts specified in a hospital facility's FAP (and, therefore, subject to the AGB limitation) may be reported as ''financial assistance'' on Schedule H, ''Hospitals,'' of the Form 990. Moreover, discounts provided by a hospital facility that are not specified in a hospital facility's FAP will not be considered community benefit activities for purposes of section 9007(e)(1)(B) of the Affordable Care Act (relating to reports on costs incurred for community benefit activities) nor for purposes of the totality of circumstances that are considered in determining whether a hospital organization is described in section 501(c)(3).

Some commenters asked for the final regulations to confirm that hospital facilities will be given the flexibility to develop FAP-eligibility criteria that respond to local needs. Like the 2012 proposed regulations, the final regulations do not mandate any particular eligibility criteria and require only that a FAP specify the eligibility criteria for receiving financial assistance under the FAP.

A number of commenters recommended that the final regulations require the FAP to contain a statement that explains the patient's obligation to cooperate with the hospital facility's requests for information needed to make an eligibility determination. The Treasury Department and the IRS decline to impose this specific requirement but note that hospital facilities have the flexibility to include any additional information in the FAP that the hospital facility chooses to convey or that may be helpful to the community, including such a statement.

[6] The 2012 proposed regulations stated that a hospital facility's FAP must specify ''all financial assistance available under the FAP, including all discount(s).'' Although the term ''all discount(s)'' was not qualified with the phrase ''available under the FAP,'' this interpretation was intended. The final regulations add ''available under the FAP'' after ''all discounts'' to clarify that discounts may be offered outside of the FAP.

ii. Method for Applying for Financial Assistance

Section 501(r)(4)(A)(iii) requires a hospital facility's FAP to include the method for applying for financial assistance under the FAP. Accordingly, the 2012 proposed regulations provided that a hospital facility's FAP must describe how an individual applies for financial assistance under the FAP and that either the hospital facility's FAP or FAP application form (including accompanying instructions) must describe the information or documentation the hospital facility may require an individual to submit as part of his or her FAP application. The 2012 proposed regulations also made clear that financial assistance may not be denied based on the omission of information or documentation if such information or documentation was not specifically required by the FAP or FAP application form.

Numerous commenters asked that the final regulations add language to ensure that hospital facilities are not prohibited from granting financial assistance despite an applicant's failure to provide any or all information or documentation described in the FAP or FAP application form and requested that hospital facilities have the flexibility to grant financial assistance based on other evidence or an attestation by the applicant. While the Treasury Department and the IRS intend to require hospital facilities to establish a transparent application process under which individuals may not be denied financial assistance based on a failure to provide information or documentation unless that information or documentation is described in the FAP or FAP application form, they do not intend to restrict hospital facilities' ability to grant financial assistance to an applicant who has failed to provide such information or documentation. Accordingly, the final regulations expressly state that a hospital facility may grant financial assistance under its FAP notwithstanding an applicant's failure to provide such information. Thus, a hospital facility may grant financial assistance based on evidence other than that described in a FAP or FAP application form or based on an attestation by the applicant, even if the FAP or FAP application form does not describe such evidence or attestations.

One commenter stated that the example in the 2012 proposed regulations of a hospital facility with a FAP that requires certain specified documentation demonstrating household income (including federal tax returns or paystubs) or ''other reliable

evidence of the applicant's earned and unearned household income'' was contrary to the idea that a FAP must ''describe the information and documentation'' required. The Treasury Department and the IRS intended for the reference to ''other reliable evidence'' in the example to signal that a hospital facility may be flexible in allowing applicants to provide alternative documentation to demonstrate eligibility. The example was not intended to suggest that a reference in a FAP or FAP application form to ''reliable evidence'' alone (without also identifying specific documentation applicants could provide) would be sufficient. To clarify this intent, the example of the FAP application form in the final regulations is modified so that the instructions identify specific documentation (including federal tax returns, paystubs, or documentation establishing qualification for certain specified state means-tested programs) but also state that if an applicant does not have any of the listed documents to prove household income, he or she may call the hospital facility's financial assistance office and discuss other evidence that may be provided to demonstrate eligibility.

A number of commenters noted that total reliance on paper applications does not reflect current practices in which much information is gathered from patients orally, with a few commenters recommending that the final regulations expressly permit eligibility determinations on the basis of information obtained through face-to-face meetings or over the phone rather than through a paper application process. The Treasury Department and the IRS did not intend to mandate paper applications or to imply that information needed to determine FAP-eligibility could not be obtained from an individual in other ways. Accordingly, and in response to comments, the final regulations amend the definition of ''FAP application'' to clarify that the term is not intended to refer only to written submissions and that a hospital facility may obtain information from an individual in writing or orally (or a combination of both).

Numerous commenters stated that hospitals can, and commonly do, rely on trustworthy methods and sources of information other than FAP applications to determine FAP-eligibility and recommended that hospital facilities be allowed to rely on these information sources and methods to determine FAP-eligibility, provided that the sources and methods are disclosed in the FAP or on the hospital facility's Form 990. Commenters also recommended that a hospital should be able to rely on prior FAP-eligibility determinations, provided that such reliance is disclosed in its FAP.

As discussed in section 6.b.vi of this preamble, the final regulations permit a hospital facility to determine that an individual is eligible for assistance under its FAP based on information other than that provided by the individual or based on a prior FAP-eligibility determination, provided that certain conditions are met. Given this change, and consistent with commenters' recommendations, the final regulations require a hospital facility to describe in its FAP any information obtained from sources other than individuals seeking assistance that the hospital facility uses, and whether and under what circumstances it uses prior FAP-eligibility determinations, to presumptively determine that individuals are FAP-eligible.

Some commenters requested that the final regulations specifically prohibit hospital facilities from using social security numbers or credit card information or from running credit checks that damage consumer credit, while another commenter would impose a requirement that all requested information or documentation be reasonable and adequate to establish eligibility for the hospital facility's FAP. The final regulations do not prescribe or restrict the information or documentation a hospital facility may request but do require that a hospital facility describe such information or documentation in its FAP or FAP application form. The Treasury Department and the IRS expect that the transparency achieved by requiring the information or documentation to be described in the FAP or FAP application form will discourage hospital facilities from requesting information or documentation that is unreasonable or unnecessary to establish eligibility.

A number of commenters noted that a patient's financial status may change over time and requested clarification on the point in time used to determine financial eligibility. A few of these commenters requested clarification that a hospital facility has the discretion to determine that point in time in its FAP, a few recommended that a specific point in time be used (for example, the date of service or the date of application), and a few suggested that the final regulations should require the point in time to be specified in a FAP.

The Treasury Department and the IRS intend for hospital facilities to have the flexibility to choose the time period used to determine FAP eligibility and expect that that the relevant point(s) in time will be made clear based on the information and/or documentation requested from applicants in the FAP or FAP application form. For example, if a hospital facility's FAP application form asks for ''last month's'' income, the hospital facility presumably will look at the applicant's income from the month preceding the submission of the FAP application to determine whether the applicant satisfies the income-based eligibility criteria. Similarly, the example regarding application methods in these final regulations describes a hospital facility that requests proof of household income in the form of payroll check stubs ''from the last month'' (which would reflect wages in the time period shortly before the application) or, if last month's wages are not representative of the applicant's annual income, a copy of the applicant's ''most recent federal tax return'' (which would reflect annual income in a year preceding the application). Because the Treasury Department and the IRS expect that the time period(s) used to assess eligibility should be evident from the information and/or documentation requested to demonstrate eligibility, the final regulations do not provide further elaboration on this point.

iii. Actions That May Be Taken in the Event of Nonpayment

In the case of a hospital facility that does not have a separate billing and collections policy, section 501(r)(4)(A)(iv) requires a hospital facility's FAP to include actions that may be taken in the event of nonpayment. Accordingly, the 2012 proposed regulations provided that either a hospital facility's FAP or a separate written billing and collections policy established for the hospital facility must describe the actions that the hospital facility (or other authorized party) may take related to obtaining payment of a bill for medical care, including, but not limited to, any extraordinary collection actions described in section 501(r)(6).

A few commenters recommended that the final regulations require governing board approval of the billing and collections policy of a hospital facility. The Treasury Department and the IRS note that these final regulations, like the 2012 proposed regulations, provide that a FAP ''established'' by a hospital facility must describe the hospital facility's actions in the event of nonpayment unless the hospital facility has ''established'' a billing and collections policy that describes these actions. As described in section 4.c of this preamble, a billing and collections policy or a FAP is ''established'' only if

it is adopted by an authorized body of the hospital facility, which includes the governing body of the hospital facility or a committee of, or other party authorized by, such governing body. Thus, the final regulations provide that an authorized body of the hospital facility must adopt the hospital facility's FAP and, if applicable, billing and collections policy.

Two commenters asked that hospital facilities with separate billing and collections policies be required both to include some basic information about those policies in their FAPs and to translate the separate billing and collections policies into foreign languages. The 2012 proposed regulations provided that a hospital facility that described its actions in the event of nonpayment in a separate billing and collections policy must state in its FAP that the actions in the event of nonpayment are described in a separate billing and collections policy and explain how members of the public may readily obtain a free copy of this separate policy. In addition, the definition of ''readily obtainable information'' in the 2012 proposed regulations provided that a separate billing and collections policy would be readily obtainable if it were made available free of charge both on a Web site and in writing upon request in the same manner that a FAP is made available on a Web site and upon request, which included making translated copies available on a Web site and upon request. To clarify that translations were intended to be part of making a billing and collections policy readily obtainable, § 1.501(r)–4(b)(6) of the final regulations relating to ''readily obtainable information'' has been amended to expressly refer to the provision of translations.

iv. Widely Publicizing the FAP

Section 501(r)(4)(A)(v) requires a hospital facility's FAP to include measures to widely publicize the FAP within the community served by a hospital facility. To satisfy this requirement, the 2012 proposed regulations provided that a FAP must include, or explain how members of the public may readily obtain a free written description of, the measures taken by the hospital facility to—

- Make the FAP, FAP application form, and a plain language summary of the FAP (together, ''FAP documents'') widely available on a Web site;
- Make paper copies of the FAP documents available upon request and without charge, both in public locations in the hospital facility and by mail;
- Notify and inform visitors to the hospital facility about the FAP through conspicuous public displays or other measures reasonably calculated to attract visitors' attention; and
- Notify and inform residents of the community served by the hospital facility about the FAP in a manner reasonably calculated to reach those members of the community who are most likely to require financial assistance.

Several commenters asked that hospitals be given the flexibility to ''widely publicize'' the FAP in any manner they see fit. The Treasury Department and the IRS view the provisions in the 2012 proposed regulations as already giving hospital facilities broad flexibility to determine the methods they think are best to notify and inform their patients and broader communities about their FAPs. In addition, the Treasury Department and the IRS see the requirements to make the FAP widely available on a Web site and to make paper copies available upon request as minimal steps that are necessary to ensure patients have the information they need to seek financial assistance. Accordingly, the final regulations continue to require a hospital facility to make the FAP documents available upon request and widely available on a Web site and to notify and inform both visitors to the hospital and members of the community served by the hospital about its FAP.

One commenter suggested that a hospital facility's FAP should only be required to ''summarize'' the measures to widely publicize the FAP, suggesting that requiring detailed information about such measures would unnecessarily increase mailing, copying, and compliance costs. In response to this comment and to reduce the documentation burden associated with the FAP, these final regulations eliminate the requirement that the FAP list the measures taken to widely publicize the FAP and instead require only that a hospital facility implement the measures to widely publicize the FAP in the community it serves. This approach is consistent with the definition of ''establishing'' a FAP discussed in section 4.c of this preamble, which includes not only adopting the FAP but also implementing it, and with the Joint Committee on Taxation's (JCT) Technical Explanation of the Affordable Care Act. *See* Staff of the Joint Committee on Taxation, Technical Explanation of the Revenue Provisions of the ''Reconciliation Act of 2010,'' as Amended, in Combination with the ''Patient Protection and Affordable Care Act'' (March 21, 2010), at 82 (Technical Explanation) (stating that section 501(r)(4) requires each hospital facility to ''adopt, implement, and widely publicize'' a written FAP).

A. Widely Available on a Web Site

A number of commenters stated that FAPs will be updated more frequently than summaries, so that making the full FAP widely available on a Web site would be burdensome. One of these commenters stated that the full FAP is not especially useful for most patients, as it is written for internal compliance and difficult for the general public to understand. On the other hand, numerous other commenters strongly supported the requirement to make these documents widely available on a Web site, with some noting that doing so would allow patients to more easily identify the assistance they might be eligible for and to speak knowledgeably with financial assistance personnel at the hospital facility. The Treasury Department and the IRS believe that making the complete FAP widely available to the public on a Web site is important in achieving transparency and that the benefits of this transparency outweigh the burdens incurred in posting an updated document on a Web site. Thus, the final regulations retain this requirement.

B. Making Paper Copies Available Upon Request

With respect to the requirement to make paper copies of the FAP documents available upon request and without charge in public locations in the hospital facility, one commenter stated that ''public locations'' could be interpreted to mean all public locations in the hospital and that essentially every area of the hospital could be classified as a public location. Another commenter asked that ''public locations'' specifically include the admissions areas and the emergency room, noting that patients and their family members generally pass through one of those two areas during their stay and that having at least one uniform location where these documents are available would help ensure that patients know where to go for paper copies. In response to these comments, the final regulations specify that ''public locations'' in a hospital facility where paper copies must be provided upon request include, at a minimum, the emergency room (if any) and the admissions areas.

Other commenters asked that making paper copies ''available upon request'' should be required only with respect to patients who indicate that they lack access to the Internet. The final

regulations clarify that hospital facilities may inform individuals requesting copies that the various FAP documents are available on a Web site or otherwise offer to provide the documents electronically (for example, by email or on an electronic screen). However, the Treasury Department and the IRS continue to believe that making paper copies of the FAP documents available to those persons who request them is important to achieve adequate transparency. Accordingly, the final regulations also make clear that a hospital facility must provide a paper copy unless the individual indicates he or she would prefer to receive or access the document electronically.

C. Notifying and Informing Hospital Facility Patients

With respect to the requirement in the 2012 proposed regulations to notify and inform visitors to a hospital facility about the FAP through a conspicuous public display (or other measures reasonably calculated to attract visitors' attention), a number of commenters asked for clarification on what makes a public display ''conspicuous,'' with one such commenter noting that placement of a small placard in a corner of a financial assistance office that is rarely seen by patients should not be sufficient.

The Treasury Department and the IRS believe that what makes a public display ''conspicuous'' is both for the display to be of a noticeable size and for the display to be placed in a location in the hospital facility where visitors are likely to see it. Thus, similar to the requirement regarding making paper copies of the FAP documents available upon request in ''public locations'' in the hospital facility, the final regulations clarify that hospital facilities must notify and inform visitors about the FAP in ''public locations'' in the hospital facility, including, at a minimum, the emergency room (if any) and admissions areas.

In addition to notifying patients about the FAP through a conspicuous public display (or through other measures reasonably calculated to attract visitors' attention), the final regulations also require hospital facilities to widely publicize their FAPs by providing FAP information to patients before discharge and with billing statements. The 2012 proposed regulations included the notification of patients about the FAP before discharge and with billing statements as part of the notification component of reasonable efforts to determine FAP-eligibility under section 501(r)(6). However, these efforts to notify and inform patients about the FAP before discharge and with billing statements may also be appropriately categorized as measures to widely publicize the FAP under section 501(r)(4). Thus, the final regulations consolidate all of the requirements that involve notifying patients generally about the FAP under the section 501(r)(4) widely publicizing requirements. As a result, the notification component of reasonable efforts to determine FAP-eligibility under the section 501(r)(6) final regulations is simplified and is focused primarily on those patients against whom a hospital facility actually intends to engage in extraordinary collection actions. The Treasury Department and the IRS expect that moving the requirement that hospital facilities notify and inform patients about the FAP with billing statements and as part of their intake or discharge process from the section 501(r)(6) regulations to the section 501(r)(4) regulations will increase understanding of the requirements and compliance, without a loss of notification to patients.

In addition to requiring hospital facilities to notify individuals about their FAPs before discharge and on billing statements as part of widely publicizing their FAPs, the final regulations also amend these requirements in several important respects in response to comments to the 2012 proposed regulations. First, rather than require a full plain language summary with billing statements, the final regulations require only that a hospital facility's billing statement include a conspicuous written notice that notifies and informs the recipient about the availability of financial assistance under the hospital facility's FAP and includes the telephone number of the hospital facility office or department that can provide information about the FAP and FAP application process and the direct Web site address (or URL) where the copies of the FAP documents may be obtained. This change responds to those comments (discussed in greater length in section 6.b.iii of this preamble) that noted that a reference on the billing statement to the availability of the FAP and a brief description of how to obtain more information should provide sufficient notification to patients while minimizing costs for hospital facilities.

Second, some commenters appeared to interpret the phrase ''before discharge'' in the 2012 proposed regulations as requiring distribution ''at discharge'' and suggested that the latter requirement would not work because outpatients do not always revisit with a hospital registration staff member after care is provided or may never be physically present at the hospital facility. In response to these comments, the final regulations refer to offering the plain language summary as part of either the ''intake or discharge process,'' and the Treasury Department and the IRS intend that those terms be interpreted broadly to include whatever processes are used to initiate or conclude the provision of hospital care to individuals who are patients of the hospital facility. In addition, in response to commenters who noted that many patients will have no interest in receiving a plain language summary of the FAP because they know they are not FAP-eligible, the final regulations require only that a hospital facility ''offer'' (rather than ''provide'') a plain language summary as part of the intake or discharge process. Thus, a hospital facility will not have failed to widely publicize its FAP because an individual declines to take a plain language summary that the hospital facility offered on intake or before discharge or indicates that he or she would prefer to receive or access a plain language summary electronically rather than receive a paper copy.

D. Notifying and Informing the Broader Community

Several commenters recommended eliminating altogether the requirement to notify and inform members of the hospital facility's community about the FAP, stating that the other three measures to widely publicize the FAP are sufficient and that this additional specification is vague, open to subjective interpretation, and overly burdensome for hospitals. Other commenters, however, strongly supported the requirement, particularly the special emphasis placed on members of the community most likely to need financial help.

The Treasury Department and the IRS interpret the phrase ''widely publicize . . . within the community to be served by the organization'' in section 501(r)(4)(v) as going beyond merely making a FAP ''widely available'' on a Web site or upon request and requiring hospital facilities to affirmatively reach out to the members of the communities they serve to notify and inform them about the financial assistance they offer. Accordingly, the final regulations retain the requirement to notify and inform members [7] of the hospital's community

[7] In recognition of the fact that not all hospital facilities will define the communities they serve along strictly geographic lines, the final regulations are amended to refer to ''members'' of the hospital facility's community rather than ''residents.''

in a manner reasonably calculated to reach those members who are most likely to require financial assistance from the hospital facility.

E. Plain Language Summary of the FAP

The 2012 proposed regulations defined the plain language summary of the FAP as a written statement that notifies an individual that the hospital facility offers financial assistance under a FAP and provides certain specified information, including but not limited to: (1) The direct Web site address and physical location(s) (including a room number, if applicable) where the individual can obtain copies of the FAP and FAP application form; and (2) the contact information, including telephone numbers and physical location (including a room number, if applicable), of hospital facility staff who can provide the individual with information about the FAP and the FAP application process, as well as of the nonprofit organizations or government agencies, if any, that the hospital facility has identified as available sources of assistance with FAP applications.

A number of commenters noted that many hospitals currently assist patients with the FAP application process and that such assistance can be very important for low-income patients with literacy barriers. A few commenters requested that the final regulations require hospitals to assist and/or provide contact information for hospital staff who can assist with the FAP application process. One commenter suggested that the plain language summary should not have to include the contact information of nonprofit organizations or government agencies that assist with FAP applications, recommending instead that hospital facilities be able to include the contact information for the hospital facility's own community health clinics as sources of FAP application assistance.

Although assisting patients with the FAP application process can be an important step in ensuring that patients obtain the financial assistance for which they are eligible, nonprofit organizations or government agencies can be as effective sources of this assistance as hospital facilities themselves. To ensure both that patients have notice of how to obtain assistance with the FAP application process and that hospital facilities have the flexibility to refer patients to other organizations rather than provide assistance themselves, the final regulations require the plain language summary to include the contact information of a source of assistance with FAP applications but allow for this source to be either the hospital facility itself or a different organization. More specifically, the final regulations provide that the plain language summary must include the contact information of either the hospital facility office or department that can provide assistance with (rather than just ''information about'') the FAP application process or, if the hospital facility does not provide assistance with the FAP application process, at least one nonprofit organization or government agency that the hospital facility has identified as an available source of such assistance.

One commenter recommended that the plain language summary of the FAP only be required to list a department rather than a physical location because hospital facility remodeling and redesign could mean that the precise physical location could be subject to change, therefore requiring re-drafting of the plain language summary. Another commenter asked that the final regulations clarify that the plain language summary may identify the location and phone number of the appropriate office or department to contact for more information about the FAP, without naming a specific staff person.

The Treasury Department and the IRS continue to think that the physical location in the hospital facility where patients can obtain copies of the FAP and FAP application form and information about and/or assistance with the FAP application process is important, basic information to provide to individuals in the plain language summary. Therefore, the final regulations continue to require this information regarding physical location. However, the final regulations remove a specific reference to a room number to give hospital facilities more flexibility to describe the physical location in the manner that makes the most sense for the hospital facility. The final regulations also clarify that the plain language summary may identify the location and phone number of the appropriate office or department to contact for more information about the FAP and, if applicable, assistance with the FAP application process and does not need to name a specific staff person.

One commenter recommended that, in addition to the required items of information described in the 2012 proposed regulations, the plain language summary should provide a basic outline of the FAP application process and the appropriate times to apply. This commenter stated that many patients will rely on the plain language summary for information about the FAP, in lieu of reading the FAP itself, and that information about when and how to apply for financial assistance is basic information a patient needs to have. The Treasury Department and the IRS agree that information about how to apply for financial assistance is important information for individuals to have, and the final regulations therefore require this information to be included in the plain language summary. Any additional burden created by requiring this information should be mitigated by the fact that the final regulations do not require the plain language summary to be included with all billing statements and other written communications provided during the notification period. As for ''when'' to apply, while patients generally have at least 240 days from the date of the first bill to apply for financial assistance, the deadline for any particular patient's FAP application will depend on whether and when the hospital facility sends that patient the notice about potential extraordinary collection actions described in section 6.b.iii.C of this preamble that states a deadline. Given the resulting variability in deadlines, the final regulations do not require the plain language summary to include a description of the appropriate times to apply.

A few commenters asked that the plain language summary be required to include a statement regarding patient responsibilities. The Treasury Department and the IRS do not intend for the list of elements required to be included in a plain language summary of the FAP to limit a hospital facility's ability to provide additional information. Accordingly, a hospital facility is permitted, but not required, to include in its plain language summary any additional items of information it deems relevant to the FAP and FAP application process.

F. Translating the FAP Documents

The 2012 proposed regulations provided that hospital facilities must translate FAP documents into the primary language of any LEP populations that constitute more than 10 percent of the members of the community served by the hospital facility. One commenter asked that this requirement be eliminated altogether, at least with regard to small or rural hospital facilities, while two other commenters supported the 10-percent threshold for translation. Many additional commenters requested that the translation threshold be lowered from 10 percent to the lesser of 5 percent or 500 LEP individuals. They noted that some federal translation thresholds are set as low as 500 LEP individuals and that a 5-percent

threshold would result in greater consistency with translation guidance provided by the Department of Health and Human Services (HHS). *See* HHS, ''Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons,'' 68 FR 47,311 (August 8, 2003) (''HHS Guidance''). The HHS Guidance includes a ''safe harbor'' that considers it strong evidence that a hospital receiving federal financial assistance is in compliance with written translation obligations under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, *et seq.*) if it provides written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered.[8]

Both Medicaid and Medicare Part A constitute ''federal financial assistance'' for purposes of Title VI of the Civil Rights Act, and the Treasury Department and the IRS expect that virtually every hospital facility operated by an organization described in section 501(c)(3) accepts Medicaid and/or Medicare Part A. The Treasury Department and the IRS also expect that documents that describe the financial assistance offered by a hospital facility and that are necessary to apply for such financial assistance would be considered ''vital'' for purposes of the Title VI obligations. Therefore, the Treasury Department and the IRS expect that many hospital facilities are already translating these documents to meet their Title VI obligations, often in accordance with the safe harbor in the HHS Guidance. As a result, the Treasury Department and the IRS agree with commenters that it is reasonable and appropriate to make the translation threshold applicable to the FAP documents generally consistent with the 5-percent/1000 person threshold under the HHS Guidance safe harbor, and the final regulations adopt this change.

The 2012 proposed regulations provided that a hospital facility could determine whether a LEP group exceeded the relevant threshold based on the latest data available from the U.S. Census Bureau or other similarly reliable data. One commenter requested clarification on whether to use the U.S. Census Bureau's decennial survey or more updated information provided through the American Community Survey. The Treasury Department and the IRS believe that a hospital facility basing its determination of LEP populations in whole or in part on data from the U.S. Census Bureau should be allowed to use either the latest decennial census data or the latest American Community Survey data. In addition, other data sources may also be reasonable to use to determine LEP populations for purposes of these regulations. For example, the HHS Guidance notes that, in determining the LEP persons eligible to be served or likely to be affected or encountered, it may be appropriate for hospitals to examine not only census data but also their prior experiences with LEP patients, data from school systems and community organizations, and data from state and local governments. *See* HHS Guidance, 68 FR at 47314. The Treasury Department and the IRS intend that a hospital facility be able to use these same data sources in determining the LEP persons in the community it serves or likely to be affected or encountered for purposes of these final regulations. Therefore, rather than list the various data sources a hospital facility may use to determine its LEP populations, the final regulations provide that a hospital facility may use any reasonable method to determine such populations.

Several commenters recommended that hospital facilities only be required to translate the plain language summary of the FAP and the FAP application form, not the full FAP, stating that the summary and application form are the documents most useful to patients and that few, if any, patients request the full FAP. The Treasury Department and the IRS believe that the benefits of ensuring that LEP populations have access to the details provided in the FAP that are not captured in a summary or application form outweigh the additional costs that hospital facilities may incur in translating the full FAP document. Accordingly, the final regulations do not adopt this comment.

Several commenters recommended that the final regulations require hospitals to provide access to oral interpreters or bilingual staff on request, regardless of whether the thresholds for written translations are met. The Treasury Department and the IRS believe it would be overly burdensome to require hospital facilities to provide access to oral interpreters or bilingual staff for every language possibly spoken in a community. Accordingly, the final regulations do not adopt this comment.

b. Emergency Medical Care Policy

To satisfy the requirements of section 501(r)(4)(B), the 2012 proposed regulations provided that a hospital facility must establish a written policy that requires the hospital facility to provide, without discrimination, care for emergency medical conditions (within the meaning of the Emergency Medical Treatment and Labor Act (EMTALA), section 1867 of the Social Security Act (42 U.S.C. 1395dd)) to individuals, regardless of whether they are FAP-eligible. The 2012 proposed regulations further provided that an emergency medical care policy will generally satisfy this standard if it requires the hospital facility to provide the care for any emergency medical condition that the hospital facility is required to provide under Subchapter G of Chapter IV of Title 42 of the Code of Federal Regulations, which is the subchapter regarding the Centers for Medicare and Medicaid Services' (CMS) standards and certification that includes the regulations under EMTALA. In addition, § 1.501(r)–4(c)(2) of the 2012 proposed regulations provided that a hospital facility's emergency medical care policy would not meet the requirements of section 501(r)(4)(B) unless it prohibited the hospital facility from engaging in actions that discouraged individuals from seeking emergency medical care, such as by demanding that emergency department patients pay before receiving treatment or by permitting debt collection activities in the emergency department or in other areas of the hospital facility where such activities could interfere with the provision, without discrimination, of emergency medical care.

Some commenters stated that the regulations under EMTALA already establish rules for registration processes and discussions regarding a patient's ability to pay in the emergency department and that the final regulations should not go beyond those requirements. A number of commenters noted that the broad language regarding ''debt collection in the emergency department'' could be read to proscribe ordinary and unobjectionable activities in the emergency room, such as collecting co-payments on discharge, checking for qualification for financial or public assistance, and asking for insurance information or co-pays after patients are stabilized and waiting (sometimes for long periods of time) for test results or follow-up visits from their physician.

[8] If there are fewer than 50 persons in a language group that reaches the 5-percent trigger, the recipient of federal financial assistance does not have to translate vital written materials to satisfy the safe harbor but rather may provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

Section 1.501(r)–4(c)(2) of the 2012 proposed regulations was intended to apply only to debt collection activities in the emergency department (or other areas of the hospital facility) that could interfere with the provision of emergency care, not to all payment activities in the emergency department regardless of their potential to interfere with care. To make this intent clear, the final regulations are revised to prohibit ''debt collection activities that interfere with the provision, without discrimination, of emergency medical care,'' regardless of where such activities occur.

In addition, the Treasury Department and the IRS note that, since the publication of the 2012 proposed regulations, CMS has made clear that the regulations under EMTALA prohibit applicable hospital facilities from engaging in actions that delay the provision of screening and treatment for an emergency medical condition to inquire about method of payment or insurance status, or from using registration processes that unduly discourage individuals from remaining for further evaluation, such as by requesting immediate payment before or while providing screening or stabilizing treatment for emergency medical conditions. *See* CMS Memorandum S&C–14–06—Hospitals/CAHs re: EMTALA Requirements & Conflicting Payor Requirements or Collection Practices, at 6–7 (Dec. 13, 2013). As a result, a hospital facility that provides the screening care and stabilizing treatment for emergency medical conditions, as applicable, that the hospital facility is required to provide under the regulations under EMTALA, should generally not be engaging in the activities that § 1.501(r)–4(c)(2) of the final regulations requires emergency medical care policies to prohibit.

Two commenters asked whether the emergency medical care policy may be in the same document as the FAP. The final regulations do not prevent an emergency medical care policy from being included within the same document as the FAP or from being added to an already existing document related to emergency medical care (such as a document setting forth EMTALA compliance).

c. Establishing the FAP and Other Policies

Consistent with the 2012 proposed regulations, the final regulations provide that a hospital organization will have established a FAP, a separate billing and collections policy, or an emergency medical care policy for a hospital facility only if an authorized body of the hospital facility has adopted the policy and the hospital facility has implemented the policy.

The 2012 proposed regulations provided that a hospital facility has ''implemented'' a policy if it has ''consistently carried out'' the policy. A number of commenters asked for more clarity on when a policy will be deemed to be ''consistently carried out.'' Two of these commenters would deem a hospital facility to have consistently carried out a policy only if the hospital facility attests that a policy that meets the requirements of section 501(r)(4) has been followed in all cases.

As discussed in section 2.a of this preamble, the final regulations provide that omissions or errors that are minor and either inadvertent or due to reasonable cause will not result in a failure to meet the requirements of section 501(r)(4) (or any other requirements under section 501(r)) as long as they are corrected in accordance with § 1.501(r)–2(b)(1)(ii) of the final regulations. Therefore, the final regulations make clear that the Treasury Department and the IRS do not intend that every error in implementing a policy described in section 501(r)(4) will result in a failure to meet the requirements of section 501(r)(4). On the other hand, a policy that is simply adopted by an authorized body of a hospital facility but not followed in any regular fashion has not been ''established'' for purposes of section 501(r)(4). Whether a policy is ''consistently carried out'' is to be determined based on all of the facts and circumstances. However, if the authorized body of a hospital facility adopts a policy and provides reasonable resources for and exercises due diligence regarding its implementation, then the standard should be met.

The 2012 proposed regulations provided that, while a hospital organization must separately establish a FAP for each hospital facility it operates, such policies ''may contain the same operative terms.'' Several commenters asked that hospital organizations operating multiple facilities be permitted to adopt one FAP for all of their facilities. These commenters argued that many hospital systems have centralized patient financial services operations, including FAPs, and that adopting a single FAP would avoid both significant administrative costs as well as patient confusion about differences in financial responsibilities based on location.

The final regulations clarify that multiple hospital facilities may have identical FAPs, billing and collections policies, and/or emergency medical care policies established for them (or even share one joint policy document), provided that the information in the policy or policies is accurate for all such facilities and any joint policy clearly states that it is applicable to each facility. The final regulations also note, however, that different hospital facilities may have different AGB percentages or use different methods to determine AGB that would need to be reflected in each hospital facility's FAP (or, in the case of AGB percentages, in a separate document that can be readily obtained).

5. Limitation on Charges

The final regulations provide that a hospital organization meets the requirements of section 501(r)(5) with respect to a hospital facility it operates only if the hospital facility limits the amounts charged for any emergency or other medically necessary care it provides to a FAP-eligible individual to not more than AGB. The final regulations also require a hospital facility to limit the amounts charged to FAP-eligible individuals for all other medical care covered under the FAP to less than the gross charges for that care.

a. Amounts Generally Billed

The 2012 proposed regulations provided two methods for hospital facilities to use to determine AGB. The first was a ''look-back'' method based on actual past claims paid to the hospital facility by either Medicare fee-for-service alone or Medicare fee-for-service together with all private health insurers paying claims to the hospital facility (including, in each case, any associated portions of these claims paid by Medicare beneficiaries or insured individuals). The second method was ''prospective,'' in that it required the hospital facility to estimate the amount it would be paid by Medicare and a Medicare beneficiary for the emergency or other medically necessary care at issue if the FAP-eligible individual were a Medicare fee-for-service beneficiary. For purposes of the 2012 proposed regulations, the term ''Medicare fee-for-service'' included only health insurance available under Medicare Parts A and B and not health insurance plans administered under Medicare Advantage.

Many commenters stated that allowing hospital facilities only two methods for calculating AGB was insufficiently flexible. Some commenters asked that the final regulations only require hospital facilities to fully disclose and describe the method they used to determine AGB on their Forms 990, without requiring

hospital facilities to determine AGB in any particular manner. A few commenters noted that Medicare and insurer reimbursement models may shift over time and that flexibility will be needed to ensure that the methods for determining AGB set forth in the final regulations do not become antiquated or hamper evolution in reimbursement models. However, no additional methods to determine AGB were identified.

Providing hospital facilities complete discretion to select methods in determining AGB would make it very difficult for the IRS to enforce the statutory requirement that hospital facilities not charge FAP-eligible individuals more than AGB and difficult for the public to understand and recognize whether hospital facilities are complying with this requirement. However, the Treasury Department and the IRS recognize that Medicare and insurer reimbursement methodologies may evolve over time and that additional ways to determine AGB may be identified in the future. Therefore, the final regulations allow the Treasury Department and the IRS to provide for additional methods to determine AGB in future published guidance as circumstances warrant.

Many commenters suggested that the options for determining AGB should be expanded or amended to permit hospital facilities to base AGB on the payments of private, commercial insurers only, without also taking into account Medicare payments. Some commenters specifically asked for the ability to determine AGB based on ''either the best, or an average of the three best, negotiated commercial rates,'' as suggested in the JCT's Technical Explanation. *See* Technical Explanation at 82. These commenters reasoned that individuals with commercial insurance are more representative of FAP-eligible populations than Medicare beneficiaries (as the latter generally include the elderly). A few commenters also suggested that Medicare rates are an inappropriate proxy for AGB because they are not the result of negotiations between parties and, according to these commenters, do not always cover the costs of providing care to Medicare beneficiaries. On the other hand, other commenters recommended that AGB be based on Medicare alone, arguing that this would increase transparency because amounts reimbursed by Medicare are publicly verifiable.

Because Medicare reimbursements constitute a large proportion of most hospital facilities' total insurance reimbursements, the Treasury Department and the IRS continue to believe a method of determining AGB that excludes Medicare and is based only on the claims or rates of private health insurers would be inconsistent with the statutory phrase ''amounts generally billed to individuals who have insurance.'' On the other hand, the Treasury Department and the IRS find no support in either the statutory language of section 501(r)(5) or the Technical Explanation for requiring (rather than just allowing) AGB to be based on Medicare alone. Thus, the final regulations continue to allow hospital facilities using the look-back method to base AGB on the claims of Medicare fee-for-service plus all private health insurers, as well as on Medicare alone.

A few commenters noted that Medicaid is the largest governmental payer for children's hospitals and recommended that hospital facilities be able to use Medicaid rates in calculating AGB. The final regulations adopt this recommendation and allow hospital facilities to base AGB on Medicaid rates, either alone or in combination with Medicare (or, under the look-back method, together with Medicare and all private health insurers), at the hospital facility's option.

With respect to Medicaid, one commenter noted that, in many states, private managed care organizations operate Medicaid managed care plans and that the final regulations should expressly state whether Medicaid managed care claims and rates are to be included when determining AGB. In response to this comment, the final regulations provide that the term ''Medicaid,'' as used in the final regulations, includes medical assistance provided through a contract between the state and a Medicaid managed care organization or a prepaid inpatient health plan and that such assistance is not considered reimbursements from or claims allowed by a private health insurer. By contrast, the final regulations, like the 2012 proposed regulations, provide that a hospital facility must treat health insurance plans administered by private health insurers under Medicare Advantage as the plans of private health insurers.

Many commenters asked how the limitation on charges to AGB applies to insured individuals who are eligible for financial assistance. Most of these commenters recommended that the AGB limitation apply only to uninsured individuals, asserting that section 501(r)(5) was enacted to provide uninsured individuals in need of assistance with the benefit of rates negotiated by insurance companies and that requiring the use of AGB for insured patients could inadvertently reduce the availability of financial assistance for insured patients. One commenter suggested that, for insured patients who receive a partial financial assistance discount, AGB should be equal to the amounts generally billed for the care minus payments made by the third-party insurer. Another commenter suggested that the AGB limitation should only apply to the patient liability and not include payments made by third parties, such as health insurers.

The Treasury Department and the IRS note that section 501(r)(5) does not distinguish between insured and uninsured FAP-eligible individuals. Accordingly, the final regulations continue to apply the AGB limitation of section 501(r)(5) to all individuals eligible for assistance under the hospital facility's FAP, without specific reference to the individual's insurance status. In response to the comments, however, the final regulations clarify that, for purposes of the section 501(r)(5) limitation on charges, a FAP-eligible individual is considered to be ''charged'' only the amount he or she is personally responsible for paying, after all deductions and discounts (including discounts available under the FAP) have been applied and less any amounts reimbursed by insurers. Thus, in the case of a FAP-eligible individual who has health insurance coverage, a hospital facility will not fail to meet the section 501(r)(5) requirements because the total amount required to be paid by the FAP-eligible individual and his or her health insurer together exceeds AGB, as long as the FAP-eligible individual is not personally responsible for paying (for example, in the form of co-payments, co-insurance, or deductibles) more than AGB for the care after all reimbursements by the insurer have been made. The final regulations also add several examples demonstrating how the limitation on charges works when applied to insured FAP-eligible individuals.

A few commenters asked that the final regulations clarify that AGB represents the maximum amount hospital facilities can charge to FAP-eligible individuals and that hospital facilities may charge FAP-eligible individuals less than AGB (that is, provide a more generous discount under a FAP). The Treasury Department and the IRS have added an example to the final regulations to confirm this point.

The 2012 proposed regulations provided that, after choosing a particular method to determine AGB, a hospital facility must continue using that method indefinitely. The preamble to the 2012 proposed regulations

requested comments on whether a hospital facility should be allowed to change its method of determining AGB under certain circumstances or following a certain period of time and, if so, under what circumstances or how frequently. Commenters uniformly noted that there could be many practical reasons that a hospital facility might want to change its method for determining AGB, such as changes in technologies or processes that make a previously-selected method less administrable.

In response to these comments, the final regulations provide that a hospital facility may change the method it uses to determine AGB at any time. However, because the final regulations under section 501(r)(4) require a hospital facility's FAP to describe the method used to determine AGB, a hospital facility must update its FAP to describe a new method before implementing it.

A number of commenters noted that the 2012 proposed regulations do not define the term ''medically necessary care.'' Some commenters asked that the final regulations provide that hospital facilities have the discretion to determine how non-emergency and elective services are considered under their FAPs. Other commenters recommended that the final regulations define the term ''medically necessary care.'' Suggested definitions included the Medicaid definition used in the hospital facility's state or other definitions provided by state law, a definition that refers to the generally accepted medical practice in the community, or a definition based on the determination made by the examining physician or medical team.

The final regulations allow hospital facilities to define the term ''medically necessary care'' for purposes of their FAPs and the AGB limitation in recognition of the fact that health care providers and health insurers may have reasonable differences in opinion on whether some health care services are medically necessary in particular circumstances. In defining medically necessary care for purposes of their FAPs and the AGB limitation, the final regulations clarify that hospital facilities may (but are not required to) use the Medicaid definition used in the hospital facility's state, other definitions provided by state law, or a definition that refers to the generally accepted standards of medicine in the community or an examining physician's determination.

i. Look-Back Method

Under the look-back method for determining AGB, a hospital facility determines AGB for any emergency or other medically necessary care provided to a FAP-eligible individual by multiplying the hospital facility's gross charges for that care by one or more percentages of gross charges, called ''AGB percentages.'' Hospital facilities must calculate their AGB percentages no less frequently than annually by dividing the sum of certain claims for emergency and other medically necessary care by the sum of the associated gross charges for those claims. A hospital facility may use the look-back method to calculate one average AGB percentage for all emergency and other medically necessary care provided by the hospital facility, or multiple AGB percentages for separate categories of care (such as inpatient and outpatient care or care provided by different departments) or for separate items or services. However, a hospital facility calculating multiple AGB percentages must calculate AGB percentages for all emergency and other medically necessary care it provides.

The 2012 proposed regulations provided that the AGB percentages must be based on all claims that have been ''paid in full'' to the hospital facility for emergency and other medically necessary care by Medicare fee-for-service alone, or by Medicare fee-for-service together with all private health insurers, during a prior 12-month period. A few commenters asked whether the phrase ''claims . . . paid in full'' as used in the 2012 proposed regulations was intended to include claims that a hospital facility had partially written off as bad debt and/or treated as paid in full after taking into account a discount it had granted. If so, commenters asked whether the hospital facility should only include the reduced amount actually paid when calculating the AGB percentage(s). One commenter also asked whether the amount a hospital facility has accepted for the claim in a sale to a third-party debt collector should be treated as ''paid in full.'' Two commenters suggested that, instead of being based on claims ''paid in full,'' the AGB percentages should be based on ''contracted rates'' or the amounts that are allowed by health insurers.

To eliminate the uncertainty created by the phrase ''paid in full,'' the final regulations provide that, when calculating its AGB percentage(s) under the look-back method, a hospital facility should include in the numerator the full amount of all of the hospital facility's claims for emergency and other medically necessary care that have been ''allowed'' (rather than ''paid'') by health insurers during the prior 12-month period. For these purposes, the full amount allowed by a health insurer should include both the amount to be reimbursed by the insurer and the amount (if any) the individual is personally responsible for paying (in the form of co-payments, co-insurance, or deductibles), regardless of whether and when the individual actually pays all or any of his or her portion and disregarding any discounts applied to the individual's portion (under the FAP or otherwise).

Several commenters interpreted the 2012 proposed regulations to mean that hospital facilities had to include the claims for all emergency and other medically necessary care provided during the prior 12-month period when calculating AGB percentages. These commenters pointed out that many of the claims for care provided toward the end of a 12-month period will not be adjudicated by an insurer until some amount of time after the end of that 12-month period. Under both the 2012 proposed regulations and these final regulations, the inclusion of a claim in a hospital facility's calculation of its AGB percentage(s) is not based on whether the care associated with the claim was provided during the prior 12-month period. Rather, it is based on whether the claim is ''allowed'' (formerly, ''paid in full'') during the prior 12-month period. The final regulations clarify this point. The final regulations also state that, if the amount a health insurer will allow for a claim has not been finally determined as of the last day of the 12-month period used to calculate the AGB percentage(s), a hospital facility should exclude the amount of the claim from that calculation and include it in the subsequent 12-month period during which the amount allowed is finally determined.

A few commenters asked that hospital facilities be permitted to calculate AGB percentages under the look-back method based on claims for all medical care allowed in the prior 12-month period, rather than just the claims for emergency and medically necessary care. These commenters stated that it would be administratively burdensome to have to sift out only the claims for emergency and medically necessary care. Accordingly, the final regulations provide that a hospital facility may include in the calculation of its AGB percentage(s) claims for all medical care allowed during the prior 12-month period rather than just the claims allowed for emergency and other medically necessary care. The Treasury Department and the IRS note that the calculation of a hospital facility's AGB

percentage(s) includes only claims allowed by insurers and that insurers generally allow claims only for care that is medically necessary. Thus, the Treasury Department and the IRS do not expect that there will be a significant difference between AGB percentages based on all claims allowed by insurers and AGB percentages based on all claims allowed by insurers for emergency and other medically necessary care.

A few commenters noted that the health care delivery system is migrating from a fee-for-service model to other methods of payment, used by both public and private payers, that include ''value-based,'' accountable care, and shared savings payments. These commenters stated that the 2012 proposed regulations failed to account for these other methods of payment because the method of calculating AGB percentages appeared to be based on claims for individual episodes of care, while value-based, accountable care, shared savings, and similar payments are not necessarily tied to individual episodes of care.

As a general matter, the Treasury Department and the IRS interpret the statutory phrase ''amounts generally billed to individuals who have insurance covering such care'' as referring to amounts billed or reimbursed for care received by those insured individuals. It is not clear, and commenters did not address, how lump sum payments from an insurer with no direct connection to any specific individual's care would appropriately be included in a determination of AGB. As a result, the final regulations do not amend the look-back method or the prospective method to specifically account for any such separate payment streams. However, if a hospital facility can reasonably allocate a capitated (or other lump sum) payment made by an insurer to care received by particular patients during a twelve-month period and has also tracked the gross charges for that care, it may be able to reasonably incorporate such payments into its calculation of one or more AGB percentages under the look-back method described in the final regulations. In addition, the Treasury Department and the IRS will continue to consider whether hospital facilities need alternative methods of determining AGB that directly accommodate capitated payments or value-based, accountable care, shared savings, and similar payments, and, if so, such alternative methods may be provided in future regulations, revenue rulings, or other published guidance.

The look-back method described in the 2012 proposed regulations only included claims paid by Medicare fee-for-service and/or private health insurers as primary payers. One commenter indicated that payments made by secondary payers should also be included in a hospital facility's calculation of its AGB percentage(s) because considering only primary payers and patient co-insurance, co-payments, and deductibles artificially depresses the AGB percentages. The Treasury Department and the IRS intend for hospital facilities to be able to include in the calculation of their AGB percentages the total amount of claims for care allowed by primary insurers (including both the amounts paid by primary insurers and the amounts insured individuals are personally responsible for paying in the form of co-payments, co-insurance, or deductibles), regardless of whether secondary insurers end up paying some or all of the insured individual's portion. In addition, if an individual's primary insurer does not cover a certain procedure but his or her secondary insurer does, including the amount allowed by the secondary insurer in the calculation of the hospital facility's AGB percentage(s) will not result in any duplication because only one amount was allowed by an insurer. Moreover, if the secondary insurer is of the type that is otherwise being included in the hospital facility's calculation of the AGB percentage (that is, Medicare, Medicaid, and/or a private health insurer), the amounts allowed by the secondary insurer should be included in the calculation to ensure that the resulting AGB percentage(s) is fully representative of the amounts allowed by the applicable type of insurer(s). Thus, to eliminate any confusion, the final regulations remove the references to ''primary payers'' contained in the 2012 proposed regulations.

Numerous commenters asked that hospital organizations be permitted to calculate AGB percentages on a system-wide basis, stating that many hospital systems have centralized patient financial services operations and that permitting a system-wide calculation would avoid both significant administrative costs and patient confusion about differences in financial responsibilities based on location. Because different hospital facilities within a system can serve distinct geographic areas, offer significantly different services, and have different negotiated rates with insurers, allowing hospital systems to calculate AGB percentages across the entire system could result in AGB percentages that would not accurately reflect the amounts generally billed to individuals with insurance by the separate hospital facilities within the system. Specifically, a system-wide AGB percentage would be an average across hospital facilities, some of which may have lower negotiated reimbursement rates with insurers or more Medicare patients than others. Use of a system-wide AGB percentage could result in higher charges for the FAP-eligible patients of those hospital facilities in the system with lower negotiated reimbursement rates or more Medicare patients than would be the case if the AGB were calculated on a facility-by-facility basis. Accordingly, the final regulations do not permit such system-wide calculations. However, because hospital facilities that have satisfied CMS criteria to bill and be covered under one Medicare provider number may find it administratively difficult to separate claims by hospital facility, the final regulations allow hospital facilities that are covered under the same Medicare provider agreement (as identified by the same CMS Certification Number) to calculate one AGB percentage (or multiple AGB percentages for separate categories of care or separate items or services) based on the claims and gross charges for all such hospital facilities and implement the AGB percentage(s) across all such hospital facilities.

One commenter asked that the final regulations clarify that a hospital organization operating more than one hospital facility may select the look-back method for some of its facilities and the prospective method for others. The 2012 proposed regulations were not intended to prevent different hospital facilities operated by the same hospital organization from using different methods to determine AGB at different hospital facilities, and these final regulations expressly state that this is permissible.

The 2012 proposed regulations provided that a hospital facility must begin applying its AGB percentage(s) by the 45th day after the end of the 12-month period the hospital facility used in calculating the AGB percentage(s) and requested comments regarding whether a hospital facility needs more than 45 days. Numerous commenters stated that hospital facilities need a period longer than 45 days both to complete the calculation and to make the updates to their policies, processes, systems, and communications necessary to implement the changes and recommended periods ranging from 60 to 120 days. In response to these

comments, the final regulations allow a hospital facility to take up to 120 days after the end of the 12-month period used in calculating the AGB percentage(s) to begin applying its new AGB percentage(s). The Treasury Department and the IRS note that, because the final regulations under section 501(r)(4) require a hospital facility's FAP to state the hospital facility's AGB percentage(s) or explain how members of the public may readily obtain such percentages, a hospital facility must update its FAP (or other readily obtainable material) to reflect new AGB percentage(s).

The 2012 proposed regulations requested comments regarding whether a hospital facility using the look-back method should have the option to base its AGB-percentage calculation on a representative sample of claims (rather than all claims) that were paid in full over a prior 12-month period and, if so, how hospital facilities would ensure that such samples are representative and reliable. A few commenters suggested that the final regulations should permit the use of samples, but they did not provide much additional explanation of why samples were necessary or how samples could be determined in a representative and reliable way. Other commenters argued that samples would be inaccurate and that permitting the use of sampling would give hospital facilities an excessive ability to manipulate their computations and exacerbate problems with transparency or protections for consumers. Because legitimate concerns were raised by commenters with respect to sampling and no comments explained why the use of samples was necessary or how hospital facilities could ensure that such samples would be representative and reliable, the final regulations do not allow hospital facilities using the look-back method to base their calculation of AGB percentage(s) on a sample of claims. The Treasury Department and the IRS note, however, that, to the degree using all claims in calculating AGB percentages takes longer than using a representative sample, hospital facilities have 120, not 45, days after the end of the applicable 12-month period to calculate and implement AGB percentages under the final regulations.

The 2012 proposed regulations also requested comments regarding whether hospital facilities might significantly increase their gross charges after calculating one or more AGB percentages and whether such an increase could mean that determining AGB by multiplying current gross charges by an AGB percentage would result in charges that exceed the amounts that are in fact generally billed to those with insurance at the time of the charges. A number of commenters stated that such safeguards are unnecessary, since most hospitals do not update their gross charges more than once a year, increases are generally based on an annual market analysis, and AGB calculations would not drive hospitals to change their gross charges. After considering the comments received on this issue, the final regulations do not modify the proposed rule in this regard.

ii. Prospective Method

Under the prospective method described in the 2012 proposed regulations, a hospital facility could determine AGB for any emergency or other medically necessary care that the hospital facility provided to a FAP-eligible individual by using the same billing and coding process the hospital facility would use if the individual were a Medicare fee-for-service beneficiary and setting AGB for that care at the amount that Medicare and the Medicare beneficiary together would be expected to pay for the care. The Treasury Department and the IRS requested comments regarding whether a hospital facility should also have the option of determining AGB based on the private health insurer with the lowest rate or the three private health insurers with the three lowest rates. Some commenters who responded to this request for comments said hospital facilities should have this option under both the prospective and the look-back methods, while other commenters recommended that AGB be based on Medicare alone. For reasons discussed previously in this section 5.a of the preamble (including the fact that Medicare reimbursements constitute a large proportion of most hospital facilities' total insurance reimbursements), the Treasury Department and the IRS believe that excluding Medicare and basing AGB only on the private health insurer with the lowest rate or the three private health insurers with the three lowest rates would not accurately capture the amounts generally billed by hospital facilities to individuals with insurance in many cases. Thus, the final regulations do not permit hospital facilities to determine AGB using the prospective method based on the private health insurers with the lowest rate or the three private health insurers with three lowest rates.

Consistent with changes made to the look-back method, the final regulations allow hospital facilities to determine AGB under the prospective method based on Medicaid, either alone or in combination with Medicare fee-for service. More specifically, the final regulations provide that a hospital facility using the prospective method may base AGB on either Medicare fee-for-service or Medicaid or both, provided that, if it uses both, its FAP describes the circumstances under which it will use Medicare fee-for-service or Medicaid in determining AGB.

b. Gross Charges

The 2012 proposed regulations provided that a hospital facility must charge a FAP-eligible individual less than the gross charges for any medical care provided to that individual. Several commenters argued that, unlike the AGB requirement in section 501(r)(5)(A), the language regarding the prohibition on the use of gross charges in section 501(r)(5)(B) does not refer to FAP-eligible individuals, in particular. As a result, these commenters recommended that the final regulations prohibit the use of gross charges for all individuals, not just FAP-eligible individuals.

The Treasury Department and the IRS believe it is reasonable to interpret section 501(r)(5)(B)'s prohibition on gross charges in the context of section 501(r)(5) as a whole, which is intended to limit the amounts charged to FAP-eligible individuals. The JCT clarified this intent in the Technical Explanation, remarking that ''[a] hospital facility may not use gross charges . . . when billing individuals who qualify for financial assistance.'' *See* Technical Explanation, at 82. Thus, the final regulations continue to apply the prohibition on gross charges only to FAP-eligible individuals.

The 2012 proposed regulations applied the AGB limitation only to charges to FAP-eligible individuals for emergency or other medically necessary care, while the prohibition on charging FAP-eligible individuals gross charges would also apply to ''all other medical care.'' A few commenters interpreted this language to mean that the prohibition on gross charges applies even to elective procedures not covered under the FAP. In response, the final regulations clarify that this limitation applies only to charges for care covered under a hospital facility's FAP, which may, but need not, cover care that is neither emergency nor medically necessary care.

c. Safe Harbor for Certain Charges in Excess of AGB

The 2012 proposed regulations included a safe harbor under which a

hospital facility would not violate section 501(r)(5) if it charged more than AGB for emergency or other medically necessary care, or charged gross charges for any medical care, to a FAP-eligible individual who had not submitted a complete FAP application as of the time of the charge, provided that the hospital facility made and continued to make reasonable efforts to determine whether the individual was FAP-eligible (within the meaning of and during the periods required under section 501(r)(6)).

Because the steps to notify individuals about the FAP that remain in the regulations under section 501(r)(6) (as opposed to those that have been moved to the regulations under section 501(r)(4)) are focused on the individuals against whom a hospital facility actually intends to initiate extraordinary collection actions, the § 1.501(r)–5(d) safe harbor in the final regulations does not retain the requirement in the 2012 proposed regulations that the hospital facility make reasonable efforts to determine whether the individual is FAP-eligible within the meaning of the section 501(r)(6) regulations. Instead, the safe harbor focuses on remedying the overcharging by requiring that, if an individual submits a complete FAP application and is determined to be FAP-eligible for care, the hospital facility must refund any amounts the individual has paid for the care that exceeds the amount he or she is determined to be personally responsible for paying as a FAP-eligible individual. For reasons discussed in section 6.b.v.B of this preamble, the § 1.501(r)–5(d) safe harbor in the final regulations also contains an exception to this general requirement to refund under which a hospital facility is not required to refund excess payments of less than $5.

One commenter suggested that the § 1.501(r)–5(d) safe harbor should only require a hospital facility to refund amounts paid by a FAP-eligible individual in excess of AGB. As part of properly implementing their FAPs, hospital facilities should charge FAP-eligible individuals only the amounts they are determined to owe as FAP-eligible individuals. Thus, a hospital facility should not be permitted to charge FAP-eligible individuals more than AGB and be able to avail itself of the § 1.501(r)–5(d) safe harbor unless it is willing to refund any amounts paid by a FAP-eligible individual that exceed the amount he or she is determined to owe as a FAP-eligible individual.

Two commenters recommended that the safe harbor under the section 501(r)(5) regulations require a hospital facility to charge all individuals AGB or less during the application period unless it has affirmatively determined that the individual is not FAP-eligible. The Treasury Department and the IRS expect that a hospital facility will not be able to affirmatively determine whether most of its patients are FAP-eligible because most of its patients who are not FAP-eligible will not apply for financial assistance. Accordingly, such a rule would undercut the purpose of the safe harbor and is not adopted by these final regulations.

As discussed further in section 6.a.iv of this preamble, two commenters noted that charging individuals an upfront payment as a condition of receiving care may be tantamount to denying that care in the case of medically indigent people, and the final regulations consider demanding payment of a past bill as a condition of receiving future medically necessary care to be an extraordinary collection action. In addition, the Treasury Department and the IRS believe that the § 1.501(r)–5(d) safe harbor should not protect hospital organizations that charge an upfront payment in excess of AGB to FAP-eligible individuals. Accordingly, the final regulations provide that the § 1.501(r)–5(d) safe harbor does not apply to charges made or requested as a pre-condition of providing medically necessary care to a FAP-eligible individual. Thus, if a hospital facility requires an individual to make an upfront payment for medically necessary care that exceeds the AGB for the care and the individual turns out to be FAP-eligible, the hospital facility will have failed to meet the requirements of section 501(r)(5).

6. Billing and Collection

Consistent with the statute, the final regulations provide that a hospital organization meets the requirements of section 501(r)(6) with respect to a hospital facility it operates only if the hospital facility does not engage in extraordinary collection actions (ECAs) against an individual to obtain payment for care before making reasonable efforts to determine whether the individual is FAP-eligible for the care. For these purposes, and consistent with the 2012 proposed regulations, a hospital facility will be considered to have engaged in ECAs against an individual to obtain payment for care if the hospital facility engages in such ECAs against any other individual who has accepted or is required to accept responsibility for the first individual's hospital bill for the care.

One commenter interpreted the provision in the 2012 proposed regulations regarding ECAs against individuals with responsibility for a patient's hospital bill as applying to private and public insurers covering all or a portion of the patient's hospital bill. Under the Code, the term ''individual'' does not include any trust, estate, partnership, association, company, corporation, or governmental entity and, thus, would not include any private or public insurer. Accordingly, the final regulations retain the provision in the 2012 proposed regulations regarding ECAs against individuals with responsibility for a patient's hospital bill. This provision does not require a hospital facility to make reasonable efforts to determine FAP-eligibility before engaging in ECAs against private or public insurers or any other liable third parties that are not individuals.

The 2012 proposed regulations also provided that a hospital facility will be considered to have engaged in an ECA against an individual to obtain payment for care if any purchaser of the individual's debt or any debt collection agency or other party to which the hospital facility has referred the individual's debt has engaged in an ECA against the individual to obtain payment for the care. Many commenters asked that the regulations relieve hospital facilities from strict liability under section 501(r)(6) for the actions of third parties, provided that the hospital facility acts in good faith to supervise and enforce the section 501(r)(6) obligations of its contractual agreements with collection agents and takes remedial steps with respect to any contractual violations it discovers. These commenters argued that a hospital's tax-exempt status should not be placed in jeopardy by a debt collection agency's actions of which it is unaware. Other commenters, however, recommended that the final regulations retain the provision holding hospital facilities accountable for the billing and collection actions of third-party contractors and debt buyers.

The Treasury Department and the IRS continue to believe that hospital facilities must be held accountable for the ECAs of the debt collection agencies and debt buyers to which they refer or sell debt. Otherwise, hospital facilities could easily avoid their responsibilities under section 501(r)(6) by referring or selling their debt to third parties. Nonetheless, the Treasury Department and the IRS expect that the concerns of these commenters are largely addressed by the provision, outlined in section 2.b of this preamble, under which a hospital facility's failure to meet the requirements of section 501(r)(6) will be excused if the failure is not willful or egregious and the hospital facility both

corrects and discloses the failure in accordance with published guidance. Under this provision, if a hospital facility acts reasonably and in good faith to supervise and enforce the section 501(r)(6) obligations of its contractual agreements with debt collectors or purchasers and corrects any contractual violations it discovers, then an error on the part of the debt collectors or purchasers should not be willful and, provided that it is not egregious, could be excused if the hospital facility corrects and discloses the failure in accordance with the procedures outlined in the revenue procedure described in § 1.501(r)–2(c). Accordingly, the final regulations retain the provision holding a hospital facility accountable for the ECAs of the third parties collecting debt on its behalf or to which it sells debt.

One commenter interpreted the 2012 proposed regulations as suggesting that a hospital facility must meet the section 501(r)(6) requirements with respect to all care provided by the hospital facility, even if that care is elective and not medically necessary. Section § 1.501(r)–6(b) of these final regulations and the 2012 proposed regulations define ECAs as actions related to obtaining payment of bills ''for care covered under the hospital facility's FAP.'' Both the proposed and final regulations under section 501(r)(4) only require a FAP to cover emergency and other medically necessary care. Because a hospital facility has discretion over whether its FAP covers elective procedures that are not medically necessary, it has discretion over whether or not it must meet the section 501(r)(6) requirements with respect to such elective care.

a. Extraordinary Collection Actions

The 2012 proposed regulations defined ECAs as actions taken by a hospital facility against an individual related to obtaining payment of a bill for care covered under the hospital facility's FAP that require a legal or judicial process, involve selling an individual's debt to another party, or involve reporting adverse information about an individual to consumer credit reporting agencies or credit bureaus (collectively, ''credit agencies'').

Some commenters asked that the final regulations clarify that certain additional actions, such as writing off an account to bad debt, sending a patient a bill, or calling a patient by telephone to make reasonable inquiries, are not ECAs. These actions do not require a legal or judicial process or involve reporting adverse information to a credit agency or the selling of an individual's debt and would not come within the definition of ECAs under either the 2012 proposed regulations or the final regulations. However, because there are many possible actions that would not be ECAs and such actions cannot be exhaustively listed in the regulations, the final regulations do not respond to these comments by enumerating actions that are not ECAs (although they do provide for some exceptions with respect to the ECAs that are enumerated, as described in sections 6.a.ii and 6.a.iii of the preamble).

i. Reports to Credit Agencies

Many commenters argued that reporting adverse information to a credit agency should not be considered an ECA because such reporting is not a collection action and is a common practice of hospital facilities. One commenter argued that Congress could not have intended credit agency reporting to be an ECA because section 501(r)(4)(A)(iv) provides that a tax-exempt hospital facility's FAP or separate billing and collection policy must include, among other items, ''the actions the organization may take in the event of non-payment, including collections action[s] and reporting to credit agencies.'' Other commenters supported defining ECAs to include reporting an individual's non-payment of a debt to a credit agency, noting that such an action is a tool in collecting debt and can have extraordinarily detrimental consequences for individuals by resulting in bad credit records for many years.

The Treasury Department and the IRS view reporting to credit agencies as a collection action because it is a tool to collect delinquent debts, and bad credit reports can have extraordinarily detrimental consequences for the affected individuals. Moreover, the requirement under section 501(r)(4)(A)(iv) that a hospital facility describe reporting to credit agencies in its FAP or billing and collections policy evidences Congress's concern regarding such reporting. In addition, the JCT's Technical Explanation states that '' 'reasonable efforts' includes notification . . . before collection action or reporting to credit agencies is initiated.'' Technical Explanation, at 82. Because section 501(r)(6) only requires a hospital facility to make reasonable efforts before initiating an ECA, this statement supports the conclusion that reporting to credit agencies is an ECA. Accordingly, the final regulations continue to include the reporting of adverse information to credit agencies as an ECA.

ii. Certain Liens

The 2012 proposed regulations provided a non-exclusive list of examples of actions that require a legal or judicial process, which included the placement of a lien on an individual's property. Numerous commenters noted that, when a patient has sued a third party due to an auto accident or other type of accident and, as a part of the settlement, is entitled to receive reimbursement for medical bills, state laws commonly allow hospitals to place a lien on that portion of potential settlement proceeds. Commenters stated that they often need to move quickly if they will ever be able to take possession of such funds and asked that the final rule confirm that this common practice will not be treated as an ECA against the patient.

The proceeds of settlements, judgments, or compromises arising from a patient's suit against a third party who caused the patient's injuries come from the third party, not from the injured patient, and thus hospital liens to obtain such proceeds should not be treated as collection actions against the patient. In addition, the portion of the proceeds of a judgment, settlement, or compromise attributable under state law to care that a hospital facility has provided may appropriately be viewed as compensation for that care. Accordingly, in response to comments, the final regulations expressly provide that these liens are not ECAs.

iii. Sale of an Individual's Debt to Another Party

A number of commenters argued that debt sales should not be considered ECAs because they are an important way for hospitals to avoid having to collect debt themselves. Some commenters noted that holding hospital facilities accountable for the actions of debt buyers should be sufficient to ensure that debt buyers do not themselves engage in ECAs before reasonable efforts are made. In addition, several commenters argued that certain debt sales are beneficial to the patient as well as to the hospital facility because, for example, the buyer may service the debt more efficiently or be able to offer extended payment plans at no or low interest that the hospital facility cannot. These commenters recommended that debt sales should not be considered ECAs if the purchaser of the debt is contractually obligated not to take any actions that are ECAs and/or the debt is returnable to or recallable by the hospital facility.

Other commenters stated that hospital facilities lose control of the debt once

they sell it and that debt buyers typically purchase medical debts for pennies on the dollar, without full information about the individual patients, and are thus more likely to pursue flawed claims and engage in abusive practices. These commenters recommended that debt sales be prohibited altogether, even after reasonable efforts are made to determine an individual's FAP-eligibility.

The Treasury Department and the IRS note that section 501(r)(6) does not prohibit any collection actions outright; therefore, the final regulations do not prohibit debt sales altogether. The final regulations do, however, retain the general rule that debt sales are ECAs because the Treasury Department and the IRS agree with those commenters who noted that hospitals have less control over a debt once it has been sold and that debt buyers will generally have less information regarding the individual and the debt and more incentive to engage in ECAs before making reasonable efforts to determine whether an individual is FAP-eligible.

Nonetheless, the Treasury Department and the IRS believe these concerns about debt sales are mitigated in certain cases in which contractual arrangements with debt buyers both allow hospital facilities to retain control over the debt and benefit patients. Accordingly, the final regulations provide that the sale of an individual's debt is not an ECA if, prior to the sale, the hospital facility enters into a legally binding written agreement with the purchaser of the debt containing four conditions. First, the purchaser must agree not to engage in any ECAs to obtain payment of the debt. Second, the purchaser must agree not to charge interest on the debt in excess of the rate in effect under section 6621(a)(2) at the time the debt is sold (or such other interest rate set by notice or other guidance published in the Internal Revenue Bulletin).[9] Third, the debt must be returnable to or recallable by the hospital facility upon a determination by the hospital facility or the purchaser that the individual is FAP-eligible. And, fourth, if the individual is determined to be FAP-eligible and the debt is not returned to or recalled by the hospital facility, the purchaser must adhere to procedures specified in the agreement that ensure that the individual does not pay, and has no obligation to pay, the purchaser and the hospital facility together more than he or she is personally responsible for paying as a FAP-eligible individual. Because debt sales subject to these four conditions are not considered to be ECAs under the final regulations, a hospital facility may make these debt sales without first having made reasonable efforts to determine FAP-eligibility. Debt sales that do not satisfy these four conditions are ECAs and therefore may not be made until after a hospital facility has made reasonable efforts to determine FAP-eligibility, as described in section 6.b of this preamble.

iv. Including Additional Actions as ECAs

The preamble to the 2012 proposed regulations asked whether deferring or denying care based on a pattern of nonpayment, requiring deposits before providing care, or charging interest on medical debts should constitute ECAs. Some commenters opined that these actions should be categorized as ECAs to protect patients, with two commenters adding that requiring deposits is tantamount to denying care for medically indigent people. Other commenters recommended that these activities should not be ECAs, noting that requiring some deposit from patients prior to scheduling non-emergency care is a common practice among health care providers and that interest is charged by many credit providers. One of these commenters also stated that it is not inappropriate or extraordinary for a hospital to defer provision of care to a patient who has a documented pattern of non-payment unless that patient is seeking emergency care covered under EMTALA through the emergency department.

The Treasury Department and the IRS view the charging of interest on medical debt as a charge for the extension of credit rather than a collection action. In addition, the Treasury Department and the IRS interpret the term ''collection action'' as applying to actions to collect debts owed for services already rendered, not conditions imposed before any services have been provided or any debts have been incurred. Thus, the Treasury Department and the IRS do not believe that requiring a payment (whether partial or full) before providing care is a collection action unless it is related to an attempt to collect a prior medical bill. Accordingly, the final regulations do not include these activities as ECAs.

However, if a hospital facility defers or denies, or requires a payment before providing, medically necessary care because of an individual's nonpayment of one or more bills for previously provided care, such actions constitute actions to collect the unpaid bills. Moreover, these collection actions can properly be viewed as extraordinary, given that such actions can potentially jeopardize the health of the debtor. While one commenter asserted that ''it is not inappropriate'' for a hospital to defer the provision of care on the basis of a documented pattern of non-payment unless it is care sought through the emergency department covered under EMTALA, the relevant question for purposes of section 501(r)(6) is not whether deferring or denying care based on past nonpayment is permitted under EMTALA but rather whether it is a collection action that is extraordinary. In addition, as two commenters pointed out, requiring deposits can be tantamount to denying care for medically indigent people, and thus requiring payment before providing medically necessary care because of nonpayment of past bills is also an ECA with respect to those past bills. Therefore, the final regulations include such collection actions within the definition of ECAs. The final regulations also elaborate on when a requirement for payment will be considered to be ''because of'' an individual's nonpayment of one or more bills for previously provided care. In particular, the final regulations provide that, if a hospital facility requires payment before providing care to an individual with one or more outstanding bills, such a payment requirement will be presumed to be because of the individual's nonpayment of the outstanding bill(s) unless the hospital facility can demonstrate that it required the payment from the individual based on factors other than, and without regard to, his or her nonpayment of past bills.

Several commenters also recommended that patients who are eligible for hospital financial assistance, means-tested public programs, or subsidies should not be subject to any ECAs or other collection actions. Section 501(r)(6) requires hospital facilities to determine whether an individual is FAP-eligible before engaging in ECAs but does not bar ECAs altogether against individuals that have been determined to be FAP-eligible or eligible for assistance under public programs. Therefore, the final regulations do not adopt this comment.

b. Reasonable Efforts

The 2012 proposed regulations provided that, with respect to any care provided by a hospital facility to an individual, the hospital facility would have made reasonable efforts to determine whether the individual is FAP-eligible only if the hospital facility

[9] The interest rate in effect under section 6621(a)(2) was 3 percent at the time these final regulations were published. *See* Rev. Rul. 2014–29, 2014–52 IRB 960 (Dec. 22, 2014).

notified the individual about the FAP, provided a reasonably sufficient amount of time for the individual to apply for financial assistance, and processed FAP applications received from the individual during a specified period. For purposes of meeting these requirements, the 2012 proposed regulations described both an initial 120-day ''notification period'' during which the hospital facility was required to notify an individual about the FAP and a 240-day ''application period'' during which a hospital facility was required to process any application submitted by the individual, with both periods starting on the date of the first bill. A hospital facility providing the necessary notification during the 120-day notification period could begin to engage in ECAs against an individual after the end of the 120-day notification period but was required to suspend any such ECAs if the individual submitted a FAP application during the remainder of the application period (and to reverse such ECAs if the individual was determined to be FAP-eligible).

Many commenters stated that the reasonable efforts regime set forth in the 2012 proposed regulations was too detailed and prescriptive and asked that the final regulations adopt this regime as a safe harbor rather than as a requirement. These commenters asked that hospital facilities be allowed to maintain current practices regarding the manner and timeframe of notification about the FAP and processing of FAP applications, provided that these practices are made transparent, such as by requiring that these practices be disclosed in FAPs, billing and collection policies, or the hospital facility's Form 990.

The Treasury Department and the IRS do not believe that disclosure alone of a hospital facility's notification and FAP-eligibility determination processes constitutes reasonable efforts to determine whether individuals are FAP-eligible. While the regulations under section 501(r)(4) require such disclosure to be made in the FAP or a separate billing and collections policy, such disclosure will not meaningfully or adequately accomplish the requirement that Congress intended when it enacted section 501(r)(6) and expressly called for the Secretary to issue guidance defining reasonable efforts to determine FAP-eligibility.[10] Accordingly, the final regulations do not provide hospital facilities with complete discretion over how to make reasonable efforts to determine FAP-eligibility. However, the final regulations do make a number of modifications, as described further in this section of the preamble, that are designed to reduce the compliance burden on hospital facilities while at the same time ensuring that the reasonable efforts taken to determine whether individuals are FAP-eligible adequately protect patients.

The final regulations also contain a number of changes to § 1.501(r)–6(c) of the 2012 proposed regulations that are intended to streamline and simplify the presentation of the applicable rules and not to have a substantive effect.

i. Notification and Application Periods

The 2012 proposed regulations requested comments on whether the notification and application periods should start later than the date of the first billing statement, such as the date of discharge, in the case of patients staying at a hospital facility for a prolonged period of time and receiving billing statements in the mail before being discharged. The majority of commenters responding to this request for comments stated that the notification and application periods should start no earlier than the time of discharge so that the ''clock'' on the periods would not start until the patient was aware of the billing statements and able to focus on the notifications about the FAP. On the other hand, one commenter noted that inpatients present the best opportunity for in-person financial counseling activity and that there was therefore no need for the periods to begin after discharge rather than the first billing statement. Another commenter opined that the requirements relating to FAP notification and applications would be confusing to both providers and consumers if the FAP notification and application periods did not always start on the date of the first billing statement.

In response to the majority of comments on the issue and to ensure that patients who receive care over a prolonged period of time receive adequate notification about the FAP and impending ECAs and have an adequate opportunity to apply for financial assistance, the final regulations provide that the applicable 120- and 240-day periods start on the date that the first ''post-discharge'' billing statement is provided, rather than just the first billing statement. For these purposes, the final regulations clarify that a billing statement for care is considered ''post-discharge'' if it is provided to an individual after the care (whether inpatient or outpatient) is provided and the individual has left the hospital facility.

Many commenters asked that the lengths of the proposed 120-day notification period and/or 240-day application period be modified. Some commenters suggested a shorter application period of 90, 120, or 180 days, with the notification period either being concurrent with, or a shorter period within, the application period. Several of the commenters who requested one concurrent notification and application period noted the complexity associated with tracking two different, overlapping periods. In arguing for a shorter application period, many commenters stated that a 240-day application period would unduly interfere with hospital facilities' ability to recover from patients with resources available to pay the amounts due.

Other commenters, however, suggested longer notification or application periods. One commenter suggested one concurrent notification and application period of 240 days, stating that it would be more effective and less burdensome for all involved to simply prohibit all ECAs during the entire 240-day application period. Other commenters requested an application period of one or two years, noting that many times ECAs are not commenced until long after 240 days and that many patients may not realize that money is owed until after 240 days, particularly if they believe that outstanding charges might be covered by an insurer. Commenters also noted that FAP-eligible individuals may not promptly respond to notifications regarding a hospital facility's FAP if they are sick or have literacy issues. Several commenters recommended that patients be allowed to raise FAP-eligibility as an affirmative defense against ECAs at any time, not just during the application period. One commenter requested clarification that hospitals may extend the application period beyond 240 days.

The Treasury Department and the IRS continue to believe that 120 days from the first post-discharge billing statement is an appropriate amount of time for hospital facilities to wait before initiating ECAs against patients whose FAP-eligibility is undetermined so that patients have sufficient time to learn about the FAP and apply for financial assistance. As noted in the preamble to the 2012 proposed regulations, such a 120-day period is consistent with some state requirements or recommendations to wait 120 days before taking certain ECAs and, based on typical billing cycles reported by commenters, should ensure patients receive at least three

[10] *See* section 501(r)(7) (providing that the Secretary ''shall issue such regulations and guidance as may be necessary to carry out the provisions of [section 501(r)], including guidance relating to what constitutes reasonable efforts to determine the eligibility of a patient under a'' FAP for purposes of section 501(r)(6)).

bills before facing an ECA. Moreover, since the release of the 2012 proposed regulations, a taskforce of healthcare finance professionals, healthcare providers, consumer advocates, collections agencies, and credit agencies has recommended that hospitals wait 120 days from the date of the first billing statement before commencing ECAs ''to protect patients from undue haste in use of ECAs.'' *See* Best Practices for Resolution of Medical Accounts: A Report from the Medical Debt Collection Task Force, at 9 (Jan. 2014), *available at http://www.hfma.org/medicaldebt/.* Therefore, the final regulations generally provide that a hospital facility may not initiate ECAs against an individual whose FAP-eligibility has not been determined before 120 days after the first post-discharge billing statement. However, due to changes made in the final regulations regarding the notification requirements described in section 6.b.iii of this preamble, the 120-day period during which a hospital facility may not initiate ECAs is no longer called a ''notification period.''

With respect to the application period, the Treasury Department and the IRS agree with some commenters that it is generally a good practice for hospital facilities to allow individuals to raise FAP-eligibility as a defense against ECAs at any time and not just during a limited application period. In fact, the Treasury Department and the IRS understand that many hospital facilities currently will accept and process FAP applications from patients at any time, and the definition of ''application period'' in the final regulations expressly states that hospital facilities may continue to do this. Moreover, many hospital facilities may prefer simply to allow FAP applications to be submitted at any time rather than track application periods for each patient on an episode-of-care basis. However, in the interest of sound tax administration and achieving certainty for hospital facilities, the question of whether a hospital facility has met the requirements of section 501(r)(6) should not be left open indefinitely. Accordingly, although hospital facilities may continue to accept and process FAP applications at any time, the final regulations provide an application period after which a hospital facility is not required to accept and process FAP applications for purposes of meeting section 501(r)(6).

The Treasury Department and the IRS continue to believe that about eight months (240 days) after the first post-discharge bill is a reasonable period of time for a hospital facility to give a patient to apply for financial assistance to be considered to have made reasonable efforts to determine whether the patient is FAP-eligible. As one commenter pointed out, individuals may commonly have to wait several months before they know how much of a charge for health care services an insurer will cover and how much they are personally responsible for paying. In addition, the amount of time allowed for FAP applications to be submitted should take into account the fact that a large proportion of applicants may face obstacles such as continuing illness, literacy issues, or language barriers.

While some commenters asserted that an application period of 240 days from the first bill would unduly interfere with hospitals' ability to collect debts from non-FAP-eligible individuals, they provided little support or further explanation for this general claim, and other commenters suggested that many ECAs are not commenced until long after 240 days from the first bill. Moreover, under both the 2012 proposed regulations and these final regulations, hospital facilities may initiate ECAs against an individual as early as 120 days after the first post-discharge bill without failing to meet the requirements of section 501(r)(6), provided the required notifications have been given prior to the initiation of the ECAs. Some of these ECAs may have to be suspended or reversed if the patients against whom the ECAs are taken subsequently submit FAP applications, but the Treasury Department and the IRS have no reason to believe that the costs associated with such possible suspensions or reversals only for the subset of patients who submit FAP applications during the application period will be so significant as to render it impractical to initiate any ECAs during the application period.

In addition, as discussed in section 6.b.vi of this preamble, many commenters indicated that hospital facilities use a variety of methods and sources of information other than FAP applications submitted by individuals to predict potential FAP-eligibility with a high degree of accuracy. Presumably, hospital facilities will be able to use such methods and information sources to focus ECAs on those patients unlikely to be FAP-eligible, thereby minimizing the risk that they will have to reverse a significant number of ECAs. If a hospital facility receives a complete FAP application during the application period from an individual after initiating an ECA against the individual, it must process the application, but, if the individual is determined to be ineligible for financial assistance, no reversal of ECAs will be necessary (and suspension will be necessary only for the period of time the application is being processed).

For all of these reasons, the Treasury Department and the IRS believe that an application period that ends no earlier than 240 days from the first post-discharge bill appropriately balances the need to protect FAP-eligible patients from ECAs before FAP-eligibility is determined with the need to avoid undue interference with hospital facilities' ability to collect debts from non-FAP-eligible individuals.

The final regulations further provide that the application period for the care of an individual who has not been presumptively determined to be FAP-eligible (as discussed in section 6.b.vi of the preamble) will be longer than 240 days if the hospital facility provides the individual with a written notice about available financial assistance and potential ECAs (described in section 6.b.iii.C of this preamble) that states a deadline that is after the 240th day from the first post-discharge bill. For example, if a hospital facility provides an individual with a written notice about potential ECAs to obtain payment for care on the 250th day after the first post-discharge bill for the care and informs the individual that he or she has 30 days to apply for financial assistance before the identified ECAs may be initiated (the minimum number of days the deadline may be from the date the written notice is provided), the hospital facility would be required to process any FAP application that the individual submits by the 280th day after the first post-discharge bill. Thus, with the exception of individuals who are presumptively determined to be FAP-eligible (as described further in section 6.b.vi of this preamble), an individual's application period will remain open until at least 30 days after the hospital facility provides the individual with a written notice that sets a deadline after which ECAs may be initiated.[11]

ii. Meeting the Section 501(r)(6) Requirements on an ''Episode-of-Care'' Basis

A number of commenters recommended that the reasonable efforts requirements be applied on an ''individual patient'' basis rather than

[11] If the hospital facility never intends to initiate an ECA against an individual, and therefore never sends a written notice about potential ECAs (and/or a notice with a deadline for applying) to the individual, the application period is irrelevant because section 501(r)(6) only requires a hospital facility to make reasonable efforts to determine FAP-eligibility before engaging in an ECA.

on an ''episode-of-care'' basis to avoid unnecessary duplication of notifications to one individual and complexity in tracking multiple notification and application periods. In addition, one commenter noted that, at such time as a hospital would engage in an ECA, it would seek to identify and aggregate all outstanding and delinquent bills for a patient and then initiate an ECA to obtain payment of all the bills together rather than each bill separately.

In response to these comments, the final regulations clarify that a hospital facility may satisfy the notification requirements simultaneously for multiple episodes of care for purposes of notifying the individual about its FAP and potential ECAs. Notwithstanding this allowance for multiple episodes of care, the Treasury Department and the IRS continue to believe that patients should not have less opportunity or time to apply for financial assistance simply because they received care from a hospital facility in the past, especially since illness and accumulating hospital bills themselves could result in a deterioration of an individual's financial circumstances. Thus, the final regulations also provide that, if a hospital facility aggregates an individual's outstanding bills for multiple episodes of care before initiating one or more ECAs to obtain payment for those bills, it may not initiate the ECA(s) until 120 days after it provided the first post-discharge bill for the most recent episode of care included in the aggregation. Similarly, although, as a formal matter, a separate application period starts with each episode of care, as a practical matter, hospital facilities have the option of measuring the 240-day period from the first post-discharge bill for the most recent episode of care.

iii. Notification Requirements

To satisfy the notification component of ''reasonable efforts'' with respect to any care provided to an individual, the 2012 proposed regulations required a hospital facility to take the following actions: (1) Distribute a plain language summary of the FAP, and offer a FAP application form, to the individual before discharge from the hospital facility; (2) include a plain language summary of the FAP with all (and at least three) billing statements for the care and with all other written communications regarding the bill provided during a 120-day notification period; (3) during the notification period, inform the individual about the FAP in all oral communications regarding the amount due for the care; and (4) provide the individual with at least one written notice informing the individual about the ECAs the hospital facility (or other authorized party) may take if the individual did not submit a FAP application or pay the amount due.

As discussed in section 4.a.iv.C of this preamble, the requirement to provide a plain language summary of the FAP as part of the discharge or intake process is included under § 1.501(r)–4 of the final regulations as part of widely publicizing the FAP, rather than under § 1.501(r)–6(c) of the final regulations. Rather than require that a plain language summary of the FAP be included with all (and at least three) billing statements and with all other written communications regarding the bill provided during a 120-day period after the first bill, § 1.501(r)–4 of the final regulations requires that all billing statements include a notice informing patients about the availability of financial assistance and how to get information about and a copy of the FAP, and § 1.501(r)–6(c) of the final regulations requires that a plain language summary of the FAP be included with one post-discharge written communication. The final regulations continue to require oral notification about the FAP as part of reasonable efforts to determine FAP-eligibility in § 1.501(r)–6(c), but amend this requirement to focus the oral notification on those patients against whom the hospital facility intends to engage in ECAs rather than require it for all patients who communicate with the hospital facility about the amount due for the care. Finally, § 1.501(r)–6(c) of the final regulations continues to require a notice about potential ECAs but requires notice only of the ECAs the hospital facility intends to initiate rather than all ECAs that may be initiated. The comments received on, and the modifications to the components of, the notification actions that remain in § 1.501(r)–6(c) of the final regulations are discussed in greater detail in this section 6.b.iii of the preamble. In general, the Treasury Department and the IRS expect that these modifications will significantly reduce the burden on hospital facilities without significantly reducing the notice given to patients about the availability of financial assistance.

A. Providing Plain Language Summaries With Written Communications

Many commenters stated that requiring hospital facilities to include plain language summaries with all billing statements (as well as with all other written communications) during the notification period would result in significant programming, printing, and mailing costs. A number of commenters suggested that a reference to the availability of the FAP and a brief description of how to obtain more information should be sufficient information for patients, with some commenters adding that if plain language summaries had to be included with bills at all, the requirement should be limited to only one or two bills. Other commenters noted that multiple notices over time are important, as patients may be in varying states of readiness for information on financial assistance, and these commenters singled out notices with billing statements as especially effective.

In response to these comments, the notification component of reasonable efforts under the final regulations requires a hospital facility to provide a plain language summary of the FAP to an individual only if and when it sends that individual the written notice about potential ECAs described in section 6.b.iii.C of this preamble. Thus, hospital facilities need only incur the additional costs that may be associated with the provision of a plain language summary one time and only with respect to the smaller pool of patients against whom the hospital facility actually intends to engage in ECAs, not with respect to all patients against whom it might one day want to engage in ECAs. As a result, the final regulations significantly reduce the burden on hospital facilities in notifying individuals about their FAPs.

At the same time, many of the commenters who argued that including a plain language summary with every bill would be unnecessarily costly also noted that a brief description of how to obtain more information about the FAP should provide sufficient notification to patients. Other commenters stressed the importance of repeated notices about the FAP with bills. In response to these comments, and for reasons discussed in section 4.a.iv.C of this preamble, the final regulations require a conspicuous written notice about the FAP to be included on a hospital facility's billing statement as part of ''widely publicizing'' the FAP for purposes of meeting the requirements under section 501(r)(4). Because the final regulations require this conspicuous notice about the FAP to be included on billing statements, the Treasury Department and the IRS do not expect that the final regulations significantly reduce the information available to individuals who may be FAP-eligible or their opportunity to learn about or apply for financial assistance.

B. Oral Notification

Some commenters stated that the requirement that the hospital facility inform the individual about the FAP in all oral communications regarding the amount due for care was overly burdensome, prohibitively difficult to document, prone to human error, and too dependent on the cooperation of the individual (who may, for example, hang up before receiving information about the FAP). A few commenters asked that the oral communication requirement be limited to those patients who indicate they may have difficulty paying their bill rather than applying to any patient with a question ''regarding the amount due for care,'' as the latter could include many routine billing inquiries. Other commenters stated that orally-conveyed information can be the most effective way to ensure that patients know financial assistance is available, especially in the case of LEP populations or individuals with literacy issues.

In response to commenters, the final regulations replace the oral notification requirement in the 2012 proposed regulations with a requirement that a hospital facility make a reasonable effort to orally notify an individual about the hospital facility's FAP and about how the individual may obtain assistance with the FAP application process at least 30 days before the initiation of ECAs against the individual. By allowing hospital facilities to target their oral notifications to those individuals against whom they actually intend to engage in ECAs, the final regulations respond to the concern that the oral notification rule in the 2012 proposed regulations was too burdensome by greatly reducing the oral notifications that hospital facilities must make. At the same time, the final regulations ensure that individuals who may need financial assistance receive oral notification about a hospital facility's FAP prior to the hospital facility's initiation of ECAs, which addresses concerns raised by commenters who stressed the importance of orally-conveyed information for potentially FAP-eligible individuals.

C. Notification About Impending ECAs

A few commenters would eliminate the requirement in the 2012 proposed regulations of a written notice informing individuals about the ECAs the hospital facility may take if the individual does not submit a FAP application or pay the amount due by the specified deadline, stating that such a written notice could be considered a ''threatening'' communication that is prohibited by the federal Fair Debt Collection Practices Act (FDCPA) (15 U.S.C. 1601 *et seq.*).

The FDCPA does not prevent a debt collector from informing an individual about an ECA if the ECA is lawful and the debt collector ''intends'' or has a ''present intention'' to take the action. *See* 15 U.S.C. 1692e(4)–(5), 1692f(6). In accordance with this language in the FDCPA and in response to comments, the final regulations amend the requirement regarding the written notice about ECAs to require that the notice state the ECA(s) that the hospital facility (or other authorized party) actually ''intends to take,'' rather than requiring a description of every ECA a hospital ''may'' take in the future. Furthermore, like the 2012 proposed regulations, the final regulations do not require a hospital facility (or third party collecting a hospital facility's debt) to provide this notice unless and until it actually intends to initiate one or more ECA(s) against an individual. This ability to wait to send the notice not only should eliminate any conflict with the FDCPA but also limits the burden associated with providing the notice because a hospital facility need only send it to the subset of patients against whom it actually intends to initiate ECAs.

Similar to the 2012 proposed regulations, the final regulations also require the written notice to state a deadline after which the identified ECA(s) may be initiated that is no earlier than 30 days after the date that the written notice is provided. In addition, the final regulations require the written notice to generally indicate that financial assistance is available for eligible individuals.

D. Documenting Notification

The 2012 proposed regulations provided that, if an individual had not submitted a FAP application and the hospital facility had notified the individual as described in the 2012 proposed regulations and documented that it had so notified the individual, the hospital facility would be deemed to have met the reasonable efforts requirements of section 501(r)(6) and could engage in ECAs against that individual. With respect to documenting compliance with the notification requirements, one commenter asked whether a hard copy or electronic image of every relevant piece of paper given to every individual would be required.

The final regulations eliminate any separate requirement under the section 501(r)(6) regulations to document notification. The Treasury Department and the IRS note, however, that hospital organizations will have to report whether and how they made reasonable efforts to determine FAP-eligibility before engaging in ECAs on their Forms 990 and, as a general matter, are responsible for maintaining records to substantiate any information required by the Form 990. *See* section 6033(a)(1); § 1.6001–1(c).

E. Miscellaneous Issues Involving Written Communications

Numerous commenters noted that hospital facilities' billing systems are transitioning from paper to electronic delivery and stated that the 2012 proposed regulations seemed to envision that most written communications would be provided in paper form. In response to these comments, the final regulations clarify that a hospital facility may provide any of the written notices or communications described in § 1.501(r)–6 of the final regulations electronically (for example by email) to any individual who indicates he or she prefers to receive the written notice or communication electronically.

A number of provisions in the 2012 proposed regulations referred to the date a written notice or communication was ''provided,'' and one commenter asked whether ''provides'' means the date the statement is placed into the U.S. mail or the date the statement is received by the patient. The final regulations clarify that, in the case of any written notice or communication that is mailed, the communication will be considered ''provided'' on the date of mailing. A communication may also be considered provided on the date it is sent electronically or delivered by hand.

iv. Incomplete FAP Applications

In the case of an individual who submits an incomplete FAP application during the application period, the 2012 proposed regulations provided that a hospital facility must suspend ECAs (defined as not initiating any ECAs or taking further action on any previously initiated ECAs) taken against the individual until either the individual's FAP application was completed and processed or the ''completion deadline'' had passed without the individual's having completed the FAP application. The 2012 proposed regulations further provided that the completion deadline could be no earlier than the later of 30 days from the date of a written notice about impending ECAs or the last day of the application period. Some commenters expressed concern that these provisions in the 2012 proposed regulations effectively allowed an individual to submit a FAP application

form with minimal information on it and thereby automatically defer ECAs for up to 240 days.

In response to this concern, and to provide hospital facilities with additional flexibility to work with individuals submitting incomplete FAP applications in a manner appropriate to the particular circumstances, the final regulations provide that a hospital facility must suspend ECAs against the individual until either the individual completes the FAP application and the hospital facility determines whether the individual is FAP-eligible or until the individual has failed to respond to requests for additional information and/or documentation within a reasonable period of time. The Treasury Department and the IRS expect the reasonableness of the period of time individuals are given to complete a FAP application before ECAs may resume will depend on the particular facts and circumstances, including the amount of additional information and/or documentation that is being requested. Although the final regulations potentially permit a hospital facility to initiate or resume ECAs before the end of the application period against an individual who has failed to respond to requests for additional information and/or documentation, if the individual subsequently completes the FAP application during the application period, the final regulations would require the hospital facility to again suspend any ECAs taken against the individual until the hospital determines whether the individual is FAP-eligible (and, if the individual is determined to be FAP-eligible, to reverse such ECAs).

A few commenters requested clarification that hospital facilities are required to suspend only those ECAs relating to the care at issue upon the submission of a FAP application, not ECAs relating to past care for which the hospital facility has already satisfied the reasonable efforts requirements. The final regulations include this clarification (in the context of processing both incomplete as well as complete FAP applications) by providing that a hospital facility must only suspend any ECAs taken against the individual ''to obtain payment for the care'' at issue.

Two commenters suggested that the requirement to suspend ECAs ignores specific time frames that must be followed to prevent a hospital facility's legal rights from being jeopardized, such as filing a claim in a bankruptcy proceeding and filing a responsive pleading or responding to a motion by prescribed deadlines in pending legal actions. One of these commenters recommended that the final regulations allow for ECAs to continue even when an incomplete FAP application is submitted if suspending the ECA would result in the hospital facility's legal rights being jeopardized.

In response to these comments, the final regulations add a provision stating that filing a claim in a bankruptcy proceeding is not an ECA, so the requirement to suspend ECAs will not jeopardize the ability to file such claims. The final regulations do not adopt the suggestion that ECAs be permitted to continue ''if suspending the ECA would result in the hospital facility's legal rights being jeopardized,'' as this is a vague standard that would be difficult to enforce and could substantially diminish the protection afforded by the suspension requirement. The Treasury Department and the IRS also note that, under the final regulations, ECAs taken against an individual who has submitted an incomplete FAP application only have to be suspended for a ''reasonable period of time,'' not a period of at least 240 days from the first post-discharge bill.

The final regulations require hospital facilities to provide a notice about potential ECAs (and an accompanying plain language summary of the FAP) to an individual who has submitted an incomplete FAP application under the provisions relating to notification about the FAP rather than separately requiring this notice under the provisions relating to incomplete FAP applications (as had been done in the 2012 proposed regulations). This change is made to simplify the regulations and is not intended to have any substantive effect for individuals who submit an incomplete FAP application before ECAs have been initiated.

Finally, to ensure that individuals who submit an incomplete FAP application during the application period know who they can contact for assistance in completing the application, and in response to commenters who stressed the importance of oral communication generally, the final regulations require a hospital facility to provide such individuals with the contact information of a hospital facility office or department (or, alternatively, a nonprofit organization or government agency) that can provide assistance with the FAP application process.

v. Complete FAP Applications

A. General Requirements Following Receipt of Complete FAP Applications

Like the 2012 proposed regulations, the final regulations provide that, if a hospital facility receives a complete FAP application from an individual during the application period, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible only if it suspends any ECAs taken against the individual to obtain payment for the care, makes and documents an eligibility determination in a timely manner, and notifies the individual in writing of the determination and the basis for the determination.

A few commenters recommended that the final regulations require FAP-eligibility determinations to be made within a specified period of time, with the suggested time ranges being five business days, 30 days, and 45 days. However, another commenter agreed with the proposed rule that hospital facilities evaluate whether an applicant is eligible in ''a timely manner'' (while also adding that ''30 days seems reasonable''). Yet another commenter noted that many FAPs will require individuals to apply for Medicaid before the individual is eligible for financial assistance from the hospital facility and requested that the regulations suspend the time period in which the hospital facility must make the FAP-eligibility determination to allow time for a Medicaid application to be filed and a Medicaid eligibility determination to be made.

The Treasury Department and the IRS believe that the reasonableness of the time period required to make an eligibility determination will vary depending upon particular facts and circumstances. For example, a hospital facility's receipt of an unusually large number of FAP applications in a particular week might reasonably result in that hospital facility taking longer to process the applications than would ordinarily be the case. In addition, the Treasury Department and the IRS note that the final regulations require hospital facilities to suspend ECAs between the time a complete FAP application is submitted and the time an eligibility determination is made, providing some protection for patients during this time period. Thus, the final regulations do not adopt a specific period of time in which a hospital facility must make a FAP-eligibility determination, opting instead to continue to require the determination to be made ''in a timely manner'' to provide hospital facilities with the appropriate flexibility to address varied situations. In addition, in cases in which a hospital facility believes an individual who has submitted a complete FAP application may qualify for Medicaid, the final regulations

clarify that a hospital facility may postpone making a FAP-eligibility determination until after the individual's Medicaid application has been completed and submitted and a determination as to Medicaid eligibility has been made. However, as is generally the case when an individual has submitted a complete FAP application, a hospital facility may not initiate or resume any ECAs to obtain payment for the care at issue until a FAP-eligibility determination has been made.

Like the 2012 proposed regulations, the final regulations make clear that if a hospital facility determines whether an individual is FAP-eligible for care based on a complete FAP application before initiating any ECAs against the individual to obtain payment for the care, it has made reasonable efforts to determine whether the individual is FAP-eligible for the care, regardless of what notification about the FAP (or, if applicable, about what the individual needs to provide to complete an incomplete FAP application) had been or continues to be provided to the individual.

B. Requirements When an Individual Is Determined To Be FAP-Eligible

The 2012 proposed regulations provided that if a hospital facility determines an individual to be FAP-eligible, the hospital facility must provide the individual with a billing statement that indicates the amount the individual owes as a FAP-eligible individual and shows (or describes how the individual can get information regarding) the AGB for the care and how the hospital facility determined the amount the individual owes as a FAP-eligible individual. The hospital facility would also be required to refund any excess payments made by the FAP-eligible individual and take all reasonably available measures to reverse any ECA (with the exception of a sale of debt) taken against the individual to obtain payment for the care at issue.

One commenter recommended that notification about FAP-eligibility be optional in cases in which 100 percent of a patient's account has been written off under a hospital facility's FAP. The Treasury Department and the IRS believe that providing a patient who has been determined to be eligible for free care with some written documentation of that eligibility determination is necessary both to notify the patient and to protect him or her in the event of any future erroneous charges for the care. However, the Treasury Department and the IRS do agree that a billing statement indicating a $0 balance is not necessary in addition to a written notification about eligibility for free care. Accordingly, the final regulations require written notification that an individual is determined to be eligible for free care but do not require a billing statement indicating that nothing is owed for the care (or stating or describing how the individual can get information regarding AGB for the care).

A few commenters asked about the time period to which the requirement to refund FAP-eligible patients applies and requested clarification that hospital facilities are not required to refund amounts previously paid to the hospital for care unless the individual is determined to be FAP-eligible for that care. The 2012 proposed regulations and the final regulations refer only to refunds of payments ''for the care'' at issue and are intended to require refunds only of payments for the episode(s) of care to which an individual's FAP application (and therefore his or her FAP-eligibility determination) relates. Thus, if an individual receives and pays for a hospital facility's care in both year 1 and year 3 but only applies for financial assistance in year 3 for the care received in year 3 and is determined to be FAP-eligible for the care provided in year 3, the hospital facility would only have to refund any excess amounts the individual paid for the year 3 care, not any amount the individual paid for the year 1 care. Because the 2012 proposed regulation required only refunds for ''the care'' at issue, the Treasury Department and the IRS do not believe that the final regulations need to be amended to further clarify this point.

Two commenters asked that the final regulations set a reasonable threshold, such as $5, for required refunds, noting that some states apply such thresholds. The Treasury Department and the IRS agree that the administrative costs associated with requiring hospital facilities to process refunds in amounts of less than $5 would outweigh the benefits to FAP-eligible patients. Accordingly, the final regulations do not require a hospital facility to refund any amount a FAP-eligible individual has paid for care that exceeds the discounted amount he or she owes for the care as a FAP-eligible individual if such excess amount is less than $5. In addition, recognizing that inflation and other factors may create the need to increase the $5 threshold in the future, the final regulations allow the Treasury Department or the IRS to increase the threshold in a notice or other guidance published in the Internal Revenue Bulletin.

One commenter sought clarification about whether hospital facilities are required to make refunds only to individuals determined to be FAP-eligible or also to their insurers. The 2012 proposed regulations required refunds only of the amounts the FAP-eligible individual had paid ''in excess of the amount he or she is determined to owe as a FAP-eligible individual.'' Thus, only refunds to the individual were intended to be required. However, to clarify this intent, the final regulations require the hospital facility to provide refunds ''to the individual'' and refer to the amount the individual is ''personally responsible for paying'' rather than the amount the individual ''owes.''

One commenter recommended that reversal of ECAs only be required upon a determination that an individual is FAP-eligible to the extent of the adjustment to the bill made as a result of FAP-eligibility, so that, for example, if a patient were still liable for 50 percent of a bill after an adjustment for a FAP discount, ECAs could continue to be used to collect the discounted amount owed. Other commenters, however, supported the requirement to reverse ECAs, stating that it, along with the requirement to provide refunds, were reasonable and sufficient measures to protect patients.

As noted previously in this preamble, the Treasury Department and the IRS believe that reasonable efforts to determine FAP-eligibility necessitate giving patients a reasonable period of time of at least eight months (240 days) after the first post-discharge bill to learn about a hospital facility's FAP and apply for assistance. Nonetheless, the final regulations, like the 2012 proposed regulations, allow hospital facilities to initiate ECAs against individuals whose FAP-eligibility has not been determined as early as 120 days after the first post-discharge bill to avoid undue interference with hospital facilities' ability to collect debts from non-FAP-eligible individuals. However, if a hospital facility does initiate an ECA against an individual before the end of the 240-day application period and the individual is subsequently determined to be FAP-eligible, the Treasury Department and the IRS believe the hospital facility should reverse the ECA altogether and begin the collection process anew based on the adjusted amount. The Treasury Department and the IRS expect that such a rule will encourage hospital facilities not to begin ECAs during the application period against individuals they believe are likely to be FAP-eligible.

vi. Presumptive FAP-Eligibility Determinations Based on Third-Party Information or Prior FAP-Eligibility Determinations

The 2012 proposed regulations provided that a hospital facility has made reasonable efforts to determine whether an individual is FAP-eligible if it determines that the individual is eligible for the most generous assistance available under the FAP based on information other than that provided by the individual, such as the individual's eligibility under one or more means-tested public programs. The 2012 proposed regulations also provided that a hospital facility will not have made reasonable efforts to determine whether an individual is FAP-eligible as a result of obtaining a signed waiver from the individual and defined a FAP-eligible individual as an individual eligible for FAP assistance without regard to whether the individual has applied for such assistance.

The Treasury Department and the IRS recognized that these provisions, together, effectively left a hospital facility with two options if it wanted to engage in an ECA against an individual who had not submitted a FAP application: either notify the individual about the FAP during the notification period or provide the individual with the most generous assistance available under the FAP. Accordingly, the preamble to the 2012 proposed regulations requested comments on how to provide additional flexibility under the regulations to hospital facilities seeking to determine whether an individual is FAP-eligible, and, in particular, on how a hospital facility might reasonably determine whether an individual is FAP-eligible in ways other than soliciting and processing FAP applications. The preamble to the 2012 proposed regulations also requested comments regarding whether a hospital facility might be able to rely on prior FAP-eligibility determinations for a period of time to avoid having to re-determine whether an individual is FAP-eligible every time he or she receives care.

Numerous commenters stated that hospitals can, and commonly do, rely on trustworthy methods and sources of information other than FAP applications to determine FAP-eligibility. Some noted the use of public and private records and data sources that, often in combination with predictive models and algorithms, could presumptively determine FAP-eligibility, including for discounts on a sliding scale that are less than the most generous available under the FAP. A number of these commenters suggested that allowing hospital facilities to use these information sources and methods to presumptively determine eligibility only for the most generous discounts under a FAP could inadvertently result in fewer individuals receiving financial assistance. Other commenters noted that hospital facilities could readily and accurately determine the insurance status or residency of particular individuals and, therefore, determine that such individuals are not FAP-eligible when such eligibility depends on being uninsured or on being a resident of the state in which the hospital facility is licensed. Most of these commenters generally recommended that hospital facilities be allowed to rely on information sources and methods other than FAP applications to determine FAP-eligibility as long as the sources and methods are disclosed (for example, in the FAP or on the hospital facility's Form 990) and/or the individual is given a reasonable opportunity to provide information indicating FAP-eligibility or eligibility for a greater discount than the one provided. A few commenters, however, recommended against the use of predictive models that rely on credit scores, noting that such methods assess creditworthiness rather than financial need. A few commenters also suggested that predictive models should only be used to approve someone for financial assistance, not to deem them ineligible for it.

In addition, commenters recommended that hospital facilities should be able to rely on prior FAP eligibility determinations, arguing that it would be burdensome and costly to require a hospital facility to re-determine whether an individual is FAP-eligible every time the individual receives care. Suggestions ranged from allowing reliance on prior FAP applications for a certain time period (90 days, four months, six months, or twelve months) to allowing hospital facilities the flexibility to determine how long FAP-eligibility status may last. Most of these commenters recommended that a hospital facility's reliance on prior FAP-eligibility determinations should be disclosed in its FAP and/or that patients should be given a reasonable opportunity to resubmit an application if and when their financial situation changes.

In response to these comments and to encourage hospital facilities to provide discounts to potentially FAP-eligible individuals who have not submitted FAP applications, the final regulations provide that, in addition to presumptively determining that an individual is eligible for the most generous assistance available under its FAP, a hospital facility may also presumptively determine that an individual is eligible for less than the most generous assistance available under the FAP based on information other than that provided by the individual or based on a prior FAP-eligibility determination (hereinafter referred to as presumptive determinations). Most commenters recognized, though, that presumptive determinations that an individual is eligible for less than the most generous assistance available under a FAP should not relieve a hospital facility of the obligation to give patients a reasonable opportunity to seek more generous assistance by providing additional information related to FAP-eligibility. Accordingly, the final regulations provide that a presumptive determination that an individual is eligible for less than most generous assistance available under a FAP only constitutes reasonable efforts to determine FAP-eligibility if three conditions are met. First, the hospital facility must notify the individual regarding the basis for the presumptive FAP-eligibility determination and the way he or she may apply for more generous assistance available under the FAP. Second, the hospital facility must give the individual a reasonable period of time to apply for more generous assistance before initiating ECAs to obtain the discounted amounted owed for the care. And, third, the hospital facility must process any complete FAP application that the individual submits by the end of the application period or, if later, by the end of the reasonable time period given to apply for more generous assistance.

The final regulations do not treat as reasonable efforts a presumptive determination that an individual is not FAP-eligible. The Treasury Department and the IRS believe that before being subjected to ECAs, individuals who have received no financial assistance under a FAP and who have not submitted a complete FAP application should, at a minimum, receive a notice about the FAP (through a plain language summary) and about the deadline for submitting a FAP application before ECAs may be initiated, as described in section 6.b.iii of this preamble. The Treasury Department and the IRS note, however, that even though presumptive determinations of FAP-ineligibility do not constitute reasonable efforts to determine FAP-eligibility for purposes of section 501(r)(6), a hospital facility is not prohibited from using third-party information sources and prior FAP-

eligibility determinations to try to predict which of its patients are unlikely to be FAP-eligible.

A number of commenters asked that the definition of ''FAP-eligible individual'' be revised such that it applies only to individuals ''known to be eligible for financial assistance.'' Allowing hospital facilities to assume individuals are not FAP-eligible unless and until they obtain knowledge to the contrary would relieve hospital facilities of any obligation to make reasonable efforts to determine whether individuals are FAP-eligible and thereby undercut the purpose of section 501(r)(6). Accordingly, the definition of FAP-eligible individual is not amended to apply only to individuals known to be FAP-eligible.

Many commenters also asked that hospital facilities be allowed to use targeted and limited waivers in determining FAP-eligibility, such as waivers for individuals who the hospital facility has no reason to believe may be FAP-eligible or individuals with adequate insurance and the ability to meet any co-pays and deductibles. In addition, one commenter asked that the final regulations provide that making reasonable efforts to determine an individual is FAP-eligible includes obtaining an attestation from the individual that his or her income and/or assets exceed certain thresholds in the FAP and that the attestation was not made under coercion.

The Treasury Department and the IRS continue to believe that obtaining signatures from individuals on a waiver form is not a meaningful way to determine that they are not FAP-eligible. The Treasury Department and the IRS note, however, that the final regulations define a complete FAP application as information and documentation provided by an individual that is sufficient to determine the individual's FAP-eligibility, and an individual's attestation regarding his or her income or other criteria relevant to FAP-eligibility could be sufficient to determine FAP-eligibility and therefore could be considered a complete FAP application. Thus, if a hospital facility makes a determination as to whether an individual is FAP-eligible based an individual's attestation regarding his or her income or other relevant eligibility criteria—and the hospital facility has no reason to believe that the information on the statement is incorrect and did not obtain the information from the individual under duress or through the use of coercive practices—the hospital facility will have made a determination based on a complete FAP application and, thus, have made reasonable efforts to determine whether the individual is FAP-eligible for purposes of section 501(r)(6).

vii. Reasonable Efforts in the Case of Denying or Deferring Care Based on Past Nonpayment

As discussed in section 6.a.iv of this preamble and in response to comments, the final regulations include as an ECA the deferral or denial of (or the requirement of a payment before providing) medically necessary care because of the individual's nonpayment of one or more bills for previously provided care. Unlike other ECAs, the timing of this ECA involving the deferral or denial of care will depend on when an individual seeks medically necessary care from the hospital facility, a contingency over which the hospital facility has no control. In addition, if the provision of medically necessary care is at stake, the individual's application for financial assistance should be completed and his or her FAP-eligibility should be determined as quickly as possible to avoid jeopardizing the individual's health.

Based on these considerations, the final regulations provide that, in the case of an ECA involving deferral and denial of (or requiring payment before providing) care only, a hospital facility is not required to provide the oral and written notification about the FAP and potential ECAs discussed in section 6.b.iii of this preamble at least 30 days in advance of initiating this ECA to have made reasonable efforts to determine whether the individual is FAP-eligible. However, to avail itself of this exception, a hospital facility (or other authorized party) must satisfy several conditions. First, the hospital facility must provide the individual with a FAP application form (to ensure the individual may apply immediately, if necessary) and notify the individual in writing about the availability of financial assistance for eligible individuals and the deadline, if any, after which the hospital facility will no longer accept and process a FAP application submitted by the individual for the previously provided care at issue. This deadline must be no earlier than the later of 30 days after the date that the written notice is provided or 240 days after the date that the first post-discharge billing statement for the previously provided care was provided. Thus, although the ECA involving deferral or denial of care may occur immediately after the requisite written (and oral) notice is provided, the individual must be afforded at least 30 days after the notice to submit a FAP application for the previously provided care. In addition, the hospital facility must notify the individual about the FAP in the two other ways discussed in section 6.b.iii of the preamble (though without regard to the requirement to do so at least 30 days before the initiation of an ECA): namely, by providing a plain language summary of the FAP and by orally notifying the individual about the hospital facility's FAP and about how the individual may obtain assistance with the FAP application process. Finally, if an individual submits a FAP application for previously provided care during the application period, the hospital facility must process the application on an expedited basis, to ensure that medically necessary care is not unnecessarily delayed.

In the case of the ECA involving the deferral or denial of care, the final regulations also provide an exception to the general rule that reasonable efforts to determine FAP-eligibility ordinarily will require a hospital to wait at least 120 days after the first post-discharge bill before initiating ECAs. Under the exception, a hospital facility may defer or deny (or require payment before providing) medically necessary care [12] because of an individual's nonpayment of one or more bills for previously provided care even though such deferral or denial (or payment requirement) is within 120 days of the first post-discharge bill for the previously provided care. Without such an exception in the final regulations, hospital facilities would effectively be required to provide medically necessary care to individuals with past due bills when these individuals are seeking care within 120 days of the first post-discharge bill.

The Treasury Department and the IRS note that the modified reasonable efforts to determine FAP-eligibility discussed in this section 6.b.vii of the preamble would not be necessary if a hospital facility had already determined whether the individual was FAP-eligible for the previously provided care at issue based on a complete FAP application or had presumptively determined the individual was FAP-eligible for the previously provided care as described in section 6.b.vi of this preamble. The modified reasonable efforts would also not be needed in cases in which 120

[12] With respect to deferring or denying (or requiring payment before providing) emergency medical care, in particular, hospital organizations are separately subject to the requirements under Subchapter G of Chapter IV of Title 42 of the Code of Federal Regulations, which includes the regulations under EMTALA, and the emergency medical care policy they adopt to meet the requirements of section 501(r)(4)(B) (as discussed in section 4.b of this preamble).

days had passed since the first post-discharge bill for the previously provided care, and the hospital facility had already notified the individual about intended ECAs as described in section 6.b.iii of this preamble.

viii. Agreements With Other Parties

The 2012 proposed regulations provided that if a hospital facility refers or sells an individual's debt to another party during the application period, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible only if it first obtains a legally binding written agreement from the other party to abide by certain specified requirements. The 2012 proposed regulations requested comments regarding the feasibility of this rule. Commenters who responded to this request for comments generally indicated that imposing such contractual obligations on debt collection agencies or debt buyers was not especially unusual or unworkable, and, thus, the Treasury Department and the IRS adopt the provisions of the 2012 proposed regulations with only minor clarifying revisions that are not intended to be substantive changes. In the event a hospital facility does sell or refer an individual's debt and the debt buyer or collection agent takes one or more of the steps required to have made reasonable efforts to determine whether the individual is FAP-eligible, the final regulations also clarify the hospital facility will be treated as having taken those steps for purposes of making reasonable efforts under section 501(r)(6).

7. Section 501(r) and State Law Requirements

Numerous commenters noted that their states already had laws in effect covering some or most of the same subject matter as the requirements described in §§ 1.501(r)–3 through 1.501(r)–6 of the proposed regulations and argued that requiring compliance with the section 501(r) regulations in addition to what hospitals are already required to do under state law would create unnecessary duplication of effort and administrative burden. Others went further and argued that the requirements described in §§ 1.501(r)–3 through 1.501(r)–6 of the proposed regulations conflicted or were inconsistent with certain state law requirements. Areas of inconsistency noted by commenters included the timing and content of notices that must be provided to patients, rules regarding the limitations on charges, and the periods of time during which the hospital facilities must wait to commence certain collection actions. Most of these commenters recommended that a hospital facility should be deemed to have complied with the section 501(r) requirements if it complies with the relevant state law(s) applicable to it. On the other hand, some commenters asked the Treasury Department and the IRS to clarify that nothing in the proposed regulations will preempt state laws that contain additional or more stringent requirements.

Given the wide variation among state laws covering some of the same subject matter as section 501(r), providing that compliance with section 501(r) requires only compliance with the applicable state law would result in widely divergent rules for charitable hospitals in different states. A rule equating compliance with state law to compliance with section 501(r) would also mean that IRS revenue agents assessing section 501(r) compliance would need to learn each state's laws or that the state office responsible for enforcing the particular state law would have to confirm a hospital facility's compliance with the relevant state law in each taxable year under audit.

More importantly, the language in many of the state laws cited by commenters as analogous does not match the statutory language in section 501(r)—for example, by not including concepts such as AGB, ECAs, or ''reasonable efforts'' to determine FAP-eligibility or by requiring CHNAs every five years as opposed to every three years. In these cases, simply deeming compliance with state law to result in compliance with section 501(r) would be inconsistent with the statutory language under section 501(r).

While many of the requirements in the state laws cited by commenters do not match the provisions in the 2012 or 2013 proposed regulations and while some state laws might require more or less of hospital facilities than the comparable provision in the proposed regulations, commenters failed to cite any state laws that conflict with the proposed regulations in a way that would make it impossible for a hospital facility to comply with both the state and the federal requirement. For example, although some state laws set forth a limitation on charges that is different from the limit that would result from the AGB methods described in the 2012 proposed regulations, none of the state laws identified by commenters prohibit hospital facilities from charging FAP-eligible individuals less than the state law limit. Similarly, AGB under section 501(r)(5) is only a maximum amount that hospital facilities can charge FAP-eligible individuals, and hospital facilities are free to provide more generous discounts in their FAPs (including free care). As a result, hospital facilities are always free to charge the lesser of AGB or a limitation on charges imposed by state law or to establish a uniform discount that will always fall below both the state and federal maximum charges. Similarly, the periods of time during which hospital facilities must wait to commence certain collection activities in both the 2012 proposed regulations and certain state laws cited by commenters are minimum periods, and a hospital facility is always free to wait for the longer of the two applicable periods without violating either section 501(r)(6) or state law requirements.

Accordingly, the final regulations do not contain any provisions equating compliance with one or more requirements in applicable state law to compliance with one or more of the requirements in the final regulations. In addition, the final regulations are not intended to preempt any state laws or regulations, and the Treasury Department and the IRS expect that any additional or stricter requirements under a state's laws or regulations will continue to apply to hospital facilities licensed in that state.

8. Reporting Requirements Related to CHNAs

The final regulations state, consistent with the statute and the 2013 proposed regulations, that a hospital organization must provide with its Form 990 a description of how it is addressing the community health needs identified for each facility it operates, its audited financial statements, and the amount of the excise tax imposed on the organization under section 4959 during the taxable year.

a. Description of How Community Health Needs Are Being Addressed

In accordance with section 6033(b)(15)(A), the 2013 proposed regulations required a hospital organization to furnish annually on its Form 990 a description of the actions taken during the taxable year to address the significant health needs identified through its most recently conducted CHNA, or, if no actions were taken with respect to one or more of those health needs, the reasons no actions were taken. Numerous commenters expressed support for this requirement to annually furnish a description of how a hospital facility is addressing health needs identified through a CHNA, with some commenters stating that it increases transparency and accountability and would provide written documentation

of progress over time. Other commenters stated that the annual updates would be burdensome and duplicative, given that the 2013 proposed regulations also required hospital facilities to attach to their Forms 990 their most recently adopted implementation strategies (or provide the URL where the implementation strategies are made widely available on a Web site).

As discussed in section 3.b of this preamble, it is true that a hospital facility's implementation strategy must describe, with respect to each significant health need identified through the CHNA, how the hospital facility plans to address the health need or why the hospital facility does not intend to address the health need. However, as noted in the preamble to the 2013 proposed regulations, section 6033(b)(15)(A) contemplates an annual furnishing of information regarding how a hospital facility is actually addressing needs identified through a CHNA each year, while an implementation strategy is a plan for addressing these needs that only has to be updated every three years. Accordingly, the final regulations retain the requirement that hospital facilities annually furnish information on their Form 990s about how they are addressing the significant health needs identified through their CHNAs.

b. Audited Financial Statements

The 2013 proposed regulations reiterated the requirement of section 6033(b)(15)(B) that a hospital organization attach to its Form 990 a copy of its audited financial statements for the taxable year—or, in the case of an organization the financial statements of which are included in consolidated financial statements with other organizations, such consolidated financial statements. In the preamble to the 2013 proposed regulations, the Treasury Department and the IRS requested comments regarding whether hospital organizations whose financial statements are included in consolidated financial statements should be able to redact financial information about any taxable organizations that are members of the consolidated group.

Two commenters stated that information about taxable organizations should be redacted from publicly available financial statements without further elaboration while another commenter stated that the information provided on the Form 990 should be as detailed as possible to keep tax-exempt hospitals accountable. Consolidated financial statements are fully integrated, making redaction of one particular organization's financial information difficult. The few comments received did not provide any explanation as to how such redactions could be accomplished without compromising the clarity of the statement. Accordingly, the final regulations adopt the proposed requirement without change.

c. Reporting Requirements for Government Hospital Organizations

A number of commenters have asked whether and how government hospital organizations can satisfy the reporting requirements related to CHNAs, since they are excused from filing a Form 990 under Rev. Proc. 95–48. As noted in the preamble to the 2013 proposed regulations, the Affordable Care Act did not change the requirements regarding which organizations are required to file a Form 990. Accordingly, a government hospital organization (other than one that is described in section 509(a)(3)) that has been excused from filing a Form 990 under Rev. Proc. 95–48 or a successor revenue procedure is not required to file a Form 990. Because government hospital organizations described in Rev. Proc. 95–48 are relieved from the annual filing requirements under section 6033, they are also relieved from any new reporting requirements imposed on hospital organizations under section 6033, including under section 6033(b)(10)(D) and (b)(15) and the requirement to attach one or more implementation strategies to a Form 990. However, to be treated as described in section 501(c)(3), government hospital organizations still must meet all section 501(r) requirements that do not involve disclosure on or with the Form 990, including making their CHNA reports and FAPs widely available on a Web site.

9. Excise Tax on Failure To Meet CHNA Requirements

Section 4959 imposes a $50,000 excise tax on a hospital organization that fails to meet the CHNA requirements with respect to any taxable year. The 2013 proposed regulations provided that the excise tax applies on a facility-by-facility basis and may be imposed on a hospital organization for each taxable year that a hospital facility fails to meet the section 501(r)(3) requirements.

One commenter suggested that the full $50,000 excise tax should apply only in instances where a hospital facility fails to conduct a CHNA altogether, with a sliding scale of tax applied to organizations that conduct a CHNA but fail to substantially comply with all of the CHNA requirements. Another commenter suggested applying the $50,000 excise tax separately for each failure of a hospital facility to meet each component of the section 501(r)(3) requirements.

Section 4959 applies the $50,000 excise tax to a hospital organization that fails to meet the requirements of section 501(r)(3) for any taxable year. Section 501(r)(3) requires that, in conducting a CHNA, a hospital must take into account input from persons who represent the broad interests of the community, make the CHNA widely available to the public, and adopt an implementation strategy to meet the needs identified through the CHNA. Section 4959 appears to provide for one $50,000 excise tax if a hospital facility fails one or any combination of those components of satisfying section 501(r)(3). It does not appear to provide for either a separate $50,000 excise tax for each component or a tax of less than $50,000 if a hospital facility fails some, but not all, of those components. Thus, the final regulations do not adopt these commenters' suggestions.

However, as discussed in section 2.b of this preamble, a hospital facility's omission or error with respect to the CHNA requirements will not be considered a failure to meet the CHNA requirements if the omission or error was minor and either inadvertent or due to reasonable cause and the hospital facility corrects the omission or error in accordance with § 1.501(r)–2(b)(1)(ii). If, as a result of this rule, an omission or error with respect to the CHNA requirements is not considered a failure to meet the CHNA requirements, the omission or error will not give rise to a $50,000 excise tax under section 4959.[13]

10. Requirement of a Section 4959 Excise Tax Return and Time for Filing the Return

Final and temporary regulations and a cross-reference notice of proposed rulemaking published on August 15, 2013, amended the existing regulations under sections 6011 and 6071 to require hospital organizations liable for the excise tax imposed by section 4959 in any taxable year to file Form 4720 by the 15th day of the fifth month after the end of the taxable year. No public comments were received on these amendments to sections 6011 and 6071. Therefore, these final regulations adopt the text of the temporary and proposed regulations without substantive change and remove the temporary regulations. The final regulations make one non-

[13] On the other hand, a hospital facility's failure to meet the CHNA requirements will give rise to the excise tax under section 4959 notwithstanding its correction and disclosure pursuant to the guidance described in section 2.c of this preamble.

substantive change by moving the content of § 53.6011–1T(c) into existing paragraph § 53.6011–1(b).

Effective/Applicability Dates

Numerous commenters requested a transition period for hospital facilities to come into compliance with the final regulations to provide adequate time for hospital facilities to make needed changes in personnel, policies, procedures, and information systems. Specific transition periods of six months and one year were recommended. Several commenters also requested that the final regulations clarify how hospital facilities' compliance with section 501(r) will be assessed for the period between the date section 501(r) was enacted (March 23, 2010) and the date the final regulations are applicable.

In response to these comments, the final regulations under section 501(r) apply to a hospital facility's taxable years beginning after December 29, 2015, which will give all hospital facilities at least a year to come into compliance with the final regulations. For taxable years beginning on or before December 29, 2015, the final regulations provide that a hospital facility may rely on a reasonable, good faith interpretation of section 501(r). A hospital facility will be deemed to have operated in accordance with a reasonable, good faith interpretation of section 501(r) if it has complied with the provisions of the 2012 and/or 2013 proposed regulations or these final regulations.

The final regulations under sections 4959 and 6033 either clarify or confirm compliance with statutory requirements that are already in effect and therefore do not require a transition period. Thus, the final regulations under section 4959 apply on and after December 29, 2014, and the final regulations under section 6033 apply to returns filed on or after December 29, 2014.

The temporary regulations under section 6071 have applied since August 15, 2013, and this Treasury decision adopts the proposed regulations that cross-referenced the text of those temporary regulations without substantive change. Thus, the final regulations under section 6071 apply on and after August 15, 2013.

Availability of IRS Documents

IRS notices, revenue rulings, and revenue procedures cited in this preamble are made available by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Effect on Other Documents

The following publication is obsolete as of December 29, 2014: Notice 2014–2 (2014–3 IRB 1).

Special Analyses

It has been determined that this rule is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to the final regulations. It is hereby certified the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. The collection of information is in § 1.501(r)–3, § 1.501(r)–4, § 1.501(r)–6(c), § 1.6033–2(a)(2)(ii)(*l*), § 53.6011–1, and § 53.6071–1 of the regulations. The certification is based on the following:

Consistent with the requirements imposed by section 501(r)(3), § 1.501(r)–3 of the regulations requires hospital facilities to conduct a CHNA and adopt an implementation strategy. However, these requirements need only be satisfied once over a period of three taxable years. Moreover, some hospital facilities already conduct similar community needs assessments under state law, and the Treasury Department and the IRS expect that these facilities will be able to draw upon pre-existing processes and resources to some extent. In addition, section 501(r)(3) itself already requires a hospital facility to conduct and widely publicize a CHNA that takes into account input of persons representing the broad interests of the community and to adopt an implementation strategy, so much of the collection of information burden associated with CHNAs is imposed by statute, not by these regulations.

Consistent with the requirements imposed by section 501(r)(4), § 1.501(r)–4 of the regulations requires hospital facilities to establish two written policies—a financial assistance policy (FAP) and an emergency medical care policy—but much of the work involved in putting such policies into writing will be performed once, with updates made periodically thereafter. Moreover, while hospital facilities may need to periodically modify these policies to reflect changed circumstances, the proposed regulations attempt to minimize that ongoing burden by giving hospital facilities the option of providing certain information separately from the policy, as long as the policy explains how members of the public can readily obtain this information free of charge. In addition, section 501(r)(4) itself already requires a hospital facility to establish a FAP that includes eligibility criteria and other specified elements and an emergency medical care policy, so much of the collection of information burden associated with these policies is imposed by statute, not by regulations.

In addition, as a general matter, §§ 1.501(r)–4(b)(5) and 1.501(r)–6(c) of the regulations, which, respectively, describe how a hospital facility widely publicizes its FAP and makes reasonable efforts to determine eligibility for assistance under its FAP, are designed to ensure that a hospital facility can meet these requirements by providing basic information about its FAP using pre-existing processes (such as the issuance of billing statements) and resources (such as its Web site and physician networks) in providing this information.

The applicability date under the final regulations also gives all hospital facilities at least one year to come into compliance with all of the final regulations under section 501(r).

Consistent with the requirements imposed by section 6033(b)(15), § 1.6033–2(a)(2)(ii)(*l*) of the regulations requires affected organizations to report annually on a Form 990 actions taken during the year to address community health needs and to attach audited financial statements to the Form 990. To assist the IRS and the public, the regulations also require affected organizations to attach to the Form 990 a copy of the most recently adopted implementation strategy or provide the URL of a Web page where it is available to the public. For affected organizations, the burden of providing either a copy of the implementation strategy or the address of a Web site where it can be found will be minimal. Consequently, the regulations under section 6033 do not add significantly to the impact on small entities imposed by the statutory scheme.

Sections 53.6011–1 and 53.6071–1 of the regulations merely provide guidance as to the timing and filing of Form 4720 for charitable hospital organizations liable for the section 4959 excise tax, and completing the applicable portion (Schedule M) of the Form 4720 for this purpose imposes little incremental burden in time or expense. The liability for the section 4959 excise tax is imposed by statute, and not these regulations. In addition, a charitable hospital organization may already be required to file the Form 4720 under the existing final regulations in §§ 53.6011–

1 and 53.6071–1 if it is liable for another Chapter 41 or 42 excise tax.

For these reasons, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the 2012 and 2013 proposed regulations (as well the cross-reference notice of proposed rulemaking under sections 6011 and 6071) preceding these final regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small entities and no comments were received.

Drafting Information

The principal authors of these final regulations are Preston J. Quesenberry, Amy F. Giuliano, Amber L. MacKenzie, and Stephanie N. Robbins, Office of the Chief Counsel (Tax-Exempt and Government Entities). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 53

Excise taxes, Foundations, Investments, Lobbying, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendment to the Regulations

Accordingly, 26 CFR parts 1, 53, and 602 are amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.501(r)–0 is added to read as follows:

§ 1.501(r)–0 Outline of regulations.

This section lists the table of contents for §§ 1.501(r)–1 through 1.501(r)–7.

§ 1.501(r)–1 Definitions.

(a) Application.
(b) Definitions.
(1) Amounts generally billed (AGB).
(2) AGB percentage.
(3) Application period.
(4) Authorized body of a hospital facility.
(5) Billing and collections policy.
(6) Date provided.
(7) Discharge.
(8) Disregarded entity.
(9) Emergency medical care.
(10) Emergency medical conditions.
(11) Extraordinary collection action (ECA).
(12) Financial assistance policy (FAP).
(13) FAP application.
(14) FAP application form.
(15) FAP-eligible.
(16) Gross charges.
(17) Hospital facility.
(18) Hospital organization.
(19) Medicaid.
(20) Medicare fee-for-service.
(21) Noncompliant facility income.
(22) Operating a hospital facility.
(23) Partnership agreement.
(24) Plain language summary of the FAP.
(25) Presumptive FAP-eligibility determination.
(26) Private health insurer.
(27) Referring.
(28) Substantially-related entity.
(29) Widely available on a Web site.

§ 1.501(r)–2 Failures to satisfy section 501(r).

(a) Revocation of section 501(c)(3) status.
(b) Minor omissions and errors.
(1) In general.
(2) Minor.
(3) Inadvertent.
(4) Reasonable cause.
(c) Excusing certain failures if hospital facility corrects and discloses.
(d) Taxation of noncompliant hospital facilities.
(1) In general.
(2) Noncompliant facility income.
(3) No aggregation.
(4) Interaction with other Code provisions.
(e) Instances in which a hospital organization is not required to meet section 501(r).

§ 1.501(r)–3 Community health needs assessments.

(a) In general.
(b) Conducting a CHNA.
(1) In general.
(2) Date a CHNA is conducted.
(3) Community served by a hospital facility.
(4) Assessing community health needs.
(5) Persons representing the broad interests of the community.
(6) Documentation of a CHNA.
(7) Making the CHNA report widely available to the public.
(c) Implementation strategy.
(1) In general.
(2) Description of how the hospital facility plans to address a significant health need.
(3) Description of why a hospital facility is not addressing a significant health need.
(4) Joint implementation strategies.
(5) When the implementation strategy must be adopted.
(d) Exception for acquired, new, and terminated hospital facilities.
(1) Acquired hospital facilities.
(2) New hospital organizations.
(3) New hospital facilities.
(4) Transferred or terminated hospital facilities.
(e) Transition rule for CHNAs conducted in taxable years beginning before March 23, 2012.

§ 1.501(r)–4 Financial assistance policy and emergency medical care policy.

(a) In general.
(b) Financial assistance policy.
(1) In general.
(2) Eligibility criteria and basis for calculating amounts charged to patients.
(3) Method for applying for financial assistance.
(4) Actions that may be taken in the event of nonpayment.
(5) Widely publicizing the FAP.
(6) Readily obtainable information.
(7) Providing documents electronically.
(8) Medically necessary care.
(c) Emergency medical care policy.
(1) In general.
(2) Interference with provision of emergency medical care.
(3) Relation to federal law governing emergency medical care.
(4) Examples.
(d) Establishing the FAP and other policies.
(1) In general.
(2) Implementing a policy.
(3) Establishing a policy for more than one hospital facility.

§ 1.501(r)–5 Limitation on charges.

(a) In general.
(b) Amounts generally billed.
(1) In general.
(2) Meaning of charged.
(3) Look-back method.
(4) Prospective Medicare or Medicaid method.
(5) Examples.
(c) Gross charges.
(d) Safe harbor for certain charges in excess of AGB.
(e) Medically necessary care.

§ 1.501(r)–6 Billing and collection.

(a) In general.
(b) Extraordinary collection actions.
(1) In general.
(2) Certain debt sales that are not ECAs.
(3) Liens on certain judgments, settlements, or compromises.

(4) Bankruptcy claims.
(c) Reasonable efforts.
(1) In general.
(2) Presumptive FAP-eligibility determinations based on third-party information or prior FAP-eligibility determinations.
(3) Reasonable efforts based on notification and processing of applications.
(4) Notification.
(5) Incomplete FAP applications.
(6) Complete FAP applications.
(7) When no FAP application is submitted.
(8) Suspending ECAs while a FAP application is pending.
(9) Waiver does not constitute reasonable efforts.
(10) Agreements with other parties.
(11) Clear and conspicuous placement.
(12) Providing documents electronically.

§ 1.501(r)–7 Effective/applicability dates.

(a) Effective/applicability date.
(b) Reasonable interpretation for taxable years beginning on or before December 29, 2015.

■ **Par. 3.** Sections 1.501(r)–1 through 1.501(r)–7 are added to read as follows:

§ 1.501(r)–1 Definitions.

(a) *Application.* The definitions set forth in this section apply to §§ 1.501(r)–2 through 1.501(r)–7.

(b) *Definitions*—(1) *Amounts generally billed* (*AGB*) means the amounts generally billed for emergency or other medically necessary care to individuals who have insurance covering such care, determined in accordance with § 1.501(r)–5(b).

(2) *AGB percentage* means a percentage of gross charges that a hospital facility uses under § 1.501(r)–5(b)(3) to determine the AGB for any emergency or other medically necessary care it provides to an individual who is eligible for assistance under its financial assistance policy (FAP).

(3) *Application period* means the period during which a hospital facility must accept and process an application for financial assistance under its FAP submitted by an individual in order to have made reasonable efforts to determine whether the individual is FAP-eligible under § 1.501(r)–6(c). A hospital facility may accept and process an individual's FAP application submitted outside of the application period. With respect to any care provided by a hospital facility to an individual, the application period begins on the date the care is provided and ends on the later of the 240th day after the date that the first post-discharge billing statement for the care is provided or either—

(i) In the case of an individual who the hospital facility is notifying as described in § 1.501(r)–6(c)(4), the deadline specified by a written notice described in § 1.501(r)–6(c)(4); or

(ii) In the case of an individual who the hospital facility has presumptively determined to be eligible for less than the most generous assistance available under the FAP as described in § 1.501(r)–6(c)(2), the end of the reasonable period of time described in § 1.501(r)–6(c)(2)(i)(B).

(4) *Authorized body of a hospital facility* means—

(i) The governing body (that is, the board of directors, board of trustees, or equivalent controlling body) of the hospital organization that operates the hospital facility or a committee of, or other party authorized by, that governing body to the extent such committee or other party is permitted under state law to act on behalf of the governing body; or

(ii) The governing body of an entity that is disregarded or treated as a partnership for federal tax purposes that operates the hospital facility or a committee of, or other party authorized by, that governing body to the extent such committee or other party is permitted under state law to act on behalf of the governing body.

(5) *Billing and collections policy* means a written policy that includes all of the elements described in § 1.501(r)–4(b)(4)(i).

(6) *Date provided* means, in the case of any billing statement, written notice, or other written communication that is mailed, the date of mailing. The date that a billing statement, written notice, or other written communication is provided can also be the date such communication is sent electronically or delivered by hand.

(7) *Discharge* means to release from a hospital facility after the care at issue has been provided, regardless of whether that care has been provided on an inpatient or outpatient basis. Thus, a billing statement for care is considered ''post-discharge'' if it is provided to an individual after the care has been provided and the individual has left the hospital facility.

(8) *Disregarded entity* means an entity that is generally disregarded as separate from its owner for federal tax purposes under § 301.7701–3 of this chapter. One example of a disregarded entity is a domestic single member limited liability company that does not elect to be classified as an association taxable as a corporation for federal tax purposes.

(9) *Emergency medical care* means care provided by a hospital facility for emergency medical conditions.

(10) *Emergency medical conditions* means emergency medical conditions as defined in section 1867 of the Social Security Act (42 U.S.C. 1395dd).

(11) *Extraordinary collection action* (*ECA*) means an action described in § 1.501(r)–6(b)(1).

(12) *Financial assistance policy* (*FAP*) means a written policy that meets the requirements described in § 1.501(r)–4(b).

(13) *FAP application* means the information and accompanying documentation that an individual submits to apply for financial assistance under a hospital facility's FAP. An individual is considered to have submitted a complete FAP application if he or she provides information and documentation sufficient for the hospital facility to determine whether the individual is FAP-eligible and an incomplete FAP application if he or she provides some, but not sufficient, information and documentation to determine FAP-eligibility. The term ''FAP application'' does not refer only to written submissions, and a hospital facility may obtain information from an individual in writing or orally (or a combination of both).

(14) *FAP application form* means the application form (and any accompanying instructions) that a hospital facility makes available for individuals to submit as part of a FAP application.

(15) *FAP-eligible* means eligible for financial assistance under a hospital facility's FAP for care covered by the FAP, without regard to whether an individual has applied for assistance under the FAP.

(16) *Gross charges,* or the *chargemaster rate,* means a hospital facility's full, established price for medical care that the hospital facility consistently and uniformly charges patients before applying any contractual allowances, discounts, or deductions.

(17) *Hospital facility* means a facility that is required by a state to be licensed, registered, or similarly recognized as a hospital. Multiple buildings operated under a single state license are considered to be a single hospital facility. For purposes of this paragraph (b)(17), the term ''state'' includes only the 50 states and the District of Columbia and not any U.S. territory or foreign country. References to a hospital facility taking actions include instances in which the hospital organization operating the hospital facility takes actions through or on behalf of the hospital facility.

(18) *Hospital organization* means an organization recognized (or seeking to be recognized) as described in section 501(c)(3) that operates one or more hospital facilities. If the section 501(c)(3) status of such an organization is revoked, the organization will, for purposes of section 4959, continue to be treated as a hospital organization during the taxable year in which such revocation becomes effective.

(19) *Medicaid* means any medical assistance program administered by the state in which a hospital facility is licensed in accordance with Title XIX of the Social Security Act (42 U.S.C. 1396 through 1396w–5), including programs in which such medical assistance is provided through a contract between the state and a Medicaid managed care organization or a prepaid inpatient health plan.

(20) *Medicare fee-for-service* means health insurance available under Medicare Part A and Part B of Title XVIII of the Social Security Act (42 U.S.C. 1395c through 1395w–5).

(21) *Noncompliant facility income* means income that a hospital organization operating more than one hospital facility derives from a hospital facility that fails to meet one or more of the requirements of section 501(r) during a taxable year as determined in accordance with § 1.501(r)–2(d).

(22) *Operating a hospital facility*—(i) *In general.* Operating a hospital facility includes operating the facility through the organization's own employees or contracting out to another organization to operate the facility. For example, if an organization hires a management company to operate the facility, the hiring organization is considered to operate the facility. An organization also operates a hospital facility if it is the sole member or owner of a disregarded entity that operates the hospital facility. In addition, an organization operates a hospital facility if it owns a capital or profits interest in an entity treated as a partnership for federal tax purposes that operates the hospital facility, unless paragraph (b)(22)(ii) of this section applies. For purposes of this paragraph (b)(22), an organization is considered to own a capital or profits interest in an entity treated as a partnership for federal tax purposes if it owns such an interest directly or indirectly through one or more lower-tier entities treated as partnerships for federal tax purposes.

(ii) *Exception for certain partnerships.* An organization does not operate a hospital facility despite owning a capital or profits interest in an entity treated as a partnership for federal tax purposes that operates the hospital facility if—

(A) The organization does not have control over the operation of the hospital facility operated by the partnership sufficient to ensure that the operation of the hospital facility furthers an exempt purpose described in section 501(c)(3) and thus treats the operation of the hospital facility, including the facility's provision of medical care, as an unrelated trade or business described in section 513 with respect to the hospital organization; or

(B) At all times since March 23, 2010, the organization has been organized and operated primarily for educational or scientific purposes and has not engaged primarily in the operation of one or more hospital facilities and, pursuant to a partnership agreement entered into before March 23, 2010—

(*1*) Does not own more than 35 percent of the capital or profits interest in the partnership (determined in accordance with section 707(b)(3));

(*2*) Does not own a general partner interest, managing-member interest, or similar interest in the partnership; and

(*3*) Does not have control over the operation of the hospital facility sufficient to ensure that the hospital facility complies with the requirements of section 501(r).

(23) *Partnership agreement* means, for purposes of paragraph (b)(22)(ii)(B) of this section, all written agreements among the partners, or between one or more partners and the partnership and concerning affairs of the partnership and responsibilities of the partners, whether or not embodied in a document referred to by the partners as the partnership agreement. A partnership agreement also includes any modifications to the agreement agreed to by all partners, or adopted in any other manner provided by the partnership agreement, except for modifications adopted on or after March 23, 2010, that affect whether or not the agreement is described in paragraph (b)(22)(ii)(B) of this section. In addition, a partnership agreement includes provisions of federal, state, or local law that were in effect before March 23, 2010, and continue to be in effect that govern the affairs of the partnership or are considered under such law to be part of the partnership agreement.

(24) *Plain language summary of the FAP* means a written statement that notifies an individual that the hospital facility offers financial assistance under a FAP and provides the following additional information in language that is clear, concise, and easy to understand:

(i) A brief description of the eligibility requirements and assistance offered under the FAP.

(ii) A brief summary of how to apply for assistance under the FAP.

(iii) The direct Web site address (or URL) and physical locations where the individual can obtain copies of the FAP and FAP application form.

(iv) Instructions on how the individual can obtain a free copy of the FAP and FAP application form by mail.

(v) The contact information, including telephone number and physical location, of the hospital facility office or department that can provide information about the FAP and of either—

(A) The hospital facility office or department that can provide assistance with the FAP application process; or

(B) If the hospital facility does not provide assistance with the FAP application process, at least one nonprofit organization or government agency that the hospital facility has identified as an available source of assistance with FAP applications.

(vi) A statement of the availability of translations of the FAP, FAP application form, and plain language summary of the FAP in other languages, if applicable.

(vii) A statement that a FAP-eligible individual may not be charged more than AGB for emergency or other medically necessary care.

(25) *Presumptive FAP-eligibility determination* means a determination that an individual is FAP-eligible based on information other than that provided by the individual or based on a prior FAP-eligibility determination, as described in § 1.501(r)–6(c)(2).

(26) *Private health insurer* means any organization that is not a governmental unit that offers health insurance, including nongovernmental organizations administering a health insurance plan under Medicare Advantage (Part C of Title XVIII of the Social Security Act, 42 U.S.C. 1395w–21 through 1395w–29). For purposes of § 1.501(r)–5(b), medical assistance provided through a contract between the state and a Medicaid managed care organization or a prepaid inpatient health plan is not considered to be a reimbursement from or a claim allowed by a private health insurer.

(27) *Referring* an individual's debt to a debt collection agency or other party means contracting with, delegating to, or otherwise using the debt collection agency or other party to collect amounts owed by the individual to the hospital facility while still maintaining ownership of the debt.

(28) *Substantially-related entity* means, with respect to a hospital facility operated by a hospital organization, an entity treated as a partnership for

federal tax purposes in which the hospital organization owns a capital or profits interest, or a disregarded entity of which the hospital organization is the sole member or owner, that provides emergency or other medically necessary care in the hospital facility, unless the provision of such care is an unrelated trade or business described in section 513 with respect to the hospital organization. Notwithstanding the preceding sentence, a partnership that qualifies for the exception described in paragraph (b)(22)(ii)(B) of this section is not considered a substantially-related entity within the meaning of this paragraph (b)(28).

(29) *Widely available on a Web site* means—

(i) The hospital facility conspicuously posts a complete and current version of the document on—

(A) The hospital facility's Web site;

(B) If the hospital facility does not have its own Web site separate from the hospital organization that operates it, the hospital organization's Web site; or

(C) A Web site established and maintained by another entity, but only if the Web site of the hospital facility or hospital organization (if the facility or organization has a Web site) provides a conspicuously-displayed link to the Web page where the document is posted, along with clear instructions for accessing the document on that Web site;

(ii) Individuals with access to the Internet can access, download, view, and print a hard copy of the document from the Web site—

(A) Without requiring special computer hardware or software (other than software that is readily available to members of the public without payment of any fee);

(B) Without paying of a fee to the hospital facility, hospital organization, or other entity maintaining the Web site; and

(C) Without creating an account or being otherwise required to provide personally identifiable information; and

(iii) The hospital facility provides individuals who ask how to access a copy of the document online with the direct Web site address, or URL, of the Web page where the document is posted.

§ 1.501(r)–2 Failures to satisfy section 501(r).

(a) *Revocation of section 501(c)(3) status.* Except as otherwise provided in paragraphs (b) and (c) of this section, a hospital organization failing to meet one or more of the requirements of section 501(r) separately with respect to one or more hospital facilities it operates may have its section 501(c)(3) status revoked as of the first day of the taxable year in which the failure occurs. In determining whether to continue to recognize the section 501(c)(3) status of a hospital organization that fails to meet one or more of the requirements of section 501(r) with respect to one or more hospital facilities, the Commissioner will consider all relevant facts and circumstances including, but not limited to, the following:

(1) Whether the organization has previously failed to meet the requirements of section 501(r), and, if so, whether the same type of failure previously occurred.

(2) The size, scope, nature, and significance of the organization's failure(s).

(3) In the case of an organization that operates more than one hospital facility, the number, size, and significance of the facilities that have failed to meet the section 501(r) requirements relative to those that have complied with these requirements.

(4) The reason for the failure(s).

(5) Whether the organization had, prior to the failure(s), established practices or procedures (formal or informal) reasonably designed to promote and facilitate overall compliance with the section 501(r) requirements.

(6) Whether the practices or procedures had been routinely followed and the failure(s) occurred through an oversight or mistake in applying them.

(7) Whether the organization has implemented safeguards that are reasonably calculated to prevent similar failures from occurring in the future.

(8) Whether the organization corrected the failure(s) as promptly after discovery as is reasonable given the nature of the failure(s).

(9) Whether the organization took the measures described in paragraphs (a)(7) and (a)(8) of this section before the Commissioner discovered the failure(s).

(b) *Minor omissions and errors*—(1) *In general.* A hospital facility's omission of required information from a policy or report described in § 1.501(r)–3 or § 1.501(r)–4, or error with respect to the implementation or operational requirements described in §§ 1.501(r)–3 through 1.501(r)–6, will not be considered a failure to meet a requirement of section 501(r) if the following conditions are satisfied:

(i) Such omission or error was minor and either inadvertent or due to reasonable cause.

(ii) The hospital facility corrects such omission or error as promptly after discovery as is reasonable given the nature of the omission or error. Such correction must include establishment (or review and, if necessary, revision) of practices or procedures (formal or informal) that are reasonably designed to promote and facilitate overall compliance with the requirements of section 501(r).

(2) *Minor.* In the case of multiple omissions or errors, the omissions or errors are considered minor for purposes of this paragraph (b) only if they are minor in the aggregate.

(3) *Inadvertent.* For purposes of this paragraph (b), the fact that the same omission or error has been made and corrected previously is a factor tending to show that an omission or error is not inadvertent.

(4) *Reasonable cause.* For purposes of this paragraph (b), the fact that a hospital facility has established practices or procedures (formal or informal) reasonably designed to promote and facilitate overall compliance with the section 501(r) requirements prior to the occurrence of an omission or error is a factor tending to show that the omission or error is due to reasonable cause.

(c) *Excusing certain failures if hospital facility corrects and discloses.* A hospital facility's failure to meet one or more of the requirements described in §§ 1.501(r)–3 through 1.501(r)–6 that is neither willful nor egregious shall be excused for purposes of this section if the hospital facility corrects and makes disclosure in accordance with rules set forth by revenue procedure, notice, or other guidance published in the Internal Revenue Bulletin. For purposes of this paragraph (c), a ''willful'' failure includes a failure due to gross negligence, reckless disregard, or willful neglect, and an ''egregious'' failure includes only very serious failures, taking into account the severity of the impact and the number of affected persons. Whether a failure is willful or egregious will be determined based on all of the facts and circumstances. A hospital facility's correction and disclosure of a failure in accordance with the relevant guidance is a factor tending to show that the failure was not willful.

(d) *Taxation of noncompliant hospital facilities*—(1) *In general.* Except as otherwise provided in paragraphs (b) and (c) of this section, if a hospital organization that operates more than one hospital facility fails to meet one or more of the requirements of section 501(r) separately with respect to a hospital facility during a taxable year, the income derived from the noncompliant hospital facility (''noncompliant facility income'') during that taxable year will be subject

to tax computed as provided in section 11 (or as provided in section 1(e) if the hospital organization is a trust described in section 511(b)(2)), but substituting the term ''noncompliant facility income'' for ''taxable income,'' if—

(i) The hospital organization continues to be recognized as described in section 501(c)(3) during the taxable year; but

(ii) The hospital organization would not continue to be recognized as described in section 501(c)(3) during the taxable year based on the facts and circumstances described in paragraph (a) of this section (but disregarding paragraph (a)(3) of this section) if the noncompliant hospital facility were the only hospital facility operated by the organization.

(2) *Noncompliant facility income*—(i) *In general.* For purposes of this paragraph (d), the noncompliant facility income derived from a hospital facility during a taxable year will be the gross income derived from that hospital facility during the taxable year, less the deductions allowed by chapter 1 that are directly connected to the operation of that hospital facility during the taxable year, excluding any gross income and deductions taken into account in computing any unrelated business taxable income described in section 512 that is derived from the facility during the taxable year.

(ii) *Directly connected deductions.* For purposes of this paragraph (d), to be directly connected with the operation of a hospital facility that has failed to meet the requirements of section 501(r), an item of deduction must have proximate and primary relationship to the operation of the hospital facility. Expenses, depreciation, and similar items attributable solely to the operation of a hospital facility are proximately and primarily related to such operation, and therefore qualify for deduction to the extent that they meet the requirements of section 162, section 167, or other relevant provisions of the Internal Revenue Code (Code). Where expenses, depreciation, and similar items are attributable to a noncompliant hospital facility and other hospital facilities operated by the hospital organization (and/or to other activities of the hospital organization unrelated to the operation of hospital facilities), such items shall be allocated among the hospital facilities (and/or other activities) on a reasonable basis. The portion of any such item so allocated to a noncompliant hospital facility is proximately and primarily related to the operation of that facility and shall be allowable as a deduction in computing the facility's noncompliant facility income in the manner and to the extent it would meet the requirements of section 162, section 167, or other relevant provisions of the Code.

(3) *No aggregation.* In computing the noncompliant facility income of a hospital facility, the gross income from (and the deductions allowed with respect to) the hospital facility may not be aggregated with the gross income from (and the deductions allowed with respect to) the hospital organization's other noncompliant hospital facilities subject to tax under this paragraph (d) or its unrelated trade or business activities described in section 513.

(4) *Interaction with other Code provisions*—(i) *Hospital organization operating a noncompliant hospital facility continues to be treated as tax-exempt.* A hospital organization operating a noncompliant hospital facility subject to tax under this paragraph (d) shall continue to be treated as an organization that is exempt from tax under section 501(a) because it is described in section 501(c)(3) for all purposes of the Code. In addition, the application of this paragraph (d) shall not, by itself, result in the operation of the noncompliant hospital facility being considered an unrelated trade or business described in section 513 with respect to the hospital organization. Thus, for example, the application of this paragraph (d) shall not, by itself, affect the tax-exempt status of bonds issued to finance the noncompliant hospital facility.

(ii) *Noncompliant hospital facility operated by a tax-exempt hospital organization is subject to tax.* A noncompliant hospital facility described in paragraph (d)(1) of this section is subject to tax under this paragraph (d), notwithstanding the fact that the hospital organization operating the hospital facility is otherwise exempt from tax under section 501(a) and subject to tax under section 511(a) and that § 1.11–1(a) of this chapter states such organizations are not liable for the tax imposed under section 11.

(iii) *Noncompliant hospital facility not a business entity.* A noncompliant hospital facility subject to tax under this paragraph (d) is not considered a business entity for purposes of § 301.7701–2(b)(7) of this chapter.

(e) *Instances in which a hospital organization is not required to meet section 501(r).* A hospital organization is not required to meet the requirements of section 501(r) (and, therefore, is not subject to any consequence described in this section for failing to meet the requirements of section 501(r)) with respect to—

(1) Any hospital facility it is not ''operating'' within the meaning of § 1.501(r)–1(b)(22);

(2) The operation of a facility that is not required by a state to be licensed, registered, or similarly recognized as a hospital; or

(3) Any activities that constitute an unrelated trade or business described in section 513 with respect to the hospital organization.

§ 1.501(r)–3 Community health needs assessments.

(a) *In general.* With respect to any taxable year, a hospital organization meets the requirements of section 501(r)(3) with respect to a hospital facility it operates only if—

(1) The hospital facility has conducted a community health needs assessment (CHNA) that meets the requirements of paragraph (b) of this section in such taxable year or in either of the two taxable years immediately preceding such taxable year (except as provided in paragraph (d) of this section); and

(2) An authorized body of the hospital facility (as defined in § 1.501(r)–1(b)(4)) has adopted an implementation strategy to meet the community health needs identified through the CHNA, as described in paragraph (c) of this section, on or before the 15th day of the fifth month after the end of such taxable year.

(b) *Conducting a CHNA*—(1) *In general.* To conduct a CHNA for purposes of paragraph (a) of this section, a hospital facility must complete all of the following steps:

(i) Define the community it serves.

(ii) Assess the health needs of that community.

(iii) In assessing the health needs of the community, solicit and take into account input received from persons who represent the broad interests of that community, including those with special knowledge of or expertise in public health.

(iv) Document the CHNA in a written report (CHNA report) that is adopted for the hospital facility by an authorized body of the hospital facility.

(v) Make the CHNA report widely available to the public.

(2) *Date a CHNA is conducted.* For purposes of this section, a hospital facility will be considered to have conducted a CHNA on the date it has completed all of the steps described in paragraph (b)(1) of this section. Solely for purposes of determining the taxable year in which a CHNA has been conducted under this paragraph (b)(2), a hospital facility will be considered to have completed the step of making a

CHNA report widely available to the public on the date it first makes the CHNA report widely available to the public as described in paragraph (b)(7)(i) of this section.

(3) *Community served by a hospital facility.* In defining the community it serves for purposes of paragraph (b)(1)(i) of this section, a hospital facility may take into account all of the relevant facts and circumstances, including the geographic area served by the hospital facility, target population(s) served (for example, children, women, or the aged), and principal functions (for example, focus on a particular specialty area or targeted disease). However, a hospital facility may not define its community to exclude medically underserved, low-income, or minority populations who live in the geographic areas from which the hospital facility draws its patients (unless such populations are not part of the hospital facility's target patient population(s) or affected by its principal functions) or otherwise should be included based on the method the hospital facility uses to define its community. In addition, in determining its patient populations for purposes of defining its community, a hospital facility must take into account all patients without regard to whether (or how much) they or their insurers pay for the care received or whether they are eligible for assistance under the hospital facility's financial assistance policy. In the case of a hospital facility consisting of multiple buildings that operate under a single state license and serve different geographic areas or populations, the community served by the hospital facility is the aggregate of such areas or populations.

(4) *Assessing community health needs.* To assess the health needs of the community it serves for purposes of paragraph (b)(1)(ii) of this section, a hospital facility must identify significant health needs of the community, prioritize those health needs, and identify resources (such as organizations, facilities, and programs in the community, including those of the hospital facility) potentially available to address those health needs. For these purposes, the health needs of a community include requisites for the improvement or maintenance of health status both in the community at large and in particular parts of the community (such as particular neighborhoods or populations experiencing health disparities). These needs may include, for example, the need to address financial and other barriers to accessing care, to prevent illness, to ensure adequate nutrition, or to address social, behavioral, and environmental factors that influence health in the community. A hospital facility may determine whether a health need is significant based on all of the facts and circumstances present in the community it serves. In addition, a hospital facility may use any criteria to prioritize the significant health needs it identifies, including, but not limited to, the burden, scope, severity, or urgency of the health need; the estimated feasibility and effectiveness of possible interventions; the health disparities associated with the need; or the importance the community places on addressing the need.

(5) *Persons representing the broad interests of the community*—(i) *In general.* For purposes of paragraph (b)(1)(iii) of this section, a hospital facility must solicit and take into account input received from all of the following sources in identifying and prioritizing significant health needs and in identifying resources potentially available to address those health needs:

(A) At least one state, local, tribal, or regional governmental public health department (or equivalent department or agency), or a State Office of Rural Health described in section 338J of the Public Health Service Act (42 U.S.C. 254r), with knowledge, information, or expertise relevant to the health needs of that community.

(B) Members of medically underserved, low-income, and minority populations in the community served by the hospital facility, or individuals or organizations serving or representing the interests of such populations. For purposes of this paragraph (b), medically underserved populations include populations experiencing health disparities or at risk of not receiving adequate medical care as a result of being uninsured or underinsured or due to geographic, language, financial, or other barriers.

(C) Written comments received on the hospital facility's most recently conducted CHNA and most recently adopted implementation strategy.

(ii) *Additional sources of input.* In addition to the sources described in paragraph (b)(5)(i) of this section, a hospital facility may solicit and take into account input received from a broad range of persons located in or serving its community, including, but not limited to, health care consumers and consumer advocates, nonprofit and community-based organizations, academic experts, local government officials, local school districts, health care providers and community health centers, health insurance and managed care organizations, private businesses, and labor and workforce representatives.

(6) *Documentation of a CHNA*—(i) *In general.* For purposes of paragraph (b)(1)(iv) of this section, the CHNA report adopted for the hospital facility by an authorized body of the hospital facility must include—

(A) A definition of the community served by the hospital facility and a description of how the community was determined;

(B) A description of the process and methods used to conduct the CHNA;

(C) A description of how the hospital facility solicited and took into account input received from persons who represent the broad interests of the community it serves;

(D) A prioritized description of the significant health needs of the community identified through the CHNA, along with a description of the process and criteria used in identifying certain health needs as significant and prioritizing those significant health needs;

(E) A description of the resources potentially available to address the significant health needs identified through the CHNA; and

(F) An evaluation of the impact of any actions that were taken, since the hospital facility finished conducting its immediately preceding CHNA, to address the significant health needs identified in the hospital facility's prior CHNA(s).

(ii) *Process and methods used to conduct the CHNA.* A hospital facility's CHNA report will be considered to describe the process and methods used to conduct the CHNA for purposes of paragraph (b)(6)(i)(B) of this section if the CHNA report describes the data and other information used in the assessment, as well as the methods of collecting and analyzing this data and information, and identifies any parties with whom the hospital facility collaborated, or with whom it contracted for assistance, in conducting the CHNA. In the case of data obtained from external source material, the CHNA report may cite the source material rather than describe the method of collecting the data.

(iii) *Input from persons who represent the broad interests of the community served by the hospital facility.* A hospital facility's CHNA report will be considered to describe how the hospital facility took into account input received from persons who represent the broad interests of the community it serves for purposes of paragraph (b)(6)(i)(C) of this section if the CHNA report summarizes, in general terms, any input provided by such persons and how and over what

time period such input was provided (for example, whether through meetings, focus groups, interviews, surveys, or written comments and between what approximate dates); provides the names of any organizations providing input and summarizes the nature and extent of the organization's input; and describes the medically underserved, low-income, or minority populations being represented by organizations or individuals that provided input. A CHNA report does not need to name or otherwise identify any specific individual providing input on the CHNA. In the event a hospital facility solicits, but cannot obtain, input from a source described in paragraph (b)(5)(i) of this section, the hospital facility's CHNA report also must describe the hospital facility's efforts to solicit input from such source.

(iv) *Separate CHNA reports.* While a hospital facility may conduct its CHNA in collaboration with other organizations and facilities (including, but not limited to, related and unrelated hospital organizations and facilities, for-profit and government hospitals, governmental departments, and nonprofit organizations), every hospital facility must document the information described in this paragraph (b)(6) in a separate CHNA report to satisfy paragraph (b)(1)(iv) of this section unless it adopts a joint CHNA report as described in paragraph (b)(6)(v) of this section. However, if a hospital facility is collaborating with other facilities and organizations in conducting its CHNA or if another organization (such as a state or local public health department) has conducted a CHNA for all or part of the hospital facility's community, portions of the hospital facility's CHNA report may be substantively identical to portions of a CHNA report of a collaborating hospital facility or other organization conducting a CHNA, if appropriate under the facts and circumstances. For example, if two hospital facilities with overlapping, but not identical, communities are collaborating in conducting a CHNA, the portions of each hospital facility's CHNA report relevant to the shared areas of their communities might be identical. Similarly, if the state or local public health department with jurisdiction over the community served by a hospital facility conducts a CHNA for an area that includes the hospital facility's community, the hospital facility's CHNA report might include portions of the state or local public health department's CHNA report that are relevant to its community.

(v) *Joint CHNA reports*—(A) *In general.* A hospital facility that collaborates with other hospital facilities or other organizations (such as state or local public health departments) in conducting its CHNA will satisfy paragraph (b)(1)(iv) of this section if an authorized body of the hospital facility adopts for the hospital facility a joint CHNA report produced for the hospital facility and one or more of the collaborating facilities and organizations, provided that the following conditions are met:

(*1*) The joint CHNA report meets the requirements of paragraph (b)(6)(i) of this section.

(*2*) The joint CHNA report is clearly identified as applying to the hospital facility.

(*3*) All of the collaborating hospital facilities and organizations included in the joint CHNA report define their community to be the same.

(B) *Example.* The following example illustrates this paragraph (b)(6)(v):

Example. P is one of 10 hospital facilities located in and serving the populations of a particular Metropolitan Statistical Area (MSA). P and seven other facilities in the MSA, some of which are unrelated to P, decide to collaborate in conducting a CHNA for the MSA and to each define their community as constituting the entire MSA. The eight hospital facilities work together with the state and local health departments of jurisdictions in the MSA to assess the health needs of the MSA and collaborate in conducting surveys and holding public forums to solicit and receive input from the MSA's residents, including its medically underserved, low-income, and minority populations. The hospital facilities also consider the written comments received on their most recently conducted CHNAs and most recently adopted implementation strategies. The hospital facilities then work together to prepare a joint CHNA report documenting this joint CHNA process that contains all of the elements described in paragraph (b)(6)(i) of this section. The joint CHNA report identifies all of the collaborating hospital facilities included in the report, including P, by name, both within the report itself and on the cover page. The board of directors of the hospital organization operating P adopts the joint CHNA report for P. P has complied with the requirements of this paragraph (b)(6)(v) and, accordingly, has satisfied paragraph (b)(1)(iv) of this section.

(7) *Making the CHNA report widely available to the public*—(i) *In general.* For purposes of paragraph (b)(1)(v) of this section, a hospital facility's CHNA report is made widely available to the public only if the hospital facility—

(A) Makes the CHNA report widely available on a Web site, as defined in § 1.501(r)–1(b)(29), at least until the date the hospital facility has made widely available on a Web site its two subsequent CHNA reports; and

(B) Makes a paper copy of the CHNA report available for public inspection upon request and without charge at the hospital facility at least until the date the hospital facility has made available for public inspection a paper copy of its two subsequent CHNA reports.

(ii) *Making draft CHNA reports widely available.* Notwithstanding paragraph (b)(7)(i) of this section, if a hospital facility makes widely available on a Web site (and/or for public inspection) a version of the CHNA report that is expressly marked as a draft on which the public may comment, the hospital facility will not be considered to have made the CHNA report widely available to the public for purposes of determining the date on which the hospital facility has conducted a CHNA under paragraph (b)(2) of this section.

(c) *Implementation strategy*—(1) *In general.* For purposes of paragraph (a)(2) of this section, a hospital facility's implementation strategy to meet the community health needs identified through the hospital facility's CHNA is a written plan that, with respect to each significant health need identified through the CHNA, either—

(i) Describes how the hospital facility plans to address the health need; or

(ii) Identifies the health need as one the hospital facility does not intend to address and explains why the hospital facility does not intend to address the health need.

(2) *Description of how the hospital facility plans to address a significant health need.* A hospital facility will have described a plan to address a significant health need identified through a CHNA for purposes of paragraph (c)(1)(i) of this section if the implementation strategy—

(i) Describes the actions the hospital facility intends to take to address the health need and the anticipated impact of these actions;

(ii) Identifies the resources the hospital facility plans to commit to address the health need; and

(iii) Describes any planned collaboration between the hospital facility and other facilities or organizations in addressing the health need.

(3) *Description of why a hospital facility is not addressing a significant health need.* In explaining why it does not intend to address a significant health need for purposes of paragraph (c)(1)(ii) of this section, a brief explanation of the hospital facility's reason for not addressing the health need is sufficient. Such reasons may include, for example, resource constraints, other facilities or organizations in the community addressing the need, a relative lack of expertise or competency to effectively

address the need, the need being a relatively low priority, and/or a lack of identified effective interventions to address the need.

(4) *Joint implementation strategies.* A hospital facility may develop an implementation strategy in collaboration with other hospital facilities or other organizations, including, but not limited to, related and unrelated hospital organizations and facilities, for-profit and government hospitals, governmental departments, and nonprofit organizations. In general, a hospital facility that collaborates with other facilities or organizations in developing its implementation strategy must still document its implementation strategy in a separate written plan that is tailored to the particular hospital facility, taking into account its specific resources. However, a hospital facility that adopts a joint CHNA report described in paragraph (b)(6)(v) of this section may also adopt a joint implementation strategy that, with respect to each significant health need identified through the joint CHNA, either describes how one or more of the collaborating facilities or organizations plan to address the health need or identifies the health need as one the collaborating facilities or organizations do not intend to address and explains why they do not intend to address the health need. For a collaborating hospital facility to meet the requirements of paragraph (a)(2) of this section, such a joint implementation strategy adopted for the hospital facility must—

(i) Be clearly identified as applying to the hospital facility;

(ii) Clearly identify the hospital facility's particular role and responsibilities in taking the actions described in the implementation strategy and the resources the hospital facility plans to commit to such actions; and

(iii) Include a summary or other tool that helps the reader easily locate those portions of the joint implementation strategy that relate to the hospital facility.

(5) *When the implementation strategy must be adopted*—(i) *In general.* For purposes of paragraph (a)(2) of this section, an authorized body of the hospital facility must adopt the implementation strategy on or before the 15th day of the fifth month after the end of the taxable year in which the hospital facility completes the final step for the CHNA described in paragraph (b)(1) of this section, regardless of whether the hospital facility began working on the CHNA in a prior taxable year.

(ii) *Example.* The following example illustrates this paragraph (c)(5):

Example. M is a hospital facility that last conducted a CHNA and adopted an implementation strategy in Year 1. In Year 3, M defines the community it serves, assesses the significant health needs of that community, and solicits and takes into account input received from persons who represent the broad interests of that community. In Year 4, M documents its CHNA in a CHNA report that is adopted by an authorized body of M, makes the CHNA report widely available on a Web site, and makes paper copies of the CHNA report available for public inspection. To meet the requirements of paragraph (a)(2) of this section, an authorized body of M must adopt an implementation strategy to meet the health needs identified through the CHNA completed in Year 4 by the 15th day of the fifth month of Year 5.

(d) *Exception for acquired, new, and terminated hospital facilities*—(1) *Acquired hospital facilities.* A hospital organization that acquires a hospital facility (whether through merger or acquisition) must meet the requirements of section 501(r)(3) with respect to the acquired hospital facility by the last day of the organization's second taxable year beginning after the date on which the hospital facility was acquired. In the case of a merger between two organizations that results in the liquidation of one organization and the survival of the other organization, the hospital facility or facilities formerly operated by the liquidated organization will be considered ''acquired'' for purposes of this paragraph (d)(1).

(2) *New hospital organizations.* An organization that becomes newly subject to the requirements of section 501(r) because it is recognized as described in section 501(c)(3) and is operating a hospital facility must meet the requirements of section 501(r)(3) with respect to any hospital facility by the last day of the second taxable year beginning after the later of the effective date of the determination letter or ruling recognizing the organization as described in section 501(c)(3) or the first date that a facility operated by the organization was licensed, registered, or similarly recognized by a state as a hospital.

(3) *New hospital facilities.* A hospital organization must meet the requirements of section 501(r)(3) with respect to a new hospital facility it operates by the last day of the second taxable year beginning after the date the facility was licensed, registered, or similarly recognized by its state as a hospital.

(4) *Transferred or terminated hospital facilities.* A hospital organization is not required to meet the requirements of section 501(r)(3) with respect to a hospital facility in a taxable year if, before the end of that taxable year, the hospital organization transfers all ownership of the hospital facility to another organization or otherwise ceases its operation of the hospital facility or the facility ceases to be licensed, registered, or similarly recognized as a hospital by a state.

(e) *Transition rule for CHNAs conducted in taxable years beginning before March 23, 2012.* A hospital facility that conducted a CHNA described in section 501(r)(3) in either its first taxable year beginning after March 23, 2010, or its first taxable year beginning after March 23, 2011, does not need to meet the requirements of section 501(r)(3) again until the third taxable year following the taxable year in which the hospital facility conducted that CHNA, provided that the hospital facility adopted an implementation strategy to meet the community health needs identified through that CHNA on or before the 15th day of the fifth calendar month following the close of its first taxable year beginning after March 23, 2012.

§ 1.501(r)–4 Financial assistance policy and emergency medical care policy.

(a) *In general.* A hospital organization meets the requirements of section 501(r)(4) with respect to a hospital facility it operates only if the hospital organization establishes for that hospital facility—

(1) A written financial assistance policy (FAP) that meets the requirements of paragraph (b) of this section; and

(2) A written emergency medical care policy that meets the requirements of paragraph (c) of this section.

(b) *Financial assistance policy*—(1) *In general.* To satisfy paragraph (a)(1) of this section, a hospital facility's FAP must—

(i) Apply to all emergency and other medically necessary care provided by the hospital facility, including all such care provided in the hospital facility by a substantially-related entity (as defined in § 1.501(r)–1(b)(28));

(ii) Be widely publicized as described in paragraph (b)(5) of this section; and

(iii) Include—

(A) The eligibility criteria for financial assistance and whether such assistance includes free or discounted care;

(B) The basis for calculating amounts charged to patients;

(C) The method for applying for financial assistance;

(D) In the case of a hospital facility that does not have a separate billing and collections policy, the actions that may be taken in the event of nonpayment;

(E) If applicable, any information obtained from sources other than an

individual seeking financial assistance that the hospital facility uses, and whether and under what circumstances it uses prior FAP-eligibility determinations, to presumptively determine that the individual is FAP-eligible, as described in § 1.501(r)–6(c)(2); and

(F) A list of any providers, other than the hospital facility itself, delivering emergency or other medically necessary care in the hospital facility that specifies which providers are covered by the hospital facility's FAP and which are not.

(2) *Eligibility criteria and basis for calculating amounts charged to patients*—(i) *In general.* To satisfy paragraphs (b)(1)(iii)(A) and (b)(1)(iii)(B) of this section, the FAP must specify the following:

(A) All financial assistance available under the FAP, including all discounts and free care available under the FAP and, if applicable, the amount(s) (for example, gross charges) to which any discount percentages available under the FAP will be applied.

(B) The eligibility criteria that an individual must satisfy to receive each discount, free care, or other level of assistance available under the FAP.

(C) The method under § 1.501(r)–5(b) the hospital facility uses to determine the amounts generally billed to individuals who have insurance covering emergency or other medically necessary care (AGB). If the hospital facility uses the look-back method described in § 1.501(r)–5(b)(3), the FAP also must state the AGB percentage(s) that the hospital facility uses to determine AGB and describe how the hospital facility calculated such percentage(s) or, alternatively, explain how members of the public may readily obtain such percentage(s) and accompanying description of the calculation in writing and free of charge. In addition, the FAP must indicate that, following a determination of FAP-eligibility, a FAP-eligible individual may not be charged more than AGB for emergency or other medically necessary care.

(ii) *Examples.* The following examples illustrate this paragraph (b)(2):

Example 1. (i) Q is a hospital facility that establishes a FAP that provides assistance to all uninsured and underinsured individuals whose family income is less than or equal to x% of the Federal Poverty Level (FPL), with the level of discount for which an individual is eligible under Q's FAP determined based upon the individual's family income as a percentage of FPL. Q's FAP defines the meaning of ''uninsured,'' ''underinsured,'' ''family income,'' and ''Federal Poverty Level.'' Q's FAP also states that Q determines AGB by multiplying the gross charges for any emergency or other medically necessary care it provides to a FAP-eligible individual by an AGB percentage of 56%. The FAP states, further, that Q calculated the AGB percentage of 56% based on all claims allowed by Medicare and private health insurers over a specified 12-month period, divided by the associated gross charges for those claims. Q's FAP contains the following chart, specifying each discount available under the FAP, the amounts (gross charges) to which these discounts will be applied, and the specific eligibility criteria for each such discount:

Family income as % of FPL	Discount off of gross charges
>y% – x%	50%.
>z% – y%	75%.
≤z%	Free.

(ii) Q's FAP also contains a statement that no FAP-eligible individual will be charged more for emergency or other medically necessary care than AGB because Q's AGB percentage is 56% of gross charges and the most a FAP-eligible individual will be charged is 50% of gross charges. Q's FAP satisfies the requirements of this paragraph (b)(2).

Example 2. (i) R is a hospital facility that establishes a FAP that provides assistance based on household income. R's FAP defines the meaning of ''household income.'' R's FAP contains the following chart specifying the assistance available under the FAP and the specific eligibility criteria for each level of assistance offered, which R updates occasionally to account for inflation:

Household income	Maximum amount individual will be responsible for paying
>$b – $a	40% of gross charges, up to the lesser of AGB or x% of household income.
>$c – $b	20% of gross charges, up to the lesser of AGB or y% of household income.
≤$c	$0 (free).

(ii) R's FAP contains a statement that no FAP-eligible individual will be charged more for emergency or other medically necessary care than AGB. R's FAP also states that R determines AGB by multiplying the gross charges for any emergency or other medically necessary care it provides by AGB percentages, which are based on claims allowed under Medicare. In addition, the FAP provides a Web site address individuals can visit, and a telephone number they can call, if they would like to obtain an information sheet stating R's AGB percentages and explaining how these AGB percentages were calculated. This information sheet, which R makes available on its Web site and provides to any individual who requests it, states that R's AGB percentages are 35% of gross charges for inpatient care and 61% of gross charges for outpatient care. It also states that these percentages were based on all claims allowed for R's emergency or other medically necessary inpatient and outpatient care by Medicare over a specified 12-month period, divided by the associated gross charges for those claims. R's FAP satisfies the requirements of this paragraph (b)(2).

(3) *Method for applying for financial assistance*—(i) *In general.* To satisfy paragraph (b)(1)(iii)(C) of this section, a hospital facility's FAP must describe how an individual applies for financial assistance under the FAP. In addition, either the hospital facility's FAP or FAP application form (including accompanying instructions) must describe the information and documentation the hospital facility may require an individual to provide as part of his or her FAP application and provide the contact information described in § 1.501(r)–1(b)(24)(v). A hospital facility may not deny financial assistance under its FAP based on an applicant's failure to provide information or documentation unless that information or documentation is described in the FAP or FAP application form. However, a hospital facility may grant financial assistance under its FAP notwithstanding an applicant's failure to provide information or documentation described in the FAP or FAP application form and may, for example, rely on other evidence of eligibility or an attestation by the applicant to determine that the applicant is FAP-eligible.

(ii) *Example.* The following example illustrates this paragraph (b)(3):

Example. S is a hospital facility with a FAP that bases eligibility solely on an individual's household income. S's FAP provides that an individual may apply for financial assistance by completing and submitting S's FAP application form. S's FAP also describes how individuals can obtain copies of the FAP application form. S's FAP application form contains lines on which the applicant lists all items of household income received by the applicant's household over the last month and the names of the applicant's household members. The instructions to S's FAP application form tell applicants where to submit the application and provide that an applicant must attach to his or her FAP application form proof of household income in the form of payroll check stubs from the last month or, if last month's wages are not representative of the applicant's annual income, a copy of the applicant's most recent federal tax return. Alternatively, the instructions state that an applicant may provide documentation of his or her qualification for certain specified state means-tested programs. The instructions also state that if an applicant does not have any of the listed documents proving household income, he or she may call S's financial assistance office and discuss other evidence that may be provided to demonstrate eligibility. S does not deny financial assistance to FAP applicants based on a failure to submit any information or documentation not mentioned in the FAP

application form or instructions. S's FAP application form instructions also provide the contact information of the hospital facility office that can provide an applicant with information about the FAP and assistance with the FAP application process. S's FAP satisfies the requirements of this paragraph (b)(3).

(4) *Actions that may be taken in the event of nonpayment*—(i) *In general.* To satisfy paragraph (b)(1)(iii)(D) of this section, either a hospital facility's FAP or a separate written billing and collections policy established for the hospital facility must describe—

(A) Any actions that the hospital facility (or other authorized party) may take related to obtaining payment of a bill for medical care, including, but not limited to, any extraordinary collection actions (ECAs) described in § 1.501(r)–6(b);

(B) The process and time frames the hospital facility (or other authorized party) uses in taking the actions described in paragraph (b)(4)(i)(A) of this section, including, but not limited to, the reasonable efforts it will make to determine whether an individual is FAP-eligible before engaging in any ECAs, as described in § 1.501(r)–6(c); and

(C) The office, department, committee, or other body with the final authority or responsibility for determining that the hospital facility has made reasonable efforts to determine whether an individual is FAP-eligible and may therefore engage in ECAs against the individual.

(ii) *Separate billing and collections policy.* In the case of a hospital facility that satisfies paragraph (b)(1)(iii)(D) of this section by establishing a separate written billing and collections policy, the hospital facility's FAP must state that the actions the hospital facility may take in the event of nonpayment are described in a separate billing and collections policy and explain how members of the public may readily obtain a free copy of this separate policy.

(5) *Widely publicizing the FAP*—(i) *In general.* To satisfy the requirement in paragraph (b)(1)(ii) of this section to widely publicize its FAP, a hospital facility must—

(A) Make the FAP, FAP application form, and plain language summary of the FAP (as defined in § 1.501(r)–1(b)(24)) widely available on a Web site (as defined in § 1.501(r)–1(b)(29));

(B) Make paper copies of the FAP, FAP application form, and plain language summary of the FAP available upon request and without charge, both by mail and in public locations in the hospital facility, including, at a minimum, in the emergency room (if any) and admissions areas;

(C) Notify and inform members of the community served by the hospital facility about the FAP in a manner reasonably calculated to reach those members who are most likely to require financial assistance from the hospital facility; and

(D) Notify and inform individuals who receive care from the hospital facility about the FAP by—

(*1*) Offering a paper copy of the plain language summary of the FAP to patients as part of the intake or discharge process;

(*2*) Including a conspicuous written notice on billing statements that notifies and informs recipients about the availability of financial assistance under the hospital facility's FAP and includes the telephone number of the hospital facility office or department that can provide information about the FAP and FAP application process and the direct Web site address (or URL) where copies of the FAP, FAP application form, and plain language summary of the FAP may be obtained; and

(*3*) Setting up conspicuous public displays (or other measures reasonably calculated to attract patients' attention) that notify and inform patients about the FAP in public locations in the hospital facility, including, at a minimum, the emergency room (if any) and admissions areas.

(ii) *Accessibility to limited English proficient individuals.* To widely publicize its FAP, a hospital facility must accommodate all significant populations that have limited English proficiency (LEP) by translating its FAP, FAP application form, and plain language summary of the FAP into the primary language(s) spoken by such populations. A hospital facility will satisfy this translation requirement in a taxable year if it makes available translations of its FAP, FAP application form, and plain language summary of the FAP in the language spoken by each LEP language group that constitutes the lesser of 1,000 individuals or 5 percent of the community served by the hospital facility or the population likely to be affected or encountered by the hospital facility. For purposes of this paragraph (b)(5)(ii), a hospital facility may determine the percentage or number of LEP individuals in the hospital facility's community or likely to be affected or encountered by the hospital facility using any reasonable method.

(iii) *Meaning of notify and inform.* For purposes of paragraphs (b)(5)(i)(C) and (b)(5)(i)(D)(*3*) of this section, a measure will notify and inform members of a community or patients about the hospital facility's FAP if the measure, at a minimum, notifies the reader or listener that the hospital facility offers financial assistance under a FAP and informs him or her about how or where to obtain more information about the FAP and FAP application process and to obtain copies of the FAP, FAP application form, and plain language summary of the FAP.

(iv) *Meaning of reasonably calculated.* Whether one or more measures to widely publicize a hospital facility's FAP are reasonably calculated to notify and inform members of a community or patients about the hospital facility's FAP in the manner described in paragraphs (b)(5)(i)(C) and (b)(5)(i)(D)(*3*) of this section will depend on all of the facts and circumstances, including the primary language(s) spoken by the members of the community served by the hospital facility and other attributes of the community and the hospital facility.

(v) *Examples.* The following examples illustrate this paragraph (b)(5):

Example 1. (i) Z is a hospital facility. The home page and main billing page of Z's Web site conspicuously display the following message: ''Need help paying your bill? You may be eligible for financial assistance. Click *here* for more information.'' When readers click on the link, they are taken to a Web page that explains the various discounts available under Z's FAP and the specific eligibility criteria for each such discount. This Web page also provides all of the other information required to be included in a plain language summary of the FAP (as defined in § 1.501(r)–1(b)(24)), including a telephone number of Z that individuals can call and a room number of Z that individuals can visit for more information about the FAP and assistance with FAP applications. In addition, the Web page contains prominently-displayed links that allow readers to download PDF files of the FAP and the FAP application form, free of charge and without being required to create an account or provide personally identifiable information. Z provides any individual who asks how to access a copy of the FAP, FAP application form, or plain language summary of the FAP online with the URL of this Web page. By implementing these measures, Z has made its FAP widely available on a Web site within the meaning of paragraph (b)(5)(i)(A) of this section.

(ii) Z distributes copies of the plain language summary of its FAP and its FAP application form to all of its referring staff physicians and to the community health centers serving its community. Z also distributes copies of these documents to the local health department and to numerous public agencies and nonprofit organizations in its community that address the health issues and other needs of low-income populations, in quantities sufficient to meet demand. In addition, every issue of the quarterly newsletter that Z mails to the individuals in its customer database contains

a prominently-displayed advertisement informing readers that Z offers financial assistance and that people having trouble paying their hospital bills may be eligible for financial assistance. The advertisement provides readers with the URL of the Web page where Z's FAP and FAP application form can be accessed and a telephone number of Z that individuals can call and a room number of Z that individuals can visit with questions about the FAP or assistance with the FAP application process. By implementing these measures, Z notifies and informs members of its community about the FAP within the meaning of paragraph (b)(5)(i)(C) of this section.

(iii) Z makes paper copies of the FAP, FAP application form, and plain language summary of the FAP available upon request and without charge, both by mail and in its admissions areas and emergency room. Z also conspicuously displays a sign in large font regarding the FAP in its admissions areas and emergency room. The sign says: ''Uninsured? Having trouble paying your hospital bill? You may be eligible for financial assistance.'' The sign also provides the URL of the Web page where Z's FAP and FAP application form can be accessed. In addition, the sign provides a telephone number of Z that individuals can call and a room number of Z that individuals can visit with questions about the FAP or assistance with the FAP application process. Underneath each sign, Z conspicuously displays copies of a brochure that contains all of the information required to be included in a plain language summary of the FAP (as defined in § 1.501(r)–1(b)(24)). Z makes these brochures available in quantities sufficient to meet visitor demand. Z also offers a plain language summary of the FAP as part of its intake process. Z's billing statements include a conspicuously-placed statement in large font containing the same information that Z includes on its signs. By implementing these measures, Z makes a paper copy of the FAP, FAP application form, and plain language summary of the FAP available upon request within the meaning of paragraph (b)(5)(i)(B) of this section and notifies and informs individuals who receive care from the hospital facility about the FAP within the meaning of paragraph (b)(5)(i)(D) of this section.

(iv) Because Z takes measures to widely publicize the FAP described in paragraphs (b)(5)(i)(A), (b)(5)(i)(B), (b)(5)(i)(C), and (b)(5)(i)(D) of this section, Z meets the requirement to widely publicize its FAP under paragraph (b)(1)(ii) of this section.

Example 2. Assume the same facts as *Example 1,* except that Z serves a community in which 6% of the members speak Spanish and have limited proficiency in English. Z translates its FAP, FAP application form, and FAP brochure (which constitutes a plain language summary of the FAP) into Spanish, and displays and distributes both Spanish and English versions of these documents in its hospital facility using all of the measures described in *Example 1.* Z also distributes Spanish versions of its FAP application form and FAP brochure to organizations serving Spanish-speaking members of its community. Moreover, the home page and main billing page of Z's Web site conspicuously display an ''¿Habla Español?'' link that takes readers to a Web page that summarizes the FAP in Spanish and contains links that allow readers to download PDF files of the Spanish versions of the FAP and FAP application form, free of charge and without being required to create an account or provide personally identifiable information. Z meets the requirement to widely publicize its FAP under paragraph (b)(1)(ii) of this section.

(6) *Readily obtainable information.* For purposes of paragraphs (b)(2)(i)(C) and (b)(4)(ii) of this section, information is readily obtainable by members of the public if a hospital facility—

(i) Makes the information available free of charge on a Web site and via a paper copy upon request in a manner similar to that described in paragraphs (b)(5)(i)(A) and (b)(5)(i)(B) of this section; and

(ii) Provides translations of the information as described in paragraph (b)(5)(ii) of this section.

(7) *Providing documents electronically.* A hospital facility may provide electronically (for example, on an electronic screen, by email, or by providing the direct Web site address, or URL, of the Web page where the document or information is posted) any document or information that is required by this paragraph (b) to be provided in the form of a paper copy to any individual who indicates he or she prefers to receive or access the document or information electronically.

(8) *Medically necessary care.* For purposes of meeting the requirements of this section, a hospital facility may (but is not required to) use a definition of medically necessary care applicable under the laws of the state in which it is licensed, including the Medicaid definition, or a definition that refers to the generally accepted standards of medicine in the community or to an examining physician's determination.

(c) *Emergency medical care policy*—(1) *In general.* To satisfy paragraph (a)(2) of this section, a hospital organization must establish a written policy for a hospital facility that requires the hospital facility to provide, without discrimination, care for emergency medical conditions to individuals regardless of whether they are FAP-eligible.

(2) *Interference with provision of emergency medical care.* A hospital facility's emergency medical care policy will not be described in paragraph (c)(1) of this section unless it prohibits the hospital facility from engaging in actions that discourage individuals from seeking emergency medical care, such as by demanding that emergency department patients pay before receiving treatment for emergency medical conditions or by permitting debt collection activities that interfere with the provision, without discrimination, of emergency medical care.

(3) *Relation to federal law governing emergency medical care.* Subject to paragraph (c)(2) of this section, a hospital facility's emergency medical care policy will be described in paragraph (c)(1) of this section if it requires the hospital facility to provide the care for emergency medical conditions that the hospital facility is required to provide under Subchapter G of Chapter IV of Title 42 of the Code of Federal Regulations (or any successor regulations).

(4) *Examples.* The following examples illustrate this paragraph (c):

Example 1. F is a hospital facility with a dedicated emergency department that is subject to the Emergency Medical Treatment and Labor Act (EMTALA) and is not a critical access hospital. F establishes a written emergency medical care policy requiring F to comply with EMTALA by providing medical screening examinations and stabilizing treatment and referring or transferring an individual to another facility, when appropriate, and providing emergency services in accordance with 42 CFR 482.55 (or any successor regulation). F's emergency medical care policy also states that F prohibits any actions that would discourage individuals from seeking emergency medical care, such as by demanding that emergency department patients pay before receiving treatment for emergency medical conditions or permitting debt collection activities that interfere with the provision, without discrimination, of emergency medical care. F's emergency medical care policy is described in paragraph (c)(1) of this section.

Example 2. G is a rehabilitation hospital facility. G does not have a dedicated emergency department, nor does it have specialized capabilities that would make it appropriate to accept transfers of individuals who need stabilizing treatment for an emergency medical condition. G establishes a written emergency medical care policy that addresses how it appraises emergencies, provides initial treatment, and refers or transfers an individual to another facility, when appropriate, in a manner that complies with 42 CFR 482.12(f)(2) (or any successor regulation). G's emergency medical care policy also prohibits G from engaging in actions that discourage individuals from seeking emergency medical care, such as by demanding that patients pay before receiving initial treatment for emergency medical conditions or permitting debt collection activities that interfere with the facility's appraisal and provision, without discrimination, of such initial treatment. G's emergency medical care policy is described in paragraph (c)(1) of this section.

(d) *Establishing the FAP and other policies*—(1) *In general.* A hospital organization has established a FAP, a billing and collections policy, or an

emergency medical care policy for a hospital facility only if an authorized body of the hospital facility (as defined in § 1.501(r)–1(b)(4)) has adopted the policy for the hospital facility and the hospital facility has implemented the policy.

(2) *Implementing a policy.* For purposes of this paragraph (d), a hospital facility will be considered to have implemented a policy if the hospital facility has consistently carried out the policy.

(3) *Establishing a policy for more than one hospital facility.* A hospital organization may establish a FAP, billing and collections policy, and/or emergency medical care policy for a hospital facility that is identical to that of other hospital facilities or a joint policy that is shared with multiple hospital facilities provided that any joint policy clearly identifies each facility to which it applies. However, hospital facilities that have different AGB percentages or use different methods to determine AGB must include in their FAPs (or, in the case of information related to AGB percentages, otherwise make readily obtainable) different information regarding AGB to meet the requirements of paragraph (b)(2)(i)(C) of this section.

§ 1.501(r)–5 Limitation on charges.

(a) *In general.* A hospital organization meets the requirements of section 501(r)(5) with respect to a hospital facility it operates only if the hospital facility (and any substantially-related entity, as defined in § 1.501(r)–1(b)(28)) limits the amount charged for care it provides to any individual who is eligible for assistance under its financial assistance policy (FAP) to—

(1) In the case of emergency or other medically necessary care, not more than the amounts generally billed to individuals who have insurance covering such care (AGB), as determined under paragraph (b) of this section; and

(2) In the case of all other medical care covered under the FAP, less than the gross charges for such care, as described in paragraph (c) of this section.

(b) *Amounts generally billed*—(1) *In general.* For purposes of meeting the requirements of paragraph (a)(1) of this section, a hospital facility must determine AGB for emergency or other medically necessary care using a method described in paragraph (b)(3) or (b)(4) of this section or any other method specified in regulations or other guidance published in the Internal Revenue Bulletin. A hospital facility may use only one of these methods to determine AGB at any one time, but different hospital facilities operated by the same hospital organization may use different methods. A hospital facility may change the method it uses to determine AGB at any time.

(2) *Meaning of charged.* For purposes of paragraph (a)(1) of this section, a FAP-eligible individual is considered to be ''charged'' only the amount he or she is personally responsible for paying, after all deductions, discounts (including discounts available under the FAP), and insurance reimbursements have been applied. Thus, in the case of a FAP-eligible individual who has health insurance coverage, a hospital facility will meet the requirements of paragraph (a)(1) of this section if the FAP-eligible individual is not personally responsible for paying (for example, in the form of co-payments, co-insurance, and deductibles) more than AGB for the care after all reimbursements by the health insurer have been applied, even if the total amount paid by the FAP-eligible individual and his or her health insurer together exceeds AGB.

(3) *Look-back method*—(i) *In general.* A hospital facility may determine AGB for any emergency or other medically necessary care it provides to a FAP-eligible individual by multiplying the hospital facility's gross charges for the care by one or more percentages of gross charges (AGB percentage(s)). A hospital facility using this method must calculate its AGB percentage(s) at least annually by dividing the sum of the amounts of all of its claims for emergency and other medically necessary care that have been allowed by health insurers described in paragraph (b)(3)(ii) of this section during a prior 12-month period by the sum of the associated gross charges for those claims. Whether a claim is used in calculating a hospital facility's AGB percentage(s) depends on whether the claim was allowed by a health insurer during the 12-month period used in the calculation, not on whether the care resulting in the claim was provided during that 12-month period. If the amount a health insurer will allow for a claim has not been finally determined as of the last day of the 12-month period used to calculate the AGB percentage(s), a hospital facility should exclude the amount of the claim from that calculation and include it in the subsequent 12-month period during which the amount allowed is finally determined. When including allowed claims in calculating its AGB percentage(s), the hospital facility should include the full amount that has been allowed by the health insurer, including both the amount the insurer will pay or reimburse and the amount (if any) the individual is personally responsible for paying in the form of co-payments, co-insurance, and deductibles, regardless of whether or when the full amount allowed is actually paid and disregarding any discounts applied to the individual's portion.

(ii) *Health insurers used in calculating AGB percentage(s).* In calculating its AGB percentage(s), a hospital facility must include the claims allowed during a prior 12-month period by—

(A) Medicare fee-for-service;

(B) Medicare fee-for-service and all private health insurers that pay claims to the hospital facility; or

(C) Medicaid, either alone or in combination with the insurer(s) described in paragraph (b)(3)(ii)(A) or (b)(3)(ii)(B) of this section.

(iii) *One or multiple AGB percentages.* A hospital facility's AGB percentage that is calculated using the method described in this paragraph (b)(3) may be one average percentage of gross charges for all emergency and other medically necessary care provided by the hospital facility. Alternatively, a hospital facility may calculate multiple AGB percentages for separate categories of care (such as inpatient and outpatient care or care provided by different departments) or for separate items or services, as long as the hospital facility calculates AGB percentages for all emergency and other medically necessary care provided by the hospital facility.

(iv) *Start date for applying AGB percentages.* For purposes of determining AGB under this paragraph (b)(3), with respect to any AGB percentage that a hospital facility has calculated, the hospital facility must begin applying the AGB percentage by the 120th day after the end of the 12-month period the hospital facility used in calculating the AGB percentage.

(v) *Use of all claims for medical care.* A hospital facility determining AGB under this paragraph (b)(3) may use claims allowed for all medical care during a prior 12-month period rather than just those allowed for emergency and other medically necessary care.

(vi) *Determining AGB percentages for more than one hospital facility.* Although generally a hospital organization must calculate AGB percentage(s) separately for each hospital facility it operates, hospital facilities that are covered under the same Medicare provider agreement (as defined in 42 CFR 489.3 or any successor regulations) may calculate one

AGB percentage (or multiple AGB percentages for separate categories of care or for separate items or services) using the method described in this paragraph (b)(3) based on the claims and gross charges for all such hospital facilities and implement the AGB percentage(s) across all such hospital facilities.

(4) *Prospective Medicare or Medicaid method.* A hospital facility may determine AGB for any emergency or other medically necessary care provided to a FAP-eligible individual by using the billing and coding process the hospital facility would use if the FAP-eligible individual were a Medicare fee-for-service or Medicaid beneficiary and setting AGB for the care at the amount the hospital facility determines would be the total amount Medicare or Medicaid would allow for the care (including both the amount that would be reimbursed by Medicare or Medicaid and the amount the beneficiary would be personally responsible for paying in the form of co-payments, co-insurance, and deductibles). A hospital facility using the method described in this paragraph (b)(4) may base AGB on Medicare fee-for-service or Medicaid or both, provided that, if it uses both, its FAP describes the circumstance under which it will use Medicare fee-for-service or Medicaid in determining AGB.

(5) *Examples.* The following examples illustrate this paragraph (b):

Example 1. On March 15 of Year 1, Y, a hospital facility, generates data on the amount of all of Y's claims for emergency and other medically necessary care that were allowed by all private health insurers and Medicare fee-for-service over the immediately preceding calendar year. Y determines that the private health insurers allowed a total amount of $250 million and Medicare fee-for-service allowed a total amount of $150 million, with the total allowed amounts including both the portion the insurers agreed to reimburse and the portion that the insured patients were personally responsible for paying. Y's gross charges for these claims totaled $800 million. Y calculates that its AGB percentage is 50% of gross charges ($400 million/$800 million). Y updates its FAP to reflect the new AGB percentage of 50% and makes the updated FAP widely available (both on its Web site and via paper copies upon request) on April 1 of Year 1. Between April 1 of Year 1 (less than 120 days after the end of the preceding calendar year) and March 31 of Year 2, Y determines AGB for any emergency or other medically necessary care it provides to a FAP-eligible individual by multiplying the gross charges for the care provided to the individual by 50%. Y has determined AGB between April 1 of Year 1 and March 31 of Year 2 in accordance with this paragraph (b) by using the look-back method described in paragraph (b)(3) of this section.

Example 2. On August 20 of Year 1, X, a hospital facility, generates data on the amount of all of X's claims for emergency and other medically necessary care that were allowed by Medicare fee-for-service over the 12 months ending on July 31 of Year 1. X determines that, of these claims for inpatient services, Medicare allowed a total amount of $100 million (including both the portion Medicare agreed to reimburse and the portion Medicare beneficiaries were personally responsible for paying). X's gross charges for these inpatient claims totaled $250 million. Of the claims for outpatient services, Medicare allowed a total amount of $125 million. X's gross charges for these outpatient claims totaled $200 million. X calculates that its AGB percentage for inpatient services is 40% of gross charges ($100 million/$250 million) and its AGB percentage for outpatient services is 62.5% of gross charges ($125 million/$200 million). Y discloses its AGB percentages and describes how they were calculated on the Web page where its FAP can be accessed, and it updates this Web page to reflect the new AGB percentages on November 1. Y also starts making an updated information sheet with the new AGB percentages available upon request on and after November 1. Between November 1 of Year 1 (less than 120 days after the end of the 12-month claim period) and October 31 of Year 2, X determines AGB for any emergency or other medically necessary inpatient care it provides to a FAP-eligible individual by multiplying the gross charges for the inpatient care it provides to the individual by 40% and AGB for any emergency or other medically necessary outpatient care it provides to a FAP-eligible individual by multiplying the gross charges for the outpatient care it provides to the individual by 62.5%. X has determined AGB between November 1 of Year 1 and October 31 of Year 2 in accordance with this paragraph (b) by using the look-back method described in paragraph (b)(3) of this section.

Example 3. Whenever Z, a hospital facility, provides emergency or other medically necessary care to a FAP-eligible individual, Z determines the AGB for the care by using the billing and coding process it would use if the individual were a Medicare fee-for-service beneficiary and setting AGB for the care at the amount it determines Medicare and the Medicare beneficiary together would be expected to pay for the care. Z has determined AGB in accordance with this paragraph (b) by using the prospective Medicare method described in paragraph (b)(4) of this section.

Example 4. Using the look-back method described in paragraph (b)(3) of this section, W, a hospital facility, calculates that its AGB percentage for Year 1 is 60% of gross charges. Under W's FAP, which applies to all emergency and other medically necessary care provided by W and which has been updated to reflect the AGB percentage for Year 1, the most that W charges a FAP-eligible individual is 50% of gross charges. W properly implements its FAP and charges no FAP-eligible individual more for emergency or other medically necessary care than 50% of gross charges in Year 1. W has met the requirements of paragraphs (a)(1) and (b) of this section in Year 1.

Example 5. A, an individual, receives medically necessary care from hospital facility V for which the AGB is $3y. A is insured by U, a health insurer. Under U's contracts with V and A, the amount allowed for the care V provided to A is $5y. Of that amount allowed, A is personally responsible for paying $1y (in co-payments and deductibles) while U is responsible for paying $4y. Based on the eligibility criteria specified in its FAP, V determines that A is FAP-eligible. Pursuant to paragraph (b)(2) of this section, V may charge U and A collectively $5y while still meeting the requirements of paragraph (a)(1) of this section because the amount A is personally responsible for paying in co-payments and deductibles ($1y) is less than the AGB for the care ($3y).

Example 6. Assume the same facts as *Example 5,* except that under U's contracts with V and A, A is personally responsible for paying $4y (in co-payments and deductibles) for the care while U is responsible for paying V $1y. Because A is FAP-eligible under V's FAP, paragraph (a)(1) of this section requires that A not be personally responsible for paying V more than $3y (the AGB for the care provided).

(c) *Gross charges.* A hospital facility must charge a FAP-eligible individual less than the gross charges for any medical care covered under the hospital facility's FAP. A billing statement issued by a hospital facility to a FAP-eligible individual for medical care covered under the FAP may state the gross charges for such care and apply contractual allowances, discounts, or deductions to the gross charges, provided that the actual amount the individual is personally responsible for paying is less than the gross charges for such care.

(d) *Safe harbor for certain charges in excess of AGB.* A hospital facility will be deemed to meet the requirements of paragraph (a) of this section, even if it charges more than AGB for emergency or other medically necessary care (or gross charges for any medical care covered under the FAP) provided to a FAP-eligible individual, if—

(1) The charge in excess of AGB was not made or requested as a pre-condition of providing medically necessary care to the FAP-eligible individual (for example, an upfront payment that a hospital facility requires before providing medically necessary care);

(2) As of the time of the charge, the FAP-eligible individual has not submitted a complete FAP application to the hospital facility to obtain financial assistance for the care or has not otherwise been determined by the hospital facility to be FAP-eligible for the care; and

(3) If the individual subsequently submits a complete FAP application and

is determined to be FAP-eligible for the care, the hospital facility refunds any amount the individual has paid for the care (whether to the hospital facility or any other party to whom the hospital facility has referred or sold the individual's debt for the care) that exceeds the amount he or she is determined to be personally responsible for paying as a FAP-eligible individual, unless such excess amount is less than $5 (or such other amount set by notice or other guidance published in the Internal Revenue Bulletin).

(e) *Medically necessary care.* For purposes of meeting the requirements of this section, a hospital facility may (but is not required to) use a definition of medically necessary care applicable under the laws of the state in which it is licensed, including the Medicaid definition, or a definition that refers to the generally accepted standards of medicine in the community or to an examining physician's determination.

§ 1.501(r)–6 Billing and collection.

(a) *In general.* A hospital organization meets the requirements of section 501(r)(6) with respect to a hospital facility it operates only if the hospital facility does not engage in extraordinary collection actions (ECAs), as defined in paragraph (b) of this section, against an individual to obtain payment for care before the hospital facility has made reasonable efforts to determine whether the individual is eligible for assistance for the care under its financial assistance policy (FAP), as described in paragraph (c) of this section. For purposes of this section, with respect to any debt owed by an individual for care provided by a hospital facility—

(1) ECAs against the individual include ECAs to obtain payment for the care against any other individual who has accepted or is required to accept responsibility for the individual's hospital bill for the care; and

(2) The hospital facility will be deemed to have engaged in an ECA against the individual to obtain payment for the care, or to have taken one or more of the steps necessary to have made reasonable efforts to determine whether the individual is FAP-eligible for the care, if any purchaser of the individual's debt, any debt collection agency or other party to which the hospital facility has referred the individual's debt, or any substantially-related entity (as defined in § 1.501(r)–1(b)(28)) has engaged in such an ECA or taken such steps (whichever is applicable).

(b) *Extraordinary collection actions*—(1) *In general.* Except as otherwise provided in this paragraph (b), the following actions taken by a hospital facility against an individual related to obtaining payment of a bill for care covered under the hospital facility's FAP are ECAs:

(i) Selling an individual's debt to another party (other than debt sales described in paragraph (b)(2) of this section).

(ii) Reporting adverse information about the individual to consumer credit reporting agencies or credit bureaus.

(iii) Deferring or denying, or requiring a payment before providing, medically necessary care because of an individual's nonpayment of one or more bills for previously provided care covered under the hospital facility's FAP (which is considered an ECA to obtain payment for the previously provided care, not the care being potentially deferred or denied). If a hospital facility requires a payment before providing medically necessary care to an individual with one or more outstanding bills for previously provided care, such a requirement for payment will be presumed to be because of the individual's nonpayment of such bill(s) unless the hospital facility can demonstrate that it required the payment from the individual based on factors other than, and without regard to, the individual's nonpayment of past bills.

(iv) Actions that require a legal or judicial process, including but not limited to—

(A) Placing a lien on an individual's property (other than a lien described in paragraph (b)(3) of this section);

(B) Foreclosing on an individual's real property;

(C) Attaching or seizing an individual's bank account or any other personal property;

(D) Commencing a civil action against an individual;

(E) Causing an individual's arrest;

(F) Causing an individual to be subject to a writ of body attachment; and

(G) Garnishing an individual's wages.

(2) *Certain debt sales that are not ECAs.* A hospital facility's sale of an individual's debt for care provided by the hospital facility will not be considered an ECA if, prior to the sale, the hospital facility has entered into a legally binding written agreement with the purchaser of the debt pursuant to which—

(i) The purchaser is prohibited from engaging in any ECAs to obtain payment for the care;

(ii) The purchaser is prohibited from charging interest on the debt in excess of the rate in effect under section 6621(a)(2) at the time the debt is sold (or such other interest rate set by notice or other guidance published in the Internal Revenue Bulletin);

(iii) The debt is returnable to or recallable by the hospital facility upon a determination by the hospital facility or the purchaser that the individual is FAP-eligible; and

(iv) If the individual is determined to be FAP-eligible and the debt is not returned to or recalled by the hospital facility, the purchaser is required to adhere to procedures specified in the agreement that ensure that the individual does not pay, and has no obligation to pay, the purchaser and the hospital facility together more than he or she is personally responsible for paying as a FAP-eligible individual.

(3) *Liens on certain judgments, settlements, or compromises.* Any lien that a hospital facility is entitled to assert under state law on the proceeds of a judgment, settlement, or compromise owed to an individual (or his or her representative) as a result of personal injuries for which the hospital facility provided care is not an ECA.

(4) *Bankruptcy claims.* The filing of a claim in any bankruptcy proceeding is not an ECA.

(c) *Reasonable efforts*—(1) *In general.* A hospital facility will have made reasonable efforts to determine whether an individual is FAP-eligible for care only if the hospital facility meets the requirements described in paragraph (c)(2) or (c)(3) of this section.

(2) *Presumptive FAP-eligibility determinations based on third-party information or prior FAP-eligibility determinations*—(i) *In general.* With respect to any care provided by a hospital facility to an individual, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible for the care if it determines that the individual is FAP-eligible for the care based on information other than that provided by the individual or based on a prior FAP-eligibility determination and, if the individual is presumptively determined to be eligible for less than the most generous assistance available under the FAP, the hospital facility—

(A) Notifies the individual regarding the basis for the presumptive FAP-eligibility determination and the way to apply for more generous assistance available under the FAP;

(B) Gives the individual a reasonable period of time to apply for more generous assistance before initiating ECAs to obtain the discounted amount owed for the care; and

(C) If the individual submits a complete FAP application seeking more generous assistance during the

application period (as defined in § 1.501(r)–1(b)(3)), determines whether the individual is eligible for a more generous discount and otherwise meets the requirements described in paragraph (c)(6) of this section with respect to that complete FAP application.

(ii) *Examples.* The following examples illustrate this paragraph (c)(2):

Example 1. V is a hospital facility with a FAP under which the specific assistance for which an individual is eligible depends exclusively upon that individual's household income. The most generous assistance offered for care under V's FAP is free care. V's FAP states that V uses enrollment in certain specified means-tested public programs to presumptively determine that individuals are FAP-eligible. D, an individual, receives care from V. Although D does not submit a FAP application to V, V learns that D is eligible for certain benefits under a state program that bases eligibility on household income. Based on this knowledge, V presumptively determines that D is eligible to receive free care under its FAP. V notifies D that it has determined he is eligible for free care based on his eligibility for the benefits under the state program and therefore does not owe V anything for the care he received. V has made reasonable efforts to determine whether D is FAP-eligible under this paragraph (c)(2).

Example 2. X is a hospital facility with a FAP that describes the data, including both hospital and publicly-available data, X uses to make presumptive FAP-eligibility determinations. On January 16, F, an individual, receives care from X. Using the hospital and publicly-available data described in its FAP, X presumptively determines that F is eligible for a 50% discount under its FAP, a discount that is not the most generous discount available under the FAP. The first billing statement that X sends to F indicates that F has been given a 50% discount under X's FAP, explains the basis for this presumptive FAP-eligibility determination, and informs F that she may apply for financial assistance if she believes she is eligible for a more generous discount. The billing statement indicates that F may call 1–800–888–xxxx or visit X's Web site at *www.hospitalX.org/FAP* to learn more about the FAP or the FAP application process. X sends F three more billing statements, each of which contains the standard written notice about the FAP that X includes on all of its billing statements in accordance with § 1.501(r)–4(b)(5), but F neither pays the amount she is personally responsible for paying nor applies for more generous financial assistance. The time between the first and fourth billing statement constitutes a reasonable period of time for F to apply for more generous assistance. V has made reasonable efforts to determine whether D is FAP-eligible under this paragraph (c)(2).

(3) *Reasonable efforts based on notification and processing of applications.* With respect to any care provided by a hospital facility to an individual, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible for the care if it—

(i) Notifies the individual about the FAP as described in paragraph (c)(4) of this section before initiating any ECAs to obtain payment for the care and refrains from initiating such ECAs (with the exception of an ECA described in paragraph (b)(1)(iii) of this section) for at least 120 days from the date the hospital facility provides the first post-discharge billing statement for the care;

(ii) In the case of an individual who submits an incomplete FAP application during the application period, notifies the individual about how to complete the FAP application and gives the individual a reasonable opportunity to do so as described in paragraph (c)(5) of this section; and

(iii) In the case of an individual who submits a complete FAP application during the application period, determines whether the individual is FAP-eligible for the care and otherwise meets the requirements described in paragraph (c)(6) of this section.

(4) *Notification*—(i) *In general.* With respect to any care provided by a hospital facility to an individual and except as provided in paragraph (c)(4)(iii) of this section, a hospital facility will have notified an individual about its FAP for purposes of paragraph (c)(3)(i) of this section only if the hospital facility does the following at least 30 days before first initiating one or more ECA(s) to obtain payment for the care:

(A) Provides the individual with a written notice that indicates financial assistance is available for eligible individuals, identifies the ECA(s) that the hospital facility (or other authorized party) intends to initiate to obtain payment for the care, and states a deadline after which such ECA(s) may be initiated that is no earlier than 30 days after the date that the written notice is provided.

(B) Provides the individual with a plain language summary of the FAP (as defined in § 1.501(r)–1(b)(24)) with the written notice described in paragraph (c)(4)(i)(A) of this section (or, if applicable, paragraph (c)(4)(iii) of this section).

(C) Makes a reasonable effort to orally notify the individual about the hospital facility's FAP and about how the individual may obtain assistance with the FAP application process.

(ii) *Notification in the event of multiple episodes of care.* A hospital facility may satisfy the notification requirements described in paragraph (c)(4)(i) of this section simultaneously for multiple episodes of care and notify the individual about the ECA(s) the hospital facility intends to initiate to obtain payment for multiple outstanding bills for care. However, if a hospital facility aggregates an individual's outstanding bills for multiple episodes of care before initiating one or more ECAs to obtain payment for those bills, it will have not have made reasonable efforts to determine whether the individual is FAP-eligible under paragraph (c)(3) of this section unless it refrains from initiating the ECA(s) until 120 days after it provided the first post-discharge billing statement for the most recent episode of care included in the aggregation.

(iii) *Notification before deferring or denying care due to nonpayment for prior care.* In the case of an ECA described in paragraph (b)(1)(iii) of this section, a hospital facility may notify the individual about its FAP less than 30 days before initiating the ECA, provided that the hospital facility does the following:

(A) Otherwise meets the requirements of paragraph (c)(4)(i) of this section but, instead of the notice described in paragraph (c)(4)(i)(A) of this section, provides the individual with a FAP application form and a written notice indicating that financial assistance is available for eligible individuals and stating the deadline, if any, after which the hospital facility will no longer accept and process a FAP application submitted (or, if applicable, completed) by the individual for the previously-provided care at issue. This deadline must be no earlier than the later of 30 days after the date that the written notice is provided or 240 days after the date that the first post-discharge billing statement for the previously provided care was provided.

(B) If the individual submits a FAP application for the previously provided care on or before the deadline described in paragraph (c)(4)(iii)(A) of this section (or at any time, if the hospital facility didn't provide any such deadline to the individual), processes the FAP application on an expedited basis.

(iv) *Examples.* The following example illustrates this paragraph (c)(4):

Example 1. A, an individual, receives care from T, a hospital facility, in February. T provides A with the first post-discharge billing statement for that care on March 3. This and subsequent billing statements that T sends to A contain the standard written notice about the FAP that X includes on all of its billing statements in accordance with § 1.501(r)–4(b)(5). A has not paid her bill or submitted a FAP application when T provides her with the third billing statement for the care, postmarked June 1. With this third billing statement, T includes a plain language summary of the FAP and a letter informing A that if she does not pay the

amount owed or submit a FAP application by July 1, T intends to report A's delinquency to credit reporting agencies. T also calls A and informs her about the financial assistance available to eligible patients under T's FAP and about how to obtain assistance with the FAP application process. A does not pay her bill or submit a FAP application by July 1. T has made reasonable efforts to determine whether A is FAP-eligible, and thus may report A's delinquency to credit reporting agencies, as of July 2.

Example 2. G, an individual, receives care from Y, a hospital facility, on May 25 of Year 1. G does not pay or submit a FAP application over the next year, despite Y's sending out numerous bills beginning on June 24 that contain the standard written notice about the FAP that Y includes on all of its billing statements in accordance with the requirements under § 1.501(r)–4(b)(5). Y also makes numerous attempts to encourage E to apply for financial assistance, including by calling G to inform her about the financial assistance available to eligible patients under Y's FAP and to offer assistance with the FAP application process. By June 24 of Year 2, Y, which had not previously initiated any ECAs against G to obtain payment for the care, notifies G in writing that if G does not pay or complete a FAP application by July 24 of Year 2, Y intends to file a lawsuit seeking a judgment for the amount G owes for the care and to seek court permission to enforce the judgment by either seizing G's bank account or garnishing G's wages. The written notice also includes a plain language summary of the FAP. G fails to pay or submit a FAP application by July 24 of Year 2. Y has made reasonable efforts to determine whether G is FAP-eligible, and may seek a judgment for the amount G owes and court permission to enforce the judgment by seizing G's bank account or garnishing G's wages, as of July 25 of Year 2.

(5) *Incomplete FAP applications*—(i) *In general.* With respect to any care provided by a hospital facility to an individual, if an individual submits an incomplete FAP application during the application period, the hospital facility will have notified the individual about how to complete the FAP application and given the individual a reasonable opportunity to do so for purposes of paragraph (c)(3)(ii) of this section only if the hospital facility—

(A) Suspends any ECAs to obtain payment for the care as described in paragraph (c)(8) of this section; and

(B) Provides the individual with a written notice that describes the additional information and/or documentation required under the FAP or FAP application form that must be submitted to complete the FAP application and that includes the contact information described in § 1.501(r)–1(b)(24)(v).

(ii) *FAP application completed.* If an individual who has submitted an incomplete FAP application during the application period subsequently completes the FAP application during the application period (or, if later, within a reasonable timeframe given to respond to requests for additional information and/or documentation), the individual will be considered to have submitted a complete FAP application during the application period, and the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible only if it meets the requirements for complete FAP applications described in paragraph (c)(6) of this section.

(iii) *Examples.* The following examples illustrate this paragraph (c)(5):

Example 1. (i) Assume the same facts as *Example 1* in paragraph (c)(4)(iv) of this section and the following additional facts: A submits an incomplete FAP application to T on July 15, which is before the last day of the application period on October 29 but after T has already initiated ECAs. Eligibility for assistance under T's FAP is based solely on an individual's family income and the instructions to T's FAP application form require applicants to attach to their application forms certain documentation verifying family income. The FAP application form that A submits to T on July 15 includes all of the required income information, but A fails to attach the required documentation verifying her family income. On July 22, a member of T's staff calls A to inform her that she failed to attach any of the required documentation of her family income and explains what kind of documentation A needs to submit and how she can submit it. T indicates that the documentation should be provided by September 22. T also sends A a letter that describes the missing documentation that A must submit by September 22 (and how to submit it) and provides a telephone number A can call and room number she can visit to get assistance with the FAP application process. T does not initiate any new ECAs against A and does not take any further action on the ECAs T previously initiated against A between July 15 and September 22. A does not respond to T's letter and does not submit any missing documentation by September 22. T has made reasonable efforts to determine whether A is FAP-eligible, and may initiate or resume ECAs against A, as of September 23.

(ii) On October 10, before the last day of the application period on October 29, A provides T with the missing documentation. Because A has submitted a complete FAP application during the application period, to meet the requirements of paragraph (a) of this section, T must process the FAP application documentation to determine whether A is FAP-eligible and otherwise meet the requirements for complete FAP applications described in paragraph (c)(6) of this section.

Example 2. (i) B, an individual, receives care from U, a hospital facility, on January 10. U has established a FAP that provides assistance to all individuals whose household income is less than $y, and the instructions to U's FAP application form specify the documentation that applicants must provide to verify their household income. Shortly after receiving care, B submits a FAP application form to U indicating that he has household income of less than $y. B's FAP application form includes all of the required income information, but B fails to attach the required documentation verifying household income.

(ii) On February 9, U sends B the first post-discharge billing statement for the care that contains the standard written notice about the FAP that U includes on all of its billing statements in accordance with § 1.501(r)–4(b)(5). With this first post-discharge billing statement, U includes a letter informing B that the income information he provided on his FAP application form indicates that he may be eligible to pay only x% of the amount stated on the billing statement if he can provide documentation that verifies his household income. In addition, this letter describes the type of documentation (which is also described in the instructions to U's FAP application form) that B needs to provide to complete his FAP application and provides a telephone number that B may call and room number he may visit if he has questions or needs assistance with the FAP application process. By the time U is getting ready to send B a third billing statement for the care, B has not provided any response to U's request for the missing documentation. Accordingly, with the third billing statement postmarked May 10, U includes a plain language summary of the FAP plus a written notice informing B that U intends to report B's delinquency to credit reporting agencies if B does not submit the missing documentation or pay the amount due by June 9. U also calls B to inform B about the impending ECA and to see if he has questions about the missing documentation that U has requested. B does not provide any response to U's request for the missing documentation by June 9. U has made reasonable efforts to determine whether B is FAP-eligible, and thus may report B's delinquency to credit reporting agencies, as of June 10.

(6) *Complete FAP applications*—(i) *In general.* With respect to any care provided by a hospital facility to an individual, if an individual submits a complete FAP application during the application period, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible for the care only if the hospital facility does the following in a timely manner:

(A) Suspends any ECAs to obtain payment for the care as described in paragraph (c)(8) of this section.

(B) Makes a determination as to whether the individual is FAP-eligible for the care and notifies the individual in writing of this eligibility determination (including, if applicable, the assistance for which the individual is eligible) and the basis for this determination.

(C) If the hospital facility determines the individual is FAP-eligible for the care, does the following:

(*1*) If the individual is determined to be eligible for assistance other than free care, provides the individual with a billing statement that indicates the amount the individual owes for the care as a FAP-eligible individual and how that amount was determined and states, or describes how the individual can get information regarding, the AGB for the care.

(*2*) Refunds to the individual any amount he or she has paid for the care (whether to the hospital facility or any other party to whom the hospital facility has referred or sold the individual's debt for the care) that exceeds the amount he or she is determined to be personally responsible for paying as a FAP-eligible individual, unless such excess amount is less than $5 (or such other amount set by notice or other guidance published in the Internal Revenue Bulletin).

(*3*) Takes all reasonably available measures to reverse any ECA (with the exception of a sale of debt and an ECA described in paragraph (b)(1)(iii) of this section) taken against the individual to obtain payment for the care. Such reasonably available measures generally include, but are not limited to, measures to vacate any judgment against the individual, lift any levy or lien (other than a lien described in paragraph (b)(3) of this section) on the individual's property, and remove from the individual's credit report any adverse information that was reported to a consumer reporting agency or credit bureau.

(ii) *Anti-abuse rule for complete FAP applications.* A hospital facility will not have made reasonable efforts to determine whether an individual is FAP-eligible if the hospital facility bases its determination that the individual is not FAP-eligible on information that the hospital facility has reason to believe is unreliable or incorrect or on information obtained from the individual under duress or through the use of coercive practices. For purposes of this paragraph (c)(6)(ii), a coercive practice includes delaying or denying emergency medical care to an individual until the individual has provided information requested to determine whether the individual is FAP-eligible for the care being delayed or denied.

(iii) *Determination based on complete FAP applications sufficient for reasonable efforts.* A hospital facility will have made reasonable efforts to determine whether an individual is FAP-eligible with respect to any ECAs it initiates to obtain payment for care if, before initiating any such ECAs, it determines whether the individual is FAP-eligible for the care based on a complete FAP application and otherwise meets the requirements described in this paragraph (c)(6). If these conditions are satisfied, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible for the care regardless of whether it has notified the individual as described in paragraph (c)(4) of this section or, if applicable, in paragraph (c)(5)(i)(B) of this section.

(iv) *Determining Medicaid eligibility.* A hospital facility will not fail to have made reasonable efforts to determine whether an individual is FAP-eligible for care if, upon receiving a complete FAP application from an individual who the hospital facility believes may qualify for Medicaid, the hospital facility postpones determining whether the individual is FAP-eligible for the care until after the individual's Medicaid application has been completed and submitted and a determination as to the individual's Medicaid eligibility has been made.

(v) *Examples.* The following examples illustrate this paragraph (c)(6):

Example 1. C, an individual, receives care from W, a hospital facility, on September 1. W has established a FAP that provides assistance only to individuals whose family income is less than or equal to x% of the Federal Poverty Level (FPL), which, in the case of C's family size, is $y. Upon discharge, W's staff gives C a plain language summary of the FAP and informs C that if she needs assistance filling out a FAP application form, W has a social worker on staff who can assist her. C expresses interest in getting assistance with a FAP application while she is still on site and is directed to K, one of W's social workers. K explains the eligibility criteria in W's FAP to C, and C realizes that to determine her family income as a percentage of FPL she needs to look at her prior year's tax returns. On September 20, after returning home and obtaining the necessary information, C submits a FAP application to W that contains all of the information and documentation required in the FAP application form instructions. W's staff promptly examines C's FAP application and, based on the information and documentation therein, determines that C's family income is well in excess of $y. On October 1, W sends C her first post-discharge billing statement for the care she received on September 1. With the billing statement, W includes a letter informing C that she is not eligible for financial assistance because her FAP application indicates that she has family income in excess of x% of FPL ($y for a family the size of C's family) and W only provides financial assistance to individuals with family income that is less than x% of FPL. W has made reasonable efforts to determine whether C is FAP-eligible as of October 1.

Example 2. E, an individual, receives care from P, a hospital facility, from February 24 to 28. E pays a co-payment of $30 at discharge and is determined by her insurer to be personally responsible for paying another $550 in deductibles. P sends E several billing statements starting on March 20 indicating that E owes $550. By July 30, E has not paid the $550 or submitted a FAP application. On July 30, P notifies E in writing that if E does not pay or complete a FAP application by August 30, P intends to report B's delinquency to credit reporting agencies. The written notice also includes a plain language summary of the FAP. In addition, P calls E and informs her about the financial assistance available to eligible patients under P's FAP and about how to obtain assistance with the FAP application process. E fails to pay or submit a FAP application by August 30. P subsequently reports E's delinquency to credit reporting agencies. E then provides a complete FAP application to P on November 10, before the last day of the application period on November 15. P promptly examines the application and determines that E is eligible for free care under P's FAP. P contacts the credit reporting agencies to which it had reported E's delinquency and asks them to remove the adverse information from E's credit report. P also sends E a letter that informs her that she is eligible for free care under P's FAP and explains the basis for this eligibility determination and includes with this letter a check for $30 (the co-payment E had paid). P has made reasonable efforts to determine whether E is FAP-eligible.

Example 3. R, a hospital facility, has established a FAP that provides financial assistance only to individuals whose family income is less than or equal to x% of the Federal Poverty Level (FPL), based on their prior year's federal tax return. L, an individual, receives care from R. While L is being discharged from R, she is approached by M, an employee of a debt collection company that has a contract with R to handle all of R's patient billing. M asks L for her family income information, telling L that this information is needed to determine whether L is eligible for financial assistance. L tells M that she does not know what her family income is and would need to consult her tax returns to determine it. M tells L that she can just provide a ''rough estimate'' of her family income. L states that her family income may be around $y, an amount slightly above the amount that would allow her to qualify for financial assistance. M enters $y on the income line of a FAP application form with L's name on it and marks L as not FAP-eligible. Based on M's information collection, R determines that L is not FAP-eligible and notifies L of this determination with her first billing statement. Because M had reason to believe that the income estimate provided by L was unreliable, R has violated the anti-abuse rule described in paragraph (c)(6)(ii) of this section. Thus, R has not made reasonable efforts to determine whether L is FAP-eligible.

(7) *When no FAP application is submitted.* Unless and until an individual submits a FAP application during the application period, any paragraphs of this section that are conditioned on an individual's submitting a FAP application (namely,

paragraphs (c)(2)(i)(C), (c)(3)(ii), and (c)(3)(iii) of this section) do not apply, and the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible for care, and may initiate one or more ECAs to obtain payment for the care, once it has met the requirements of this section that are not contingent on an individual's submission of a FAP application. For example, unless and until a hospital facility receives a FAP application from an individual during the application period, the hospital facility has made reasonable efforts to determine whether the individual is FAP-eligible for care (and thus may initiate ECAs to obtain payment for the care) once it has notified the individual about the FAP as described in paragraph (c)(3)(i) of this section.

(8) *Suspending ECAs while a FAP application is pending.* With respect to any care provided by a hospital facility to an individual, if an individual submits a FAP application during the application period, the hospital facility (or other authorized party) will have suspended ECAs for purposes of this paragraph (c) only if, after receiving the application, the hospital facility (or other authorized party) does not initiate, or take further action on any previously-initiated, ECAs (with the exception of an ECA described in paragraph (b)(1)(iii) of this section) to obtain payment for the care until either—

(i) The hospital facility has determined whether the individual is FAP-eligible based on a complete FAP application and otherwise met the requirements of paragraph (c)(6) of this section; or

(ii) In the case of an incomplete FAP application, the individual has failed to respond to requests for additional information and/or documentation within a reasonable period of time given to respond to such requests.

(9) *Waiver does not constitute reasonable efforts.* For purposes of this paragraph (c), obtaining a signed waiver from an individual, such as a signed statement that the individual does not wish to apply for assistance under the FAP or receive the information described in paragraphs (c)(4) or (c)(5) of this section, will not itself constitute a determination that the individual is not FAP-eligible and will not satisfy the requirement to make reasonable efforts to determine whether the individual is FAP-eligible before engaging in ECAs against the individual.

(10) *Agreements with other parties.* With the exception of sales described in paragraph (b)(2) of this section, if a hospital facility sells or refers an individual's debt related to care to another party, the hospital facility will have made reasonable efforts to determine whether the individual is FAP-eligible for the care only if it first enters into (and, to the extent applicable, enforces) a legally binding written agreement with the party that is reasonably designed to ensure that no ECAs are taken to obtain payment for the care until reasonable efforts have been made to determine whether the individual is FAP-eligible for the care. At a minimum, such an agreement must provide the following:

(i) If the individual submits a FAP application after the referral or sale of the debt but before the end of the application period, the party will suspend ECAs to obtain payment for the care as described in paragraph (c)(8) of this section.

(ii) If the individual submits a FAP application after the referral or sale of the debt but before the end of the application period and is determined to be FAP-eligible for the care, the party will do the following in a timely manner:

(A) Adhere to procedures specified in the agreement that ensure that the individual does not pay, and has no obligation to pay, the party and the hospital facility together more than he or she is required to pay for the care as a FAP-eligible individual.

(B) If applicable and if the party (rather than the hospital facility) has the authority to do so, take all reasonably available measures to reverse any ECA (other than the sale of a debt or an ECA described in paragraph (b)(1)(iii) of this section) taken against the individual as described in paragraph (c)(6)(i)(C)(*3*) of this section.

(iii) If the party refers or sells the debt to yet another party during the application period, the party will obtain a written agreement from that other party including all of the elements described in this paragraph (c)(10).

(11) *Clear and conspicuous placement.* A hospital facility may print any written notice or communication described in this paragraph (c), including any plain language summary of the FAP, on a billing statement or along with other descriptive or explanatory matter, provided that the required information is conspicuously placed and of sufficient size to be clearly readable.

(12) *Providing documents electronically.* A hospital facility may provide any written notice or communication described in this paragraph (c) electronically (for example, by email) to any individual who indicates he or she prefers to receive the written notice or communication electronically.

§ 1.501(r)–7 Effective/applicability dates.

(a) *Effective/applicability date.* The rules of §§ 1.501(r)–1 through 1.501(r)–6 apply to taxable years beginning after December 29, 2015.

(b) *Reasonable interpretation for taxable years beginning on or before* December 29, 2015. For taxable years beginning on or before December 29, 2015, a hospital facility may rely on a reasonable, good faith interpretation of section 501(r). A hospital facility will be deemed to have operated in accordance with a reasonable, good faith interpretation of section 501(r) if it has complied with the provisions of the proposed or final regulations under section 501(r) (REG–130266–11 and/or REG–106499–12). Accordingly, a hospital facility may rely on § 1.501(r)–3 of the proposed or final regulations, or another reasonable interpretation of section 501(r)(3), for any CHNA conducted or implementation strategy adopted before the first day of the hospital organization's first taxable year beginning after December 29, 2015.

■ **Par. 4.** Section 1.6012–2 is amended by redesignating paragraphs (i) through (k) as paragraphs (j) through (l) and adding new paragraph (i) to read as follows:

§ 1.6012–2 Corporations required to make returns of income.

* * * * *

(i) *Hospital organizations with noncompliant hospital facilities.* Every hospital organization (as defined in § 1.501(r)–1(b)(18)) that is subject to the tax imposed by § 1.501(r)–2(d) shall make a return on Form 990–T. The filing of a return to pay the tax described in § 1.501(r)–2(d) does not relieve the organization of the duty of filing other required returns.

* * * * *

■ **Par. 5.** Section 1.6012–3 is amended by adding new paragraph (a)(10) to read as follows:

§ 1.6012–3 Returns by fiduciaries.

(a) * * *

(10) *Hospital organizations organized as trusts with noncompliant hospital facilities.* Every fiduciary for a hospital organization (as defined in § 1.501(r)–1(b)(18)) organized as a trust described in section 511(b)(2) that is subject to the tax imposed by § 1.501(r)–2(d) shall make a return on Form 990–T. The filing of a return to pay the tax described in § 1.501(r)–2(d) does not relieve the organization of the duty of filing other required returns.

* * * * *

■ **Par. 6.** Section 1.6033–2 is amended by adding paragraphs (a)(2)(ii)(*l*) and (k)(4) to read as follows:

§ 1.6033–2 Returns by exempt organizations (taxable years beginning after December 31, 1969) and returns by certain nonexempt organizations (taxable years beginning after December 31, 1980).

(a) * * *

(2) * * *

(ii) * * *

(*l*) In the case of a hospital organization (as defined in § 1.501(r)–1(b)(18)) described in section 501(c)(3) during the taxable year—

(*1*) A copy of its audited financial statements for the taxable year (or, in the case of an organization the financial statements of which are included in consolidated financial statements with other organizations, such consolidated financial statements);

(*2*) Either a copy of the most recently adopted implementation strategy, within the meaning of § 1.501(r)–3(c), for each hospital facility it operates or the URL of each Web page where it has made each such implementation strategy widely available on a Web site within the meaning of § 1.501(r)–1(b)(29) along with or as part of the report documenting the community health needs assessment (CHNA) to which the implementation strategy relates;

(*3*) For each hospital facility it operates, a description of the actions taken during the taxable year to address the significant health needs identified through its most recently conducted CHNA, within the meaning of § 1.501(r)–3(b), or, if no actions were taken with respect to one or more of these health needs, the reason(s) why no actions were taken; and

(*4*) The amount of the excise tax imposed on the organization under section 4959 during the taxable year.

* * * * *

(k) * * *

(4) The applicability of paragraph (a)(2)(ii)(*l*) of this section shall be limited to returns filed on or after December 29, 2014.

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

■ **Par. 7.** The authority citation for part 53 continues to read in part as follows:

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

■ **Par. 8.** Section 53.4959–1 is added to read as follows:

§ 53.4959–1 Taxes on failures by hospital organizations to meet section 501(r)(3).

(a) *Excise tax for failure to meet the section 501(r)(3) requirements*—(1) *In general.* If a hospital organization (as defined in § 1.501(r)–1(b)(18)) fails to meet the requirements of section 501(r)(3) separately with respect to a hospital facility it operates in any taxable year, there is imposed on the hospital organization a tax equal to $50,000. If a hospital organization operates multiple hospital facilities and fails to meet the requirements of section 501(r)(3) with respect to more than one facility it operates, the $50,000 tax is imposed on the hospital organization separately for each hospital facility's failure. The tax is imposed for each taxable year that a hospital facility fails to meet the requirements of section 501(r)(3).

(2) *Examples.* The following examples illustrate this paragraph (a):

Example 1. (i) U is a hospital organization that operates only one hospital facility, V. In Year 1, V conducts a community health needs assessment (CHNA) and adopts an implementation strategy to meet the health needs identified through the CHNA. In Years 2 and 3, V does not conduct a CHNA. V fails to conduct a CHNA by the last day of Year 4. Accordingly, U has failed to meet the requirements of section 501(r)(3) with respect to V in Year 4 because V has failed to conduct a CHNA in Years 2, 3, and 4. U is subject to a tax equal to $50,000 for Year 4.

(ii) V also fails to conduct a CHNA by the last day of Year 5. Accordingly, U has failed to meet the requirements of section 501(r)(3) with respect to V in Year 5 because V has failed to conduct a CHNA in Years 3, 4, and 5. U is subject to a tax equal to $50,000 for Year 5.

Example 2. P is a hospital organization that operates only one hospital facility, Q. In Year 1, Q conducts a CHNA and adopts an implementation strategy to meet the health needs identified through the CHNA. In Years 2 and 3, Q does not conduct a CHNA. In Year 4, Q conducts a CHNA but does not adopt an implementation strategy to meet the health needs identified through that CHNA by the 15th day of the fifth month of Year 5. Accordingly, P has failed to meet the requirements of section 501(r)(3) with respect to Q in Year 4 because Q has failed to adopt an implementation strategy by the 15th day of the fifth month after the end of the taxable year in which Q conducted its CHNA. P is subject to a tax equal to $50,000 for Year 4.

Example 3. R is a hospital organization that operates two hospital facilities, S and T. In Year 1, S and T each conduct a CHNA and adopt an implementation strategy to meet the health needs identified through the CHNA. In Years 2 and 3, S and T do not conduct a CHNA. S and T each fail to conduct a CHNA by the last day of Year 4. Accordingly, R has failed to meet the requirements of section 501(r)(3) with respect to both S and T in Year 4. R is subject to a tax equal to $100,000 ($50,000 for S's failure plus $50,000 for T's failure) for Year 4.

(b) *Interaction with other provisions*—(1) *Correction.* Unless a hospital organization's failure to meet the requirements of section 501(r)(3) involves an omission or error that is described in and corrected in accordance with § 1.501(r)–2(b) (and is thus not considered a failure), a failure to meet the requirements of section 501(r)(3) will result in a tax being imposed on the organization under this section, notwithstanding the organization's correction and disclosure of the failure in accordance with the guidance described in § 1.501(r)–2(c).

(2) *Interaction with other taxes.* The tax imposed by this section is in addition to any tax imposed by § 1.501(r)–2(d) or as a result of revocation of a hospital organization's section 501(c)(3) status.

(c) *Effective/applicability dates.* Paragraph (a) of this section applies on and after December 29, 2014.

■ **Par. 9.** Section 53.6011–1 is amended by:

■ 1. Removing from the first sentence of paragraph (b) the language ''or 4965(a),'' and adding ''4959, or 4965(a),'' in its place.

■ 2. Adding a sentence at the end of paragraph (b).

■ 3. Removing paragraphs (c) and (g).

■ 4. Redesignating paragraphs (d) through (f) as (c) through (e).

The addition reads as follows:

§ 53.6011–1 General requirement of return, statement, or list.

* * * * *

(b) * * * In the case of a tax imposed by section 4959 on a hospital organization (as defined in § 1.501(r)–1(b)(18)), the annual return must include the required information for each of the organization's hospital facilities that failed to meet the requirements of section 501(r)(3) for the taxable year.

* * * * *

§ 53.6011–1T [Removed]

■ **Par. 10.** Section 53.6011–1T is removed.

■ **Par. 11.** Section 53.6071–1 is amended by revising paragraphs (h) and (i)(2) to read as follows:

§ 53.6071–1 Time for filing returns.

* * * * *

(h) *Taxes on failures by charitable hospital organizations to satisfy the community health needs assessment requirements of section 501(r)(3).* A hospital organization (as defined in § 1.501(r)–1(b)(18)) liable for tax imposed by section 4959 must file a Form 4720 as required by § 53.6011–1(b), on or before the 15th day of the fifth month after the end of the hospital organization's taxable year for which it

failed to meet the requirements of section 501(r)(3).

(i) * * *

(2) Paragraph (h) of this section applies on and after August 15, 2013.

§ 53.6071–1T [Removed]

■ **Par. 12.** Section 53.6071–1T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 13.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 14.** In § 602.101, paragraph (b) is amended by adding the following entries in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB Control No.
* * *	* *
1.501(r)–3	1545–0047
1.501(r)–4	1545–0047
1.501(r)–6	1545–0047
* * *	* *

John M. Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: December 22, 2014.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2014–30525 Filed 12–29–14; 4:15 pm]

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Part III

Environmental Protection Agency

40 CFR Part 60
Oil and Natural Gas Sector: Reconsideration of Additional Provisions of New Source Performance Standards; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2010–0505; FRL–9921–03–OAR]

RIN 2060–AR75

Oil and Natural Gas Sector: Reconsideration of Additional Provisions of New Source Performance Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action finalizes amendments to new source performance standards (NSPS) for the oil and natural gas sector. On August 16, 2012, the Environmental Protection Agency (EPA) published final NSPS for the oil and natural gas sector. The Administrator received petitions for administrative reconsideration of certain aspects of the standards. Among issues raised in the petitions were time-critical issues related to certain storage vessel provisions and well completion provisions. On July 17, 2014 (79 FR 41752), the EPA published proposed amendments and clarifications as a result of reconsideration of certain issues related to well completions, storage vessels and other issues raised for reconsideration as well as technical corrections and amendments to further clarify the rule. This action finalizes these amendments and corrects technical errors that were inadvertently included in the final standards.

DATES: This final rule is effective on December 31, 2014.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2010–0505. 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.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the EPA's Docket Center, Public Reading Room, EPA WJC West Building, Room Number 3334, 1301 Constitution Avenue NW., Washington, DC 20004. This docket facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Moore, Sector Policies and Programs Division (E143–05), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–5460; facsimile number: (919) 685–3200; email address: *moore.bruce@epa.gov.*

SUPPLEMENTARY INFORMATION:

Organization of This Document. The information presented in this preamble is organized as follows:

I. Preamble Acronyms and Abbreviations

Several acronyms and terms are included in this preamble. While this may not be an exhaustive list, to ease the reading of this preamble and for reference purposes, the following terms and acronyms are defined here:

CAA Clean Air Act
CFR Code of Federal Regulations
CO_2 Carbon Dioxide
EPA Environmental Protection Agency
LEL Lower Explosive Limit
NSPS New Source Performance Standards
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
PTE Potential to Emit
psi Pounds per Square Inch
REC Reduced Emissions Completion
RFA Regulatory Flexibility Act
tpy Tons per Year
UMRA Unfunded Mandates Reform Act
VOC Volatile Organic Compounds
VRU Vapor Recovery Unit

II. General Information

A. Executive Summary

1. Purpose of This Regulatory Action

The purpose of this action is to finalize amendments to the 40 CFR part 60, subpart OOOO, Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution final rule promulgated under section 111(b) of the Clean Air Act (CAA), which was published on August 16, 2012 (77 FR 49490). Specifically, this final rule addresses certain issues related to well completion and storage vessel provisions that have been raised by different stakeholders through several administrative petitions for reconsideration of the 2012 NSPS and the 2013 storage vessel amendments to the NSPS. The EPA is amending the NSPS to address these issues. Proposed amendments were published on July 17, 2014. (79 FR 41752)

2. Summary of Major Amendments to the NSPS

We are amending the standards for gas well affected facilities to provide greater clarity concerning what owners and operators must do during well completion operations with respect to the handling of gas and liquids during the well completion operations. In this action, we clarify that the flowback

period of a well completion following hydraulic fracturing consists of two distinct stages, the ''initial flowback stage'' and the ''separation flowback stage.'' The initial flowback stage begins with the onset of flowback and ends when the flow is routed to a separator. During the initial flowback stage, any gas in the flowback is not subject to control. However, the operator must route the flowback to a separator unless it is technically infeasible for a separator to function. The point at which the separator can function marks the beginning of the separation flowback stage. During this stage, the operator must route all salable quality gas from the separator to a flow line or collection system, re-inject the gas into the well or another well, use the gas as an on-site fuel source or use the gas for another useful purpose. If it is infeasible to route the gas as described above, or if the gas is not of salable quality, the operator must combust the gas unless combustion creates a fire or safety hazard or can damage tundra, permafrost or waterways. No direct venting of gas is allowed during the separation flowback stage. The separation flowback stage ends either when the well is shut in and the flowback equipment is permanently disconnected from the well, or on startup of production. This also marks the end of the flowback period. The operator has a general duty to safely maximize resource recovery and minimize releases to the atmosphere over the duration of the flowback period. The operator is also required to document the stages of the completion operation by maintaining records of (1) the date and time of the onset of flowback; (2) the date and time of each attempt to route flowback to the separator; (3) the date and time of each occurrence in which the operator reverted to the initial flowback stage; (4) the date and time of well shut in; and (5) date and time that temporary flowback equipment is disconnected. The NSPS already requires that the operator document the total duration of venting, combustion and flaring over the flowback period. All flowback liquids during the initial flowback period and the separation flowback period must be routed to a well completion vessel, a storage vessel or a collection system. On startup of production, the operator must begin the 30-day process of estimating the volatile organic compound (VOC) potential to emit (PTE) for storage vessels that will receive the liquids from the well. If the PTE is at least 6 tons/yr (tpy), the operator must control emissions from the storage vessel no later than 60 days after the startup of production (for storage vessels used in applications other than production following well completions, the term used to identify this point in time is ''startup''). A well completion vessel to which liquids from the well are routed after startup of production for a period in excess of 60 days is considered a ''storage vessel'' subject to the storage vessel PTE determination and, if determined to be a storage vessel affected facility, would be subject to the control, cover and closed vent system requirements of the NSPS.

We are finalizing the definition of ''low pressure gas well,'' as presented in the 2012 NSPS and re-proposed in the July 17, 2014, proposed rule.

We are finalizing several amendments related to the storage vessel provisions of the NSPS. First, we are finalizing provisions for determining VOC PTE for storage vessels with vapor recovery to clarify that the provisions allowing sources to exclude emissions captured through vapor recovery if certain specified control requirements are met do not apply to storage vessels whose PTE is limited to below the 6 tpy applicability threshold under a legally and practically enforceable permit or other limitation under federal, state or tribal authority. We are also amending the storage vessel closed vent system and cover requirements to allow use of other mechanisms besides weighted lid thief hatches to ensure that the thief hatch lid remains properly seated. In addition, we are amending the requirements for storage vessels to clarify notification and other requirements under the NSPS for storage vessels affected facilities that are removed from service for reasons other than maintenance. Further, we are clarifying that Group 1 and Group 2 storage vessel affected facilities that are removed from service are no longer affected facilities and therefore have no requirements under the NSPS until they are returned to service. The status of a Group 1 or Group 2 storage vessel that is later returned to service depends on its new use, which can fall into three possible scenarios. If the storage vessel is used to replace a storage vessel affected facility, or is being connected in parallel with a storage vessel affected facility, it is immediately subject to the same requirements as the affected facility being replaced or with which it is being connected in parallel. If the vessel is not used to replace or connected in parallel with an affected facility but is being used to contain crude oil, condensate, intermediate hydrocarbon liquids or produced water, it is allowed 30 days to determine if its VOC PTE is at least 6 tpy, and if so is subject to the requirements for Group 2 storage vessel affected facilities and would be required to control emissions no later than 60 days after return to service. If the vessel is being used in an application other than to contain crude oil, condensate, intermediate hydrocarbon liquids or produced water, it does not meet the definition of ''storage vessel'' and is not an affected facility under the NSPS.

We are amending the requirements for reciprocating compressors to add a third alternative to the two existing work practice options for controlling emissions from rod packing venting. We are finalizing a third alternative that would allow routing emissions from the rod packing through a collection system under negative pressure via a closed vent system to a process.

We are finalizing two amendments to the equipment leaks requirements for natural gas processing plants. One is to correct an inadvertent omission we made in the 2012 NSPS concerning an exemption from routine leak detection in small gas processing plants and gas processing plants located on the Alaskan North Slope. In addition, we are amending the definition of ''equipment'' to clarify that the term, as used in relation to the equipment leaks requirements under the NSPS, refers only to equipment at onshore natural gas processing plants.

We are amending the provisions related to ''responsible official'' to remove any confusion by the regulated community with respect to the requirements for certifying under subpart OOOO and references to ''responsible official'' under the title V permitting program. To that end, we are changing the term ''responsible official'' to ''certifying official.'' We are also finalizing the proposed amendments to provide for delegation of authority after advance notification for facilities that employ 250 or fewer employees and have less than $25 million gross annual sales or expenditures (in second quarter 1980 dollars).

Finally, the EPA is removing a regulatory affirmative defense provision from the rule. If a source is unable to comply with emissions standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate.

3. Cost and Benefits

Our analysis shows that owners and operators of affected facilities would choose to install and operate the same or similar air pollution control technologies under these amended

standards as would have been necessary to meet the previously finalized standards. We project that this rule will result in no significant change in costs, emission reductions or benefits. Even if there were changes in costs for these units, such changes would likely be small relative to both the overall costs of the individual projects and the overall costs and benefits of the final rule. Since we believe that owners and operators would put on the same or similar controls for this final rule that they would have for the original final rule, there should not be any incremental costs related to this final revision.

B. Does this reconsideration action apply to me?

Categories and entities potentially affected by today's action include:

TABLE 1—INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS ACTION

Category	NAICS code [1]	Examples of regulated entities
Industry	211111	Crude Petroleum and Natural Gas Extraction.
	211112	Natural Gas Liquid Extraction.
	221210	Natural Gas Distribution.
	486110	Pipeline Distribution of Crude Oil.
	486210	Pipeline Transportation of Natural Gas.
Federal government		Not affected.
State/local/tribal government		Not affected.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather is meant to provide a guide for readers regarding entities likely to be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult either the air permitting authority for the entity or your EPA regional representative as listed in 40 CFR 60.4 (General Provisions).

C. How do I obtain a copy of this document and other related information?

In addition to being available in the docket, electronic copies of the final and proposed rules will be available on the WorldWide Web. Following signature, a copy of the rule will be posted at the following address: *http://www.epa.gov/airquality/oilandgas/actions.html.*

D. Judicial Review

Under section 307(b)(1) of the CAA, judicial review of this final rule is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by March 2, 2015. Under section 307(d)(7)(B) of the CAA, only an objection to this final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements. Section 307(d)(7)(B) of the CAA further provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for us to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, William Jefferson Clinton West Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

III. Summary of Final Amendments

This section presents a summary of the provisions of the final action with brief explanations where appropriate. In some cases additional, detailed discussions are provided in sections IV or V. The final amendments include revisions to certain reconsidered aspects of the existing 2012 NSPS as follows: (1) Provisions for well completions that clarify and amend existing requirements for handling of flowback gases and liquids; (2) definition of ''low pressure gas well''; (3) requirements pertaining to determining the potential emissions from storage vessels; (4) requirements for thief hatches; (5) provisions for storage vessels that are removed from service and for those that are returned to service; (6) provisions for routing of emissions from reciprocating compressor rod packing to a process; (7) leak detection requirements at small natural gas processing plants and natural gas processing plants located on the Alaskan North Slope; (8) clarification of equipment subject to leak detection requirements under the NSPS; and (9) revised definition of ''responsible official'' and revision of the term to be ''certifying official'' for compliance certification purposes. In addition, we are removing the affirmative defense provisions from the startup, shutdown and malfunction provisions of the 2012 NSPS and are correcting technical errors in the 2012 NSPS. A summary of the final amendments resulting from our reconsideration is provided in the following paragraphs.

A. Well Completions

1. Handling of Flowback Gases and Liquids

In today's action we are finalizing requirements in § 60.5375 for handling of gases and liquids during flowback.

The regulatory language in the well completion provisions of § 60.5375 is amended to identify two distinct stages associated with well completion, with each stage having specific requirements for handling of gases and liquids. The final provisions are changed slightly from the proposed amendments in response to public comments. Discussion of our rationale for these changes since proposal are presented in section IV.A.

The flowback period consists of two stages, the ''initial flowback stage'' and the ''separation flowback stage.'' The initial flowback stage begins with the

first flowback from the well following hydraulic fracturing or refracturing and is characterized by high volumetric flow water, containing sand, fracturing fluids and debris from the formation with very little gas being brought to the surface, usually in multiphase slug flow. During this stage, the flowback must be routed to a ''storage vessel'' or to a ''well completion vessel'' that can be a frac tank, a lined pit or any other vessel. Our reason for this requirement is to avoid having operators route the flowback to an unlined pit or onto the ground. During the initial flowback stage, there is no requirement for controlling emissions from the vessel, and any gas in the flowback during this stage may be vented. However, the operator must route the flowback to a separator unless it is technically infeasible for a separator to function. As a result, we have changed ''as soon as sufficient gas is present in the flowback for a separator to operate'' to ''unless it is technically infeasible for a separator to function.'' We stress that operators have the responsibility to direct the flowback to a separator as soon as conditions allow a separator to function and in accordance with the General Provision requirements to operate the affected facility in a manner consistent with good air pollution control practices for minimizing emissions.

The second stage is defined as the ''separation flowback stage.'' The point at which the separator can function marks the beginning of the separation flowback stage. This stage is characterized by the separator operating with a gaseous phase and one or more liquid phases in the separator. During this stage, the operator must route all salable quality gas from the separator to a gas flow line or collection system, re-inject the gas into the well or another well, use the gas as an on-site fuel source or use the gas for another useful purpose that a purchased fuel or raw material would serve. If, during the separation flowback stage, it is infeasible to route the recovered gas to a flow line or collection system, reinject the gas or use the gas as fuel or for other useful purpose, the recovered gas must be combusted. No direct venting of recovered gas is allowed during the separation flowback stage except when combustion creates a fire or safety hazard or can damage tundra, permafrost or waterways. With regard to infeasibility of collecting the salable quality gas, we believe that owners and operators plan their operations to extract a target product and evaluate whether the appropriate infrastructure access is available to ensure their product has a viable path to market before completing a well. However, there may be isolated cases in which, for reason(s) not within an operator's control, the well is completed and flowback occurs without a suitable flow line available. In those isolated instances, the NSPS provides a solution in § 60.5375(a)(3), which requires combustion of the gas unless combustion poses an unsafe condition as described above. During the separation flowback stage, all liquids from the separator must be directed to a storage vessel or to a well completion vessel, routed to a collection system or be re-injected into the well or another well.

The end of the separation flowback stage marks the end of the flowback period and is defined as the point at which the well is shut in and the flowback equipment is permanently disconnected from the well, or the startup of production. Identification of this point is discussed in detail in section IV.A. As provided in the 2012 NSPS, the operator has a general duty to safely maximize resource recovery and minimize releases to the atmosphere over the duration of the flowback period.

At some point following the end of the flowback period, depending on how long the well is shut in (if shut in), startup of production will occur. Depending on the situation, the operator may choose to startup production immediately following the end of flowback, once the well is temporarily shut in to remove flowback equipment, may begin production without shutting in and removing flowback equipment, or the operator might delay startup for some period of time by leaving the well shut in until permanent production equipment has been installed. Startup of production, whenever that occurs, marks the beginning of the 30-day period for determining VOC PTE for purposes of making a storage vessel affected facility determination in accordance with the procedure in § 60.5365(e). If the criteria in § 60.5365(e) are met, the operator would have to comply with the control requirements in § 60.5395(d)(1) within 60 days after the startup of production. During this period, any recovered liquids must be routed to well completion vessels, storage vessels or a collection system. A well completion vessel to which liquids are routed from the well for a period in excess of 60 days after startup of production would be considered a ''storage vessel'' under the NSPS and, depending on its VOC PTE, would be subject to the control, cover and closed vent system requirements for storage vessel affected facilities. We are finalizing amendments to § 60.5365(e) to reflect that, for storage vessels associated with production following completions, the 30-day period for the affected facility determination required § 60.5365(e) commences on startup of production. We are also amending the requirements for storage vessel affected facilities in § 60.5395(d)(1)(i) to reflect that, for purposes of the well completion provisions, control is required no later than 60 days from startup of production.

To accompany these changes, we are also amending the reporting and recordkeeping requirements in § 60.5420 to revise the terminology used in that section relating to periods of gas recovery, combustion and venting to be compatible with the terms used in the final clarifying amendments to § 60.5375, including addition of a requirement to document the time of the beginning of flowback, the time at which the operator directs the flowback to a separator (each time this is done), the reason for reverting back to the initial flowback stage (if this is done), the time of well shut in and removal of flowback equipment (end of the flowback period) and time of startup of production (beginning of the PTE determination period). We are also revising the language used in requirements for exploratory, delineation and low pressure wells in § 60.5375(f) to be consistent with the final amended terminology and requirements in § 60.5375(a).

2. Definition of ''Low Pressure Gas Well''

We are finalizing the re-proposed 2012 EPA definition of ''low pressure gas well'' without change. This definition is used in conjunction with § 60.5375(f), which provides that those wells for which a reduced emissions completion (REC) would not be feasible because of a combination of well depth, reservoir pressure and flow line pressure is not required to meet the requirements for recovery of gases and liquids required under § 60.5375(a). Instead of having to perform an REC and recover gas during the separation flowback stage, operators performing completions of low pressure gas wells (in addition to wildcat wells and delineation wells) are required only to combust the gas rather than capture it during flowback. The 2012 NSPS included a definition of ''low pressure gas well'' in the final rule that is based on a mathematical formula that takes into account a well's depth, reservoir pressure and flow line pressure. The

definition of ''low pressure gas well'' is found in § 60.5430.

Following publication of the final rule, several petitioners for administrative reconsideration (hereinafter ''petitioners'') questioned the technical merits of the low pressure well definition and asserted that the public had not had an opportunity to comment on the definition because it was added in the final rule. In the July 17, 2014, proposed rule, we re-proposed the 2012 definition and solicited comment on an alternative definition provided by these petitioners.[1] For the reasons discussed in detail in section V.A, we are retaining the 2012 definition without change.

B. Storage Vessels

On September 23, 2013, the EPA published amendments primarily focused on storage vessel implementation issues raised by petitioners following publication of the 2012 final NSPS. Following publication of the 2013 storage vessel amendments, three petitioners filed additional administrative reconsideration petitions, in which they raised issues with regard to various provisions of the 2013 amendments. Among these issues are requirements for determining PTE for storage vessels employing vapor recovery under a legal and practically enforceable limitation, requirement for thief hatches being properly seated and clarification of the term ''storage vessels removed from service.''

1. PTE Determination for Storage Vessels Employing Vapor Recovery Under a Legally and Practically Enforceable Limitation

We are finalizing amendments to § 60.5365(e) to allow the PTE exclusion provision only in cases where a storage vessel is not subject to any legally and practically enforceable limitation or other requirement under a federal, state, local or tribal authority. An owner or operator invoking this exclusion provision must comply with the provisions of § 60.5365(e)(1) through (4) in determining VOC PTE for purposes of determining affected facility status.

2. Thief Hatch Properly Seated

We are finalizing amendments to § 60.5411(b)(3) to require that thief hatches be equipped, maintained and operated with a weighted mechanism or equivalent, to ensure that the lid remains properly seated. This amendment provides for proper seating of thief hatch lids while allowing innovation and flexibility in design not afforded by requiring that thief hatch lids be weighted.

3. Storage Vessels Removed From Service

As proposed, we are amending § 60.5395(f)(1) and (2), and § 60.5420(b)(6), to require that the dates that storage vessel affected facilities are removed from service and returned to service be included when reporting those actions.

For the reasons discussed in detail in section IV.B, we are also amending the NSPS to clarify that a Group 1 and Group 2 storage vessel affected facility that is removed from service, which is defined in § 60.5430 as physically isolated and disconnected from the process for a purpose other than maintenance and, pursuant to § 60.5395(f)(1), completely emptied and degassed and no longer used to contain crude oil, condensate, produced water or intermediate hydrocarbon liquids, would no longer meet the definition of ''storage vessel'' in § 60.5430 and, therefore, cease to be affected facilities under the NSPS for the period they are out of service.

We are also amending the NSPS to provide that a Group 1 or Group 2 storage vessel affected facility that is returned to service is subject to the NSPS based on the use of the vessel in its new application. There are three possible scenarios for vessels returned to service: (1) The vessel is used to replace a storage vessel affected facility or is connected in parallel with a storage vessel affected facility; (2) the vessel is not used to replace an affected facility but is being used to contain crude oil, condensate, intermediate hydrocarbon liquids or produced water; or (3) the vessel is being used in an application other than to contain crude oil, condensate, intermediate hydrocarbon liquids or produced water. If the vessel is being used to replace a storage vessel affected facility or is connected in parallel with a storage vessel affected facility (*i.e.,* the liquid contents and the VOC PTE are already known), then it is a storage vessel affected facility and immediately upon startup would be subject to the same requirements as the storage vessel affected facility being replaced. If the vessel is not being used to replace an affected facility but is being used to contain crude oil, condensate, intermediate hydrocarbon liquids or produced water (*i.e.,* the VOC PTE is unknown), then, just as for any new storage vessel, the operator would be afforded a 30-day period after startup to determine the storage vessel's affected facility status based on VOC PTE and, if VOC PTE were estimated to be at least 6 tpy, the storage vessel would be determined an affected facility and would be subject to requirements for Group 2 storage vessels, and controlled no later than 60 days after startup. If the vessel is not being used to contain crude oil, condensate, intermediate hydrocarbon liquids or produced water, it does not meet the definition of ''storage vessel'' and would not be subject to the requirements of the NSPS.

We are amending the definition of ''removed from service'' and adding a definition of ''returned to service'' to clarify these provisions. See section IV.B for a detailed discussion.

C. Routing of Reciprocating Compressor Rod Packing Emissions to a Process

The 2012 final NSPS includes operational or ''work practice'' standards for reciprocating compressors to reduce emissions from gas vented from the piston rod packing as the rod moves during operation. The rule requires regular rod packing replacement every 26,000 hours of operation or, if the owner and operator elect, every 36 months. On October 15, 2012, the Administrator received a petition for administrative reconsideration of the performance standards for reciprocating compressors that asserted that an alternative technology exists that would reduce emissions commensurate with or better than the reductions from the operational standard. This technology consists of recovering vented emissions from the rod packing under negative pressure and routing these emissions of otherwise vented gas to the air intake of a reciprocating internal combustion engine, or other process that would burn the gas as fuel to augment the normal fuel supply. Based on our review of the information submitted by the petitioner, we conclude that the technology has merit and would provide equivalent or better emissions reduction since the emissions would be captured under negative pressure, allowing all emissions to be routed to the engine. It is our understanding that this technology may not be applicable to every compressor installation and situation and, therefore, it would be within the operator's discretion to choose whichever option is most appropriate for the application and situation at hand.

Therefore, for the above reasons and as discussed in the proposed rule, we are revising § 60.5385(a) to include a third option for routing the rod packing emissions to a process through a closed

[1] Email from James D. Elliott, Spilman, Thomas & Battle PLLC, to Bruce Moore, EPA, March 24, 2014.

vent system that meets the requirements of § 60.5411(c).

Also as proposed, we are amending the closed vent system requirements in § 60.5411(a) and (b) to apply to reciprocating compressors (in addition to centrifugal compressor wet seal degassing systems, to which those sections already apply). Similarly, we are amending the continuous compliance requirements in § 60.5415 and inspection and monitoring requirements in § 60.5416 to apply to reciprocating compressors.

The EPA received comments in support of the addition of the third alternative in § 60.5385(a). However, commenters identified several inconsistencies that should be addressed with respect to other provisions as they relate to the revised § 60.5385(a). The EPA agrees with the commenters' rationale and is amending §§ 60.5410(c)(1), 60.5415(c)(4), 60.5416(a), and 60.5420(c)(6) through (9) to be consistent with the intent of the third alternative provision in § 60.5385(a)(3). Specifically, we are revising the initial compliance demonstration provisions in § 60.5410(c)(1) by adding language such that paragraphs (c)(1) through (4) would not apply to sources electing to comply with § 60.6385(a)(3). The EPA agrees with commenters that these provisions would not apply to sources that are operating a closed vent systems and complying with § 60.5385(a)(3). We are revising the continuous compliance demonstration provisions in § 60.5415(c)(4) to reflect that the source must comply with 60.5416(a) and (b) rather than § 60.5411(a) and (b). The EPA agrees that the provisions of § 60.5416(a) and (b) are more appropriate for a reciprocating compressor operating with a closed vent and cover system. We are amending § 60.5420(c)(6) through (9) to add reciprocating compressors as sources subject to these recordkeeping requirements.

D. Equipment Leaks at Gas Processing Plants

1. Small Gas Processing Plants and Gas Processing Plants Located on the Alaskan North Slope

The equipment leaks standards in the 1985 NSPS subpart KKK requires routine leak detection at natural gas processing plants for certain equipment, specifically pumps in light liquid service, valves in gas/vapor and light liquid service, and pressure relief valves from gas/vapor service. Subpart KKK provides for exemptions for pumps in light liquid service, valves in gas/vapor and light liquid service, and pressure relief valves in gas/vapor service from routine monitoring requirements at small natural gas processing plants (*i.e.,* plants that do not have the design capacity to process at least 10 million standard cubic feet of field gas per day) and at natural gas processing plants located on the Alaskan North Slope. With the exception of the revision to lower the leak definition for valves, we retained the other provisions of subpart KKK by adopting the subpart KKK regulatory text, including the above mentioned exemptions, in subpart OOOO. With this complete adoption of subpart KKK regulatory text on the exemptions, we inadvertently failed to update the equipment list to include connectors, as pointed out by petitioners. We agree that this omission was an oversight and that it was not our intent for the 2012 NSPS to single out connectors at small gas processing plants and at gas processing plants located on the Alaska North Slope for routine leak detection while exempting the other equipment at these plants from these requirements. As a result, as proposed, we are amending § 60.5401(d) and (e) to add connectors to the list of equipment exempt from routine leak detection at these plants.

2. Equipment Under Subpart OOOO Subject to Leak Detection Requirements

Petitioners pointed out that the definition of ''equipment'' in § 60.5430 of the 2012 final NSPS could be misinterpreted to expand the scope of the equipment leaks program under subpart OOOO to cover beyond onshore natural gas processing plants, which was the scope of subpart KKK. Except for lowering the leak definition for valves and requiring monitoring of connectors, subpart OOOO retains the other provisions of the subpart KKK by adopting those provisions, including the definition of ''equipment.'' Because subpart KKK pertained only to onshore natural gas processing plants, the phrase ''any device or system required by this subpart'' refers to only devices and systems at onshore natural gas processing plants. However, since subpart OOOO also covers affected facilities not located at onshore natural gas processing plants, the phrase could be misinterpreted to apply to every affected facility under the entire subpart OOOO, including those not located at onshore natural gas processing plants. To avoid any such misinterpretation, we are amending the definition of ''equipment'' in § 60.5430 to read as set forth in the regulatory text of this rule.

E. Definition of ''Responsible Official''

The 2012 final rule requires certification by a responsible official of the truth, accuracy and completeness of the annual report. Petitioners pointed out that the definition of ''responsible official'' is not appropriate for the oil and natural gas sector due to the large number and wide geographic distribution of the small sources involved. Petitioners suggested that the EPA should develop a certification requirement specific to the Oil and Natural Gas Sector NSPS that would allow delegation of the authority of a responsible official to someone, such as a field or production supervisor, who has direct knowledge of the day-to-day operation of the facilities being certified, without requiring that such delegation be pre-approved by the permitting authority.

We reexamined the definition of ''responsible official'' and agree with petitioners that the current language in the NSPS, specifically the requirement to seek advance approval by the permitting authority of the delegation of authority to a representative if the facility employs 250 or fewer persons, is too burdensome for the oil and natural gas sector. Therefore, consistent with the proposed changes, we are also amending the definition to make such delegation effective after advance notification rather than after approval. Requirements for delegation to representatives responsible for one or more facilities that employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars) are unchanged from the 2012 NSPS (*i.e.,* there is no advance notification or approval required for such delegations).

Petitioners also noted that the current definition does not adequately address the complex ownership arrangements of limited partnerships. We agree with the petitioners and believe limited partnerships should be reflected in the definition along with sole proprietorships and partnerships which are currently addressed.

In the process of this evaluation, we also determined that the use of ''permitting authority'' and the ''responsible official'' are similar to terms used in the requirements of the Title V permitting program. In order to remove potential confusion by the regulated community and to clarify that this is a requirement of the NSPS and is not associated with a permitting program, we are changing the term ''responsible official'' to ''certifying official'' and replacing the term

''permitting authority'' used in the definition with ''Administrator.''

F. Affirmative Defense

The EPA is removing a regulatory affirmative defense provision from the rule, as proposed. For the reasons stated in the preamble to the proposed amendments and below, we are finalizing the removal of the affirmative defense provisions. In the 2012 rulemaking, the EPA had included an affirmative defense to civil penalties for violations caused by malfunctions in an effort to create a system that incorporates some flexibility, recognizing that there is a tension, inherent in many types of air regulation, to ensure adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission standards may be violated under circumstances entirely beyond the control of the source. Although the EPA recognized that its case-by-case enforcement discretion provides sufficient flexibility in these circumstances, it included the affirmative defense to provide a more formalized approach and more regulatory clarity. See *Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1057–58 (D.C. Cir. 1978) (holding that an informal case-by-case enforcement discretion approach is adequate); but see *Marathon Oil Co.* v. *EPA,* 564 F.2d 1253, 1272–73 (9th Cir. 1977) (requiring a more formalized approach to consideration of ''upsets beyond the control of the permit holder.''). Under the EPA's regulatory affirmative defense provisions, if a source could demonstrate in a judicial or administrative proceeding that it had met the requirements of the affirmative defense in the regulation, civil penalties would not be assessed. Recently, the United States Court of Appeals for the District of Columbia Circuit vacated an affirmative defense in one of the EPA's section 112 regulations. *NRDC* v. *EPA,* 749 F.3d 1055 (D.C. Cir., 2014) (vacating affirmative defense provisions in section 112 rule establishing emission standards for Portland cement kilns). The court found that the EPA lacked authority to establish an affirmative defense for private civil suits and held that under the CAA, the authority to determine civil penalty amounts in such cases lies exclusively with the courts, not the EPA. Specifically, the Court found: ''As the language of the statute makes clear, the courts determine, on a case-by-case basis, whether civil penalties are 'appropriate.' '' See *NRDC,* at 1063 (''[U]nder this statute, deciding whether penalties are 'appropriate' in a given private civil suit is a job for the courts, not EPA.'').[2] In light of *NRDC,* the EPA had proposed and is finalizing in this action the removal of the regulatory affirmative defense provisions in subpart OOOO. As explained above, if a source is unable to comply with emissions standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate. Further, as the D.C. Circuit recognized, in an EPA or citizen enforcement action, the court has the discretion to consider any defense raised and determine whether penalties are appropriate. *Cf. NRDC,* at 1064 (arguments that violation were caused by unavoidable technology failure can be made to the courts in future civil cases when the issue arises). The same is true for the presiding officer in EPA administrative enforcement actions.[3]

IV. Summary of Significant Changes Since Proposal

Section III summarized the amendments to the 2012 NSPS that the EPA is finalizing in this rule. This section discusses the key changes the EPA has made since proposal. These changes are the result of the EPA's consideration of the many substantive and thoughtful comments submitted on the proposal and other information received since proposal. We believe that the changes we have made sufficiently address concerns expressed by commenters and improve the clarity of the rule while improving or preserving public health and environmental protection required under the CAA.

A. Well Completions

1. Handling of Flowback Gases and Liquids

In today's action we are finalizing clarifications and amendments to provisions for handling of gases and liquids during flowback at § 60.5375. Following publication of the 2012 final NSPS, we received feedback from petitioners that the well completion provisions were unclear and that operators were not sure of the requirements for handling of gas and liquids during well completion operations. Petitioners also asserted that, as written, compliance with the 2012 NSPS was impossible, since the rule appeared to prohibit venting of gas at any time during the well completion. In our July 17, 2014, proposal, we clarified it was not the EPA's intent to prohibit venting of flowback gases throughout the entire flowback period and we understood that there were periods during which gas may be present in the flowback but with insufficient volume and consistency of flow to enable either combustion or recovery of the gas after separation. We confirmed that the initial flowback (prior to recovery of gas from the liquids through separation) may be routed to storage vessels, temporary fracture tanks (frac tanks) or to lined pits, as long as separation and recovery of the gas occurs as soon as practicable, consistent with the general duty to maximize resource recovery and minimize releases to the atmosphere as required in § 60.5375(a)(4).

To clarify EPA's intent with regard to handling of gas and liquid portions of flowback, we had proposed three distinct stages of the completion operation, with each stage having specific requirements for handling of gases and liquids.

As proposed, the first stage would begin with the first flowback from the well following hydraulic fracturing or refracturing, and would be characterized by high volumetric flow water, with sand, fracturing fluids and debris from the formation, with very little gas being brought to the surface, usually in multiphase slug flow. Under the proposed amendments, the first stage was defined as the ''initial flowback stage.'' We had proposed that during this stage the flowback would be required to be routed to a ''well completion vessel'' that could be a frac tank, a lined pit or any other vessel. Our intention was that the flowback could not be directed to an unlined pit or onto the ground. During the initial flowback stage, there would be no requirement for controlling emissions from the tank or other vessel, and any gas in the flowback during this stage could be vented. We proposed that, as soon as sufficient gas is present in the flowback for a separator to operate, the flow would be required to be diverted to the separator. We explained that ''for a separator to function enough gas must be flowing [in the flowback] to maintain a gaseous phase and one or more liquid phases in the separator.'' (79 FR 41755). In the proposal preamble, we had

[2] The court's reasoning in *NRDC* focuses on civil judicial actions. The Court noted that ''EPA's ability to determine whether penalties should be assessed for Clean Air Act violations extends only to administrative penalties, not to civil penalties imposed by a court.'' *Id.*

[3] Although the *NRDC* case does not address the EPA's authority to establish an affirmative defense to penalties that is available in administrative enforcement actions, EPA had not included such an affirmative defense in the 2012 NSPS. As explained above, such an affirmative defense is not necessary. Moreover, assessment of penalties for violations caused by malfunctions in administrative proceedings and judicial proceedings should be consistent. *Cf.* CAA section 113(e) (requiring both the Administrator and the court to take specified criteria into account when assessing penalties).

discussed how some operators monitor the gas concentration at the vessel receiving the flowback both for safety reasons and to determine that sufficient gas is present in the flowback for the separator to function. We understood that when the gas concentration approaches the lower explosive limit (LEL) (*i.e.,* approaches flammability), these operators direct the flowback to a separator. We were uncertain whether this method could be used effectively in all applications and whether there were other techniques used by operators to make this determination. We solicited comment on the suitability of the ''LEL method'' when used for this purpose and asked for information on other techniques or indicators that could be used to determine when sufficient gas is present for a separator to function.

Commenters responded that the EPA apparently had misunderstood earlier discussions regarding use of the LEL detector. They asserted that the detector is used for safety reasons and that although the LEL detector indicates that there may be potential flammability, it does not necessarily indicate that sufficient gas is present for the separator to function. Commenters also asserted that monitoring the gas concentration does not reflect other conditions such as sand and water content and well characteristics that have a bearing on the point where the separator will operate. We also learned that some operators begin to direct the flowback to the separator immediately upon initial flowback, even though it may not maintain a gaseous phase and one or more liquid phases in the separator. Other operators may not have an initial flowback stage and may go directly to the separation flowback stage.

Because whether a separator can operate may depend on site specific factors other than the amount of gas present in the flowback, we are not finalizing the proposed requirement to commence operation of a separator as soon as sufficient gas is present in the flowback for a separator to operate. However, the public comments did not provide sufficient information regarding other indicators as to when a separator can operate. We therefore are unable to establish specific criteria for determining the point at which operators are required to route the flowback to the separator. For the reasons stated above, we require in the final amendments that flowback must be routed to a separator unless it is technically infeasible. This has always been our intent. Although we learned that technical infeasibility is not strictly limited to the amount of gas present, we believe that if this infeasibility is not predicated solely on the amount of gas present, then there must be some other site-specific technical issues that prevent a separator from functioning. Such technical infeasibility might include the separator being overwhelmed by the flowback, such that the vapor space in the separator is not maintained, or the liquid drain is unable to handle the volume of liquid flowing through. We further note that the general duty to maximize resource recovery and minimize releases to the atmosphere required in § 60.5375(a)(4) applies during the entire flowback period, including the initial flowback stage.

As proposed, the second stage, defined as the ''separation flowback stage,'' begins when the flowback gases and liquids are routed to the separator. During the separation flowback stage, the operator would be required to route the recovered gas into a gas flow line or collection system, re-inject the recovered gas into the well or another well, use the recovered gas as an on-site fuel source or use the recovered gas for another useful purpose that a purchased fuel or raw material would serve. If, during the separation flowback stage, it was infeasible to route the recovered gas to a flow line or collection system, reinject the gas or use the gas as fuel or for other useful purpose, the recovered gas (*i.e.,* ''flowback emissions'') would have to be combusted using a completion combustion device, as required in the 2012 NSPS at § 60.5375(a)(3). No direct venting of recovered gas would be allowed during the separation flowback stage. We also proposed that, at any time during the separation flowback stage, if the gas present in the flowback becomes insufficient to maintain operation of the separator, the operator would revert to the initial flowback stage until the separator could again function to allow continuous recovery of the gas and to allow separation and recovery of the liquids. During the separation flowback stage, all liquids from a separator could be directed to one or more well completion vessels or storage vessels, or be re-injected into the well or another well. We are finalizing the provisions relative to the separation flowback stage as proposed, except that the operator can revert to the initial flowback stage if it is technically infeasible to maintain function of the separator (consistent with our discussion above on requiring the operation of a separator unless it is technically infeasible). We also have added requirements for recordkeeping to document each occurrence of reverting back to the initial flowback stage and the reason for the reversion.

We had proposed that the end of the separation flowback stage was the point where separation flowback would have declined and stabilized enough to allow continuous recovery of the gas and where separation and recovery of any crude oil, condensate and produced water were possible. We had proposed that the flowback period of a well completion operation included only the initial flowback stage and the separation flowback stage, as flowback ended and ongoing production began at that point. Further, we had identified that point as the beginning of the ''production stage'' of the well completion. We had also explained at proposal that we were seeking to identify objective criteria for making a determination that flowback had subsided and that the well had reached the point where production could begin, marking the end of the separation flowback stage and the beginning of the production stage. We solicited comment on the characteristics of the flow or other conditions that could be used to establish such criteria.

In addition, we proposed that, for storage vessels receiving liquids following the flowback period of a well completion, the beginning of the production stage would also begin the 30-day period for determining VOC PTE for purposes of making a storage vessel affected facility determination in accordance with the procedure in § 60.5365(e). If the criteria under § 60.5365(e) were met, the operator would have to comply with the control requirements in § 60.5395(d)(1) within 60 days after the beginning of the production stage. We had also proposed amendments to § 60.5365(e) to reflect that, for purposes of the well completion provisions, the 30-day period for the affected facility determination required in § 60.5365(e) would commence at the beginning of the production stage. During the production stage, any venting or flaring of the recovered gas would be prohibited.

Several commenters took issue with the inclusion of the production stage as part of the overall well completion operation. The commenters contended that this extension confuses or contradicts other provisions that explicitly are applicable to well completion operations and should not be applicable over the lifetime of a well in production. The commenters asserted that it is critical that the rule identify when the flowback period ends and clarify that the requirements for well completions do not extend beyond the end of the flowback period. The

commenters explained that, because the production stage could conceivably continue for decades, it was clearly not a stage of well completion and was beyond the intended scope of § 60.5375. Commenters also gave examples of the ramifications of this concept. They asserted that prohibition of venting and flaring for the lifetime of the well would preclude planned maintenance workovers, flaring of amine system overhead gas and venting of carbon dioxide.

We agree with the commenters that the production stage should not be a stage of well completion and understand that compliance with the well completion provisions (which were intended only for the flowback period) would be impossible were these provisions applicable throughout the life of the well. As a result, we are finalizing requirements for well completions that identify two stages of well completion, the initial flowback stage and the separation flowback stage.

As discussed above, we had proposed that the point where separation flowback would have declined and stabilized enough to allow continuous recovery of the gas and where separation and recovery of any crude oil, condensate and produced water were possible would be the end of the separation flowback stage and the beginning of the production stage. We solicited information that could identify criteria for defining this point. Commenters explained that removal of flowback equipment and absence of well completion personnel were two indicators that flowback had subsided and the well had cleaned up sufficiently to allow production to begin.

In addition to the information provided by commenters, it is our observation that the permanent disconnection of the temporary equipment used during flowback can be an indicator of flowback having ended. For example, during flowback, skid-mounted choke manifolds are used to limit flowback and assist in directing the flow. Temporary lines laid on the ground from the wellhead to the choke manifold and to the flowback separators and frac tanks are connected with ''hammer unions'' which are pipe unions that are designed for ease of making temporary connections and are characterized by ''ears'' that allow the joint to be made up quickly by striking with a hammer. After flowback has subsided and the well has cleaned up sufficiently, the well is temporarily shut in to disconnect the temporary flowback equipment. We believe that when the operator permanently disconnects choke manifolds, temporary separators, sand traps and other equipment connected with temporary lines and hammer unions, it is a reliable indicator that flowback has ended and the well is ready for production. At that point, we believe that operators will remove these temporary equipment used during flowback to avoid incurring unnecessary charges for additional days the equipment remains onsite. The well could start production immediately or it could remain shut in until permanent equipment is installed some time later.

In light of the above considerations, we are amending the NSPS such that the end of the separation flowback stage is defined as the startup of production, or when the well is shut in and the temporary flowback equipment has been permanently disconnected from the well. We are also finalizing amendments that identify the startup of production, rather than the beginning of the production stage, as the beginning of the 30-day period for determining storage vessel PTE according to the requirements of § 60.5365(e).

As discussed in section V.A, we had received comment that some operators route gas and liquids from the well site to other facilities for collection and suggested we specify ''collection system'' as one of the options for disposition of flowback liquids and recovered gas. We agree with the commenter and have included ''collection system'' in the provisions for gas and liquids handling during well completions. To provide clarity, we also have added a definition in § 60.5430 for ''collection system'' which is presented in section V.A.

We are finalizing the liquids handling requirements during the flowback period as proposed, with the slight revision to the definition of the separation flowback stage as described above. During the flowback period, which includes the initial flowback stage and the separation flowback stage, the liquid portion of the flowback must be directed to storage vessels, well completion vessels, injected into the well or another well or routed to a collection system.

In the proposed rule, we had provided that the 30-day period for estimating the VOC PTE of a storage vessel receiving recovered liquids would begin at the beginning of the production stage. With the revision to the stages of completion discussed above, ''startup of production'' would replace ''beginning of the production stage.'' Because we believe it is important to achieve control of storage vessel affected facilities as soon as practicable, we believe it is important to begin the 30-day period for estimating storage vessel VOC PTE as soon as this estimation can be achieved and will provide a representative estimate of the storage vessel's PTE during production. As a result, we believe it is necessary to begin the estimation period after flowback ends, immediately after the end of the separation flowback stage, since the flowback period is not representative of liquids flow and composition during production. Estimation during the flowback period could result in PTE estimates being either abnormally low or abnormally high, since very early in flowback the liquid is predominantly water flowing at a high rate, while immediately after flowback, the volume has subsided but VOC content of the liquid may be much higher. Tank emission estimation methods generally require information on both the composition of the liquid entering a storage vessel (generally obtained through analysis of a pressurized sample of the liquid obtained from the separator) and the volumetric rate of the liquid (often in barrels per day). Because the analytical samples are taken from the separator and the volume is calculated by recording the liquid collection from the receiving vessel, it is not necessary to have a permanent storage vessel installed in order to perform this estimation, and the sampling and volume tracking can begin at any time after the end of flowback, while the liquids are being collected in a well completion vessel or a storage vessel. Based on these considerations, we are finalizing the requirement that liquid during flowback may be routed to a well completion vessel or storage vessel. Also, based on these considerations, we are clarifying that recovered liquids may continue to be routed to a well completion vessel or a storage vessel after the startup of production, but that a well completion vessel to which recovered liquids are routed for a period in excess of 60 days after startup of production is considered a storage vessel subject, depending on its PTE, to control under § 60.5395, as with any other storage vessel affected facility. In addition, we are amending the definitions of ''storage vessel'' and ''well completion vessel'' to be consistent with this requirement. We are amending § 60.5395(d)(1)(i) to reflect that, for purposes of the well completion provisions, control would be required no later than 60 days from startup of production. Consistent with these changes we are amending § 60.5395(d)(1)(i) to read as set forth in the regulatory text of this rule.

We note that we have received requests for clarification of the meaning

of ''maximum average daily throughput'' as used in the VOC PTE determination language in § 60.5365(e). The 2013 final rule that promulgated storage vessel implementation amendments in which this term first appeared in the NSPS provided limited guidance on how operators should determine ''maximum average daily throughput,'' and no definition of this term was included in the July 2014 proposed rule. The discussion above explains that PTE determination methods generally are based on modeling performed using results of analysis of pressurized samples from the separator combined with liquid throughput over some period that corresponds with the separator sample. We believe that the ''maximum average daily throughput'' is determined by the earliest calculation of daily average throughput during the 30-day evaluation period employing generally accepted methods. Based on the performance of wells over time, this initial calculation would represent the maximum average daily throughput that could be expected for the storage vessel. To provide more clarity in the rule, we have added a definition of ''maximum average daily throughput'' in § 60.5430. We are aware that issues remain concerning this term and continue to consider how to resolve them.

B. Storage Vessels

1. Storage Vessels Removed From Service and PTE Determination

As proposed, we are amending § 60.5395(f) and § 60.5420(b)(6) to require that the dates that storage vessel affected facilities are removed from service and returned to service be included when reporting those actions.

For the reasons discussed below, we are also amending the NSPS to clarify that storage vessel affected facilities removed from service (which is defined as when they are physically disconnected from their source of liquids for reasons other than maintenance and are emptied and degassed) cease to be storage vessel affected facilities under the NSPS. We received comment, with which we agree, that storage vessel emissions are a function of the specific use of the vessel as installed—determined by factors such as the type of liquid it is used to contain, the liquid throughput of the vessel, and the pressure drop of the liquid entering the vessel causing flash emissions. As a result, removing a storage vessel from service in one use and moving it to a new use could drastically change its emissions characteristics. To be classified a ''storage vessel'' as defined in § 60.5430, a tank or other vessel must be used to contain crude oil, condensate, intermediate hydrocarbon liquids or produced water. Should the tank or other vessel cease being used to contain any of these liquids, it would no longer meet the definition of ''storage vessel.'' In light of these considerations, we believe that a storage vessel affected facility that has been physically isolated and disconnected from the process for a purpose other than maintenance, has been completely emptied and degassed and is no longer used to contain crude oil, condensate, produced water or intermediate hydrocarbon liquids should not be subject to requirements under the NSPS for the period of time it is removed from service.

A vessel, whether it is in service for the first time or after being removed from service, falls into one of three categories: (1) It is installed to replace a storage vessel affected facility or is connected in parallel with a storage vessel affected facility, where liquids to be contained and VOC PTE for the application are already known; (2) the vessel does not replace a storage vessel affected facility but is being returned to service to contain crude oil, condensate, intermediate hydrocarbon liquids or produced water with unknown PTE; or (3) the vessel is being used in an application other than to contain crude oil, condensate, intermediate hydrocarbon liquids or produced water.

A vessel falling under the first category, that is replacing or is being connected in parallel with a vessel that has already been determined to be a ''storage vessel affected facility'' based on a known PTE, in effect takes the place of the affected facility being replaced or with which it is being connected in parallel and, as such, should be immediately subject to the same requirements as the storage vessel affected facility being replaced. There is no need for the 30-day period after startup allowed under § 60.5365(e) for determining its VOC PTE and the 60-day period after startup allowed under § 60.5395(c) for applying control. In short, a vessel in this category should be subject immediately upon startup to the same requirements as the storage vessel affected facility it is replacing. For example, a vessel that is replacing a storage vessel affected facility subject to the 95.0 percent control requirement in § 60.5395(d)(1) would be subject to § 60.5395(d)(1), whereas a vessel that is replacing a storage vessel affected facility subject to the 4 tpy alternative uncontrolled emission standard in § 60.5395(d)(2) would be subject to § 60.5395(d)(2).

For vessels in the second category, *i.e.,* the vessel does not replace a storage vessel affected facility but is being returned to service to contain crude oil, condensate, intermediate hydrocarbon liquids or produced water with unknown PTE, the 30-day period for determining the VOC PTE and the 30-day period for installation of control if the PTE is 6 tpy or above would apply.

For vessels in the third category, *i.e.,* the vessel is being used in an application other than to contain crude oil, condensate, intermediate hydrocarbon liquids or produced water, the vessel continues to not meet the definition of ''storage vessel'' for this rule and has no requirements while in this service.

Although we believe it is an unlikely occurrence, we note that, when two or more storage vessels receive liquids in parallel, the total throughput is shared between or among the parallel vessels and, in turn, this causes the PTE of each vessel to be a fraction of the total PTE. In these cases, the EPA would consider the parallel storage vessels equivalent to a single vessel with PTE equal to the sum of the PTE of the individual vessels. As a result, the parallel storage vessels would be considered storage vessel affected facilities and subject to control if the total PTE was at least 6 tpy. If one of the parallel storage vessels has already been determined to be an affected facility and is subject to storage vessel requirements, no PTE calculation is necessary for the other parallel storage vessels because the PTE is already known to be at least 6 tpy. In that event, all storage vessels receiving liquids in parallel to the storage vessel affected facility are subject to the same requirements immediately upon startup. As a result of the above considerations, we are amending the current definition of ''removed from service'' and adding a definition of ''returned to service'' to clarify these provisions. The definitions read as set forth in the regulatory text of this rule.

We are also amending § 60.5395(f) to include requirements for storage vessels removed from service and returned to read as set forth in the regulatory text of this rule.

C. Definition of ''Responsible Official''

In our proposed action, the EPA proposed to amend the definition of ''responsible official'' to address several concerns identified by petitioners as discussed above in section III.E. In our evaluation of comments received from regulatory authorities and industry, we determined that the terminology used for the definition of ''responsible official'' too closely mirrored

terminology used in the Title V permitting program. As the requirements of subpart OOOO are separate and distinct from those of any permitting program, we found that the use of those terms was inappropriate for subpart OOOO and could potentially cause confusion of regulated entities. Therefore, in addition to the proposed change to the definition to reduce the burden of the advance delegation requirements on the oil and gas industry, we are changing the term ''responsible official'' to ''certifying official'' and changing the term ''permitting authority'' used in the definition to ''Administrator.''

V. Summary of Significant Comments and Responses

This section summarizes the significant comments on our proposed amendments and our response thereto.

A. Well Completions

1. Handling of Gases and Liquids

Comment: One commenter concurs that many wells undergo the three stages of well completion as defined in the preamble to the proposed rule, but not all wells. The commenter points to the Fayetteville Shale where the flowback from many of their wells are routed directly to a separator with gas recovered into gathering lines and produced water sent to frac tanks and then to lined earthen retention ponds. The commenter asserts that these wells do not undergo the initial flowback stage nor the separation flowback stage and instead go directly into production stage as defined in the proposed rule.

Response: The EPA acknowledges that there are differences in reservoir characteristics and the resultant variations in composition of the flowback between shale plays and even within a given shale play. These differences affect how the well completion process is conducted. As we discussed in section IV.A, we are aware that some operators are able to route the flowback directly to a separator, essentially bypassing the initial flowback stage. We agree with the commenter that this is possible in some cases; however, that may not be true for all situations. The final rule requires operators to direct the flow to the separator unless it is technically infeasible for the separator to function (which we explain in further detail in section IV.A) and minimize releases to the atmosphere as required by § 60.5375(a)(4). We disagree with the commenter that their operation bypasses both stages of flowback, if the operations the commenter described used a temporary separator or other temporary flowback equipment. If a temporary separator or other temporary flowback equipment were used, then the operation would bypass the initial flowback stage but enter the separation flowback stage and would be subject to the requirements of § 60.5375(a)(1)(ii). If such temporary flowback equipment is not used, then the completion operation is indeed considered to enter directly into production at the beginning of flowback, which in this case would be considered ''startup of production,'' that begins the 30-day period for determining VOC PTE for purposes of making a storage vessel affected facility determination in accordance with the procedure in § 60.5365(e). However, should the well completions described by the commenter involve the use of temporary flowback equipment, then the onset of flowback would begin the separation flowback stage, which would continue until the well was shut in and the temporary flowback equipment was removed. There would be no initial flowback stage in either case described above.

Comment: One commenter supports the EPA's proposed definition of initial flowback stage because they have received information in the subpart OOOO annual reports that control was not possible or necessary because there was insufficient gas to route to a control device. Further, to ensure that emissions are not unnecessarily vented, the commenter supports the EPA's establishment of clear criteria for determining when there is sufficient gas to operate the separator, as well as the delineation between the initial and separation flowback stages. The commenter is concerned that without additional, clear criteria, operators will unnecessarily vent rather than control emissions. The commenter, therefore, requests that the EPA clarify the criteria for reversion to initial flowback stage from separation flowback stage when the recoverable gas present in the flowback becomes insufficient to maintain operation of the separator.

Response: As stated above, under the final rule, the second stage, defined as the ''separation flowback stage,'' begins when the flowback is routed to the separator, which is required unless it is technically infeasible. The issues raised by the commenter are discussed in depth in sections III.A and IV.A.

Comment: One commenter expressed concern with the proposed definition of the separation flowback stage which states that ''the separation flowback stage ends when the production stage begins or when the well is shut in, whichever is first.'' The commenter contends that the well shut in provision should be removed. The commenter states that in a typical well completion operation, prior to commencing production, the well may be shut in to remove the flowback equipment and install production equipment. In some instances, the well may be temporarily shut in for other purposes such as making adjustments or performing unexpected maintenance on the flowback equipment. Following these activities, the well is re-opened and separation flowback may resume. According to the commenter, the proposed rule would consider the well in the ''production stage'' when the well is shut in regardless of whether it actually enters into production or returns to the flowback process after temporary shut in. The commenter believes it is more accurate for the rule to state that the end of the separation flowback stage occurs when production (not the ''production stage'') begins. The commenter provides suggested revisions to the definition for *separation flowback stage.*

Response: The EPA agrees with the commenter that a well may be shut in for various reasons and that shut in alone does not necessarily depict the point of transition into production. As described in detail in section IV.A, there are other conditions such as having the temporary flowback equipment disconnected that indicate the end of flowback that should be taken into account in combination with well shut in. Further, although this commenter did not raise this issue, as discussed in an earlier response, sometimes operators can startup production without shutting in the well by running the temporary flowback equipment in parallel with the permanent flow line such that they can open the valve from the wellhead to the flow line and close the valve from the wellhead to the temporary flowback equipment, and isolate the temporary equipment for removal. As a result, the well is not shut in, but the temporary flowback equipment would be removed. In such cases, production had started without well shut in. In light of the above, in the final rule, we have defined the ''separation flowback stage'' to include two sets of criteria which identify the end of the separation flowback stage. The new definition indicates that the end of the separation flowback stage ends at the startup of production, or when the well is shut in and permanently disconnected from the flowback equipment. Therefore, a shut in condition of the well alone will not be considered the end of the separation flowback stage so long as flowback

equipment is still connected and production has not begun.

Comment: One commenter points out that there is a point at which gas can be separated from fluids, but the gas is not yet of salable quality. The commenter recommends that the EPA allow flaring of non-sales quality gas because it cannot be recovered and sold, and recommends that § 60.5375 be amended to refer to ''salable quality'' gas from the gas outlet of the separator and similar changes to the definitions of ''production stage,'' ''recovered gas'' and ''reduced emissions completion'' in § 60.5430.

Another commenter states that § 60.5375(a)(2) specifies only one of the suitable options for salable quality recovered gas. The commenter suggests that this section be modified to say ''all salable quality recovered gas must be routed to a gas flow line or collection system, re-injected into the well or another well, used as an onsite fuel source, or used for another useful purpose that a purchased fuel or raw material would serve.'' Alternatively, this paragraph could be deleted in that it is redundant given § 60.5375(a)(1)(ii).

Response: The EPA agrees with the commenter's assertion that some gas recovered during the separation flowback stage may not be of salable quality. The NSPS defines ''salable quality gas'' as ''natural gas that meets the flow line or collection system operator specifications, regardless of whether such gas is sold.'' It is our intent to prohibit the direct venting of any gas during the separation flowback stage. However, because we are aware that not all recovered gas is of salable quality, the final rule requires an operator to route all salable quality recovered gas from the separator to a gas flow line or collection system, re-inject the recovered gas into the well or another well, use the recovered gas as an on-site fuel source or use the recovered gas for another useful purpose that a purchased fuel or raw material would serve. However, if, during the separation flowback stage, it is infeasible to route the recovered gas to a flow line or collection system, reinject the gas or use the gas as fuel or for other useful purpose, the recovered gas must be combusted. No direct venting of recovered gas is allowed during the separation flowback stage.

We believe these options effectively address all gas conditions (salable or non-salable) encountered during the separation flowback stage. For example, should the gas not meet minimum quality standards for entering the gathering system, we believe that would render collection ''infeasible'' until such time that the quality of the gas had improved and was acceptable. As a result, the non-salable quality gas would be combusted.

Comment: Several commenters point out that § 60.5375(a)(1)(ii) allows limited options on how liquids from the separator must be handled. According to the commenters, condensate is not always sent to a storage vessel at the well site during production, but rather is routed to a condensate or mixed well stream line and piped to another location. Sometimes the condensate is piped to a central processing facility or tank battery, and sometimes it is piped to a condensate stabilization facility where the condensate is heated and stabilized at a lower vapor pressure prior to going to a condensate tank so as to avoid flashing in the tank. One commenter states that in the Eagle Ford shale play they often elect to install blowcase units to maximize condensate recovery and to enable the direct routing of recovered liquids from the separator to a condensate collection system. This design and practice would, according to the commenter, eliminate or reduce the need for atmospheric storage vessels. According to the commenters, the proposed rule's requirement that recovered liquids must be routed to a storage vessel could be misinterpreted by regulatory agencies to not allow for companies to pipe the condensate to another location. For the separation flowback stage, paragraph § 60.5375(a)(1)(ii) should be revised to clarify that liquids may be routed to a collection system.

Response: It is the EPA's intention to allow any innovative management practice for these materials that encourages resource conservation, gas recovery and emissions reductions. We agree that routing liquids to centralized collection systems mentioned by the commenter is an innovative approach that results in reduced emissions, since the liquids are conveyed to the central facility through closed pipes, reducing emissions. The commenter mentioned production, and also cited the provisions for the separation flowback stage at § 60.5375(a)(1)(ii). We believe that collection systems should be allowed as one of the options for handling liquids during flowback and during production. In light of the comments received and our belief that centralized collection systems are protective of the environment, the final rule requires that during the separation flowback stage, all liquids from the separator must be directed to one or more well completion vessels or storage vessels, routed to a collection system or be re-injected into the well or another well. To further clarify this requirement, we have added a definition for ''collection system'' in § 60.5375 as set forth in the regulatory text of this rule.

Comment: One commenter expresses concern that allowing liquids from the separator to be routed to a well completion vessel, which as defined in the proposed rule includes lined earthen pits and as described in the proposal preamble includes open top frac tanks, may allow the release of emissions from recovered gas and other hydrocarbons. The commenter requests that the EPA clarify that the use of ''well completion vessels,'' like the use of ''storage vessels,'' during the separation flowback stage, will not result in emissions from recovered gas or other hydrocarbons.

Response: Because of the high volumes of liquids encountered during flowback, both in the initial flowback stage and in the separation flowback stage, we believe it is appropriate to route flowback liquids to a well completion vessel. Flowback consists largely of water both from the fracturing operation and water produced from the formation. In addition, such high volumes potentially could cause damage to sealed and controlled storage vessels which operate essentially at atmospheric pressure and are not designed to handle elevated pressures that could be caused by surges. Although we understand that there may be some emissions from these vessels, our intent in the well completion requirements of the NSPS is to require practices that will minimize releases to the atmosphere and maximize resource recovery, such as separation and collection of gas from the flowback unless it is technically infeasible for the separator to function and requiring gas that cannot be routed to the flow line to be combusted.

Comment: One commenter contends that limiting exceptions to the REC requirement is important, given that flaring of completion emissions represents a waste of natural resources and results in emissions of nitrogen oxides (NO_X) and carbon dioxide (CO_2) that offset the benefits of methane and VOC reduction. In this regard, the commenter is concerned that the proposed amendments continue to allow for excessive combustion of completion emissions, instead of the use of REC, when the producer deems it ''infeasible'' to capture completion emissions for sale or beneficial use.

The commenter believes that the proposed amendments would not only preserve this vague exception, but also problematically include preamble text suggesting that a producer can invoke

the exception in circumstances that are contrary to the original intent of subpart OOOO. The commenter contends that in the preamble to the final rule promulgating subpart OOOO, the EPA explained its ''understanding'' that producers ordinarily ''plan their operations . . . to ensure their product has a viable path to market before completing a well,'' and that combustion in lieu of a REC would only be necessary in ''isolated cases.'' However, the preamble to the current proposed rule indicates that a REC could be deemed ''infeasible'' merely because ''there [is] no flow line or other infrastructure available at the site for collection of the gas.'' This preamble text implies that the ''infeasibility'' exception could be used for logistical reasons or for the convenience of the producer, rather than in ''isolated'' cases where inherent characteristics of the completion prevent the capture of emissions for sale or beneficial use.

Accordingly, the commenter urges the EPA to either eliminate or expressly limit the scope of the infeasibility exception in the final rule to ensure that it is consistent with the original structure and intent of subpart OOOO and is not used inappropriately. Specifically, the commenter recommends that the EPA include regulatory text clarifying that collection of completion emissions in the separation flowback stage is required unless it is technically infeasible due to inherent characteristics of the flowback or unexpected conditions, not for logistical reasons that are within the control of the operator. The commenter believes this clarification would provide operators the flexibility to use combustion instead of REC when necessary, while ensuring that combustion is an option of last resort.

Response: We agree with the commenter that the intent of the rule is to minimize completion emissions during the separation flowback stage and to maximize recovery of the gas to the flow line. The final rule requires the operator to route the recovered salable gas to a gas flow line or collection system, re-inject the recovered gas into the well or another well, use the recovered gas as an on-site fuel source or use the recovered gas for another useful purpose that a purchased fuel or raw material would serve. If, during the separation flowback stage, it is infeasible to route the recovered gas to a flow line or collection system, reinject the gas or use the gas as fuel or for other useful purpose, the recovered gas must be combusted. No direct venting of recovered gas is allowed during the separation flowback stage.

While we understand the commenters concern about using the infeasibility provision to combust recovered gas when a flow line is not available, we point out that these are gas wells drilled for the production of gas; therefore the operator will have planned to be able to produce the well commercially by having the infrastructure in place and will generally avoid completing wells when it is known that the infrastructure to collect the gas and route it to market will not yet be available. However, there will be cases, though we believe to be rare, in which the operator, for reasons not within his or her control, is unable to acquire access to a flow line in time for the well completion due to unforeseen circumstances.

Comment: Several commenters took issue with the inclusion of the production stage as part of the overall well completion operation. The commenters contend that inclusion confuses or contradicts other provisions that explicitly are applicable to well completion operations and not to a well in production. The commenter believes it is critical that the rule identify when the flowback period ends and clarify that the requirements for well completions do not extend beyond the end of the flowback period.

For the commenter, the problems arise in the provisions of § 60.5375(a)(1)(iii) and in the definition of ''production stage.'' Paragraph 60.5375(a)(1)(iii) specifies requirements for the production stage, yet this paragraph is a subparagraph of § 60.5375(a), which is expressly applicable to well completion operations. Further, the commenter states that, in the proposed rule, while the beginning of the production stage marks the end of well completion operations, § 60.5365(e) indicates that the beginning of the production stage also marks the commencement of the period for determining storage vessel applicability. The commenter believes that there should be no requirements applicable to production following the end of flowback in this paragraph. One of the commenters believes that the EPA's intent of including the production stage is to ensure a storage vessel emissions evaluation occurs immediately upon the start of production. However, the commenter points out that storage vessel requirements in § 60.5365(e) already dictate that an emissions evaluation must begin at startup. Any such requirements for storage vessels should be specified in applicable portions of § 60.5365 and § 60.5395.

The commenter believes the definition of production stage requires some editing in order to be consistent with the intent that requirements for well completion operations end when production begins. The commenters make several recommendations to the change of the terms ''production stage'', and editing of other provisions to minimize any misinterpretation of the term ''production'' in well completion operations requirements. The commenter also recommends that the last sentence of § 60.5375(a)(1)(ii) be deleted and replaced with language indicating to the effect that ''the separation flowback stage ends and production begins when flow resumes after flowback equipment is removed from the well and flowback crews are released.'' See the Response to Comments Document for a full discussion of these comments.

Response: The EPA agrees with the arguments presented by the commenter regarding confusion and opportunity for misinterpretation of well completion requirements to be applicable during production. It is not the intent that rule provisions for well completions and the flowback period be applicable to the well during production over the lifetime of the well. As such, the final amendments do not include the term ''production stage'' or its definition. All references to ''production stage'' in the proposed amendments have been removed or changed to ''startup of production'' in the final amendments. Accordingly, the well completion requirements do not carry over beyond the end of the flowback period.

Comment: One commenter notes that they have many wells that go straight to the production stage, as defined in the proposed rule. The gas is recovered to a gathering line, but the liquids (produced water) are routed to a portable frac tank and then to either additional frac tanks or a lined earthen retention pond for storage. In some cases, the commenter states that the produced water is routed to the frac tanks because state regulations do not allow produced water to be routed directly to lined earthen retention ponds. The commenter also contends that routing the produced water to the frac tank also provides for better flow measurement and better control of flow into the retention pond, as well as allowing for additional sediment deposition and recovery within the frac tank. The produced water is then reused/recycled in subsequent well completions, reducing fresh water demands.

The commenter is concerned that if the proposed rule is finalized, they would be prohibited from using frac tanks and lined earthen retention ponds

(well completion vessels) to recover and reuse produced water upon entering the production stage for those wells that go directly to the production stage (for these wells, upon commencing flowback). The commenter does not believe it was the EPA's intent to adversely impact water reuse and recycling practices and requests that in the final rule, ''well completion vessel'' should be included in the standards for the production stage.

The commenter understands that the EPA may have concerns over allowing the use of well completion vessels during the production stage due to the potential for VOC emissions. However, according to the commenter in the shale gas plays where the gas composition contains either no or negligible amounts of hydrocarbons, the resultant VOC emissions would be negligible as well. The commenter suggests that the EPA consider exempting shale gas flowback liquids from being required to be routed to a storage vessel on the basis of hydrocarbon gas composition and negligible VOC emissions.

Response: As stated previously, the final amendments do not include the term ''production stage'' or the associated well completions requirements that were in the proposed amendments. The final rule, as amended, states that flowback period ends when either the well is shut in and well completion equipment is removed from the well, or that production has started. With respect to the types of wells identified by the commenter, these wells would be subject to the same requirements as other wells. However, we disagree with the commenter that these wells enter directly into production, since apparently there is water from the flowback that is separated from the gas and routed to frac tanks. As a result, such wells may not go through the initial flowback stage but would enter the separation flowback stage. We remind the commenter that, even if there is no initial flowback stage or separation flowback stage as defined by the rule, then the requirements of § 60.5375(a)(2) through (4) still apply. It should be noted that there is nothing in the rule that prohibits the use of the types of structures which would be well completion vessels during the initial and separation flowback stage for the life of the well; however, once the well has begun production, the vessels then become ''storage vessels'' under the rule if they continue receiving liquids from the well for a period exceeding 60 days from startup of production. Accordingly, they would be subject to the same VOC PTE determination and, if PTE was at least 6 tpy, would be subject to the cover, closed vent system and control requirements.

2. Definition of Low Pressure Gas Well

In the 2012 final rule, we had included a definition of ''low pressure gas well.'' This was added as a logical outgrowth of the public comments received on the August 23, 2011 proposed rule (76 FR 52738) that asserted that due to the reservoir pressure, well depth and gathering line pressure, it was infeasible to perform an REC for some wells. We developed a definition based on well parameters taking into account fluid mechanics and other engineering principles. Development of the definition was described in detail in the Technical Support Document for the final rule which is in the docket. Following publication of the final rule, we received petitions that asserted that we had not provided the public an opportunity to comment on the definition. We proposed the definition in our July 2014 proposed amendments to provide the public an opportunity to comment. We also presented and solicited comment on an alternative definition provided by the petitioners.

Comment: Two commenters appreciate the EPA's willingness to propose for further comment the definition of ''low pressure gas well'' found at § 60.5430. The EPA noted that an alternative definition that was submitted for its consideration by industry petitioners was ''a well where the field pressure is less than 0.433 times the vertical depth of the deepest target reservoir and the flowback period will be less than 3 days in duration.'' The commenters support the alternative definition, although one of the commenters suggests that the word ''initial'' should be placed before the word ''flowback'' so that it is clear that the three-day period in the definition refers to the initial flowback period, and does not include the separation flowback. This commenter adds that this definition is one that is consistent with the manner in which low pressure wells are generally described in the Appalachian Basin, is easier to use and is not as susceptible to misunderstanding.

Response: In the proposed rule we solicited comment on the alternative definition suggested by the petitioners and on specific concerns or questions we have with respect to the alternative definition. We received no comments that provided any data or other information that would lead us to conclude that the alternative definition is sufficient to predict whether an REC would be infeasible for wells meeting the alternative definition.

As explained in the proposal, we agree with the petitioners that this alternative definition is straightforward and easy to use. However, we are concerned that it may be too simplistic and may not adequately account for the parameters that must be taken into account when determining whether a REC would be feasible for a given hydraulically fractured gas well. Further, we question how an operator would know before flowback begins that the flowback period would be less than 3 days in duration.

We believe that, to determine whether the flowback gas has sufficient pressure to flow into a flow line, it is necessary to account for reservoir pressure, well depth and flow line pressure. In addition, it is important for any such determination to take into account pressure losses in the surface equipment used to perform the REC. The EPA's definition in the rule was developed to account for these factors.

We further disagree with the petitioners' assertion that the EPA definition is too complicated. We believe that values for each of the three parameters discussed above and used in the EPA definition are known by operators in advance of flowback and that the relatively simple calculation called for in the EPA definition could be performed with a basic hand-held calculator and should not pose difficulty or hardship for smaller operators. For these reasons, we are finalizing the definition of ''low pressure gas well'' as proposed.

Comment: A commenter concurs with the industry's alternate definition presented in the previous comment. The commenter explains that typical gas wells in Kentucky are produced from low pressure reservoirs with low permeability. In order to make them economically productive, they are stimulated with treatments that contain very little fluid. According to the commenter, all Devonian Shale wells—the largest producing reservoir in eastern Kentucky—are currently treated using straight nitrogen. Most nitrogen flowbacks require a minimum of 3 days before there is a sufficient volume of natural gas to route and flare with a combustion device. Fluid treatments or ''foamed'' fluid are almost certain to damage the formation's permeability, negating the opportunity for Kentucky's producers to continue developing that region's significant resources.

The commenter states that the current EPA definition of a ''low pressure well'' is based upon the physical characteristics of a reservoir, which is

then compared to the poorly defined ''flow line pressure at the sales meter.'' Typical gathering systems in eastern Kentucky are low pressure—typically below 100 psi with the overwhelming majority below 50 psi. This makes qualifying as a ''low pressure well'' under the current definition almost impossible in Kentucky.

According to the commenter, if a Devonian Shale well cannot be qualified as ''low pressure'' after January 1, 2015, Kentucky operators will be denied the option of stimulating gas wells with an ''inert'' gas such as nitrogen. Without the ''low pressure'' qualification, the requirement of a green completion eliminates the ability to flow the wells back to the atmosphere to remove the nitrogen used in the stimulation. The commenter predicts that drilling in Kentucky's Appalachian region will cease unless the EPA adopts the proposed alternative ''low pressure well'' definition.

Response: We believe the commenter may be misinterpreting the proposed rule. The commenter appears to interpret the rule language as requiring liquids to be used for stimulating the well. This is not the case. The owner or operator is free to use any stimulation procedure so long as the handling of the liquids and gases released from the well follows the rule's provisions.

Based on the comment, it appears that there will be essentially little or no liquids discharged from these wells during the completion process, and that the initial flowback period would consist of the period of nitrogen flowback that precedes the production of natural gas. There is nothing in the NSPS that prohibits venting of nitrogen. However, any liquids that are discharged would have to be handled as specified in the rule. The commenter does not appear to be concerned about these rule provisions.

The problem appears to be related to the rule provisions that require the operator to route the recovered gas to a gas flow line or collection system, re-inject the recovered gas into the well or another well, use the recovered gas as an on-site fuel source or use the recovered gas for another useful purpose that a purchased fuel or raw material would serve. As explained above, the final amendments clarify that during the initial flowback stage, gas may be vented. It appears that the types of completions discussed by the commenter do not have a separation flowback stage (based on the limited recovered liquids), and once the nitrogen stimulation gas is off-gassed, the well goes directly to production. If this is the case, there should not be excessive back pressure introduced by the separator and other flowback equipment that would overly impede gas flow, which was the situation the EPA was intending to avoid by providing exemptions for low pressure gas wells. As a result, as described by the commenter, we believe that such wells do not need a low pressure well exemption to enable them to be completed and to startup production. We note that, even if there is no initial flowback stage or separation flowback stage as defined by the rule, then the completion is still subject to the requirements of § 60.5375(a)(2) through (4).

If completion operations on these wells do in fact involve a separation flowback stage, then § 60.5375(a)(1)(ii) would apply, meaning that during the separation flowback stage, all salable gas must be routed to the flow line and that, if it is infeasible to route the recovered gas to a flow line or collection system, reinject the gas or use the gas as fuel or for other useful purpose, the recovered gas must be combusted. No direct venting of recovered gas is allowed during the separation flowback stage.

In the case of the Devonian shale wells, we understand that the initial gas flow is predominantly nitrogen which is not combustible. However, based on the initial flowback provisions under the final rule, these gases would be allowed to be vented during initial flowback. It is assumed that as the nitrogen stimulant gas is released from the well, the hydrocarbon proportion of recovered gas will continually increase and eventually become combustible. Therefore, based on the above rationale, we do not agree that these wells should be specifically exempted as low pressure wells.

B. Storage Vessels

Comment: One commenter believes the proposed definition of ''removed from service'' is too narrow. The commenter suggests that a storage vessel affected facility should be considered removed from service if it no longer meets the definition of a storage vessel, regardless of whether it is physically isolated and disconnected from the process. As proposed, the commenter contends that the rule addresses only a single scenario when a storage vessel is no longer used to store any materials. However, there are many other scenarios where a storage vessel affected facility may still be used for storage but no longer meets the definition of storage vessel and would thus no longer be subject to the rule requirements. Examples of such scenarios provided by the commenter include an atmospheric condensate tank converted to methanol storage or non-VOC storage which may need to be connected to the process; a bullet tank previously operated as an atmospheric condensate tank for which its service is subsequently changed to pressurized storage of butane and is connected to the process; and a bullet tank previously operated as an atmospheric produced water tank and which its service is subsequently changed to a surge control process vessel and is connected to the process.

For the scenario where a storage vessel is no longer used to store anything, the commenter contends that the language regarding physical isolation and disconnection is not necessary because the definition of storage vessel states, ''vessel that contains an accumulation of crude oil, condensate, intermediate hydrocarbon liquids, or produced water . . .'' Thus, if those materials were to again enter the storage vessel, the vessel would be ''returned to service'' and subject to the applicable requirements. The commenter points out that in the unique scenario where a storage vessel is no longer used to store anything, physical isolation is sufficient; disconnection should not be required if, for example, blind flanges are installed. The commenter suggests several changes to the definition of removed from service to cover all scenarios where a storage vessel may no longer meet the definition of storage vessel for purposes of subpart OOOO, but is still used for storage of liquids not included in the definition of ''storage vessel.''

Another commenters recommends that the EPA separate the definition of returned to service from the definition of removed from service and provided suggested language.

Response: We agree that the proposed definition of ''removed from service'' did not sufficiently address the many scenarios identified by the commenters. In particular, the scenario where a storage vessel affected facility is removed from service for a period of time and then returned to service for some purpose was not clearly addressed under the proposed rule. As discussed further in section IV.B of this preamble, we have revised the definition of ''removed from service'' and added a definition for ''returned to service.''

Comment: Several commenters do not support the concept of a storage vessel maintaining its subpart OOOO applicability status when that storage vessel is relocated to a different well site. One commenter stated that storage vessel PTE at a previous location is irrelevant to the new location and is entirely dependent on the particular

type of service for which the vessel is being used at the new location. The commenters point out that the emissions from storage vessels are not related to the equipment itself, but rather the characteristics and volume of the fluids being sent to and stored in the storage vessel.

As proposed, the commenters believe that the rule could require an operator to control a storage vessel with little actual emissions and could discourage the replacement of older damaged storage vessels with newer vessels that may have come from a location that had emissions above the 6 tpy threshold. One commenter concurred that applicability should be based on the type of liquids introduced into the relocated storage vessel and the emissions, not just the type of liquids. The commenters seek confirmation that applicability of storage vessels is triggered by the addition of crude oil, condensate, produced water or intermediate hydrocarbon liquids to the vessel and the unique production of the new location, rather than by simply moving the vessel to a new location.

The commenters believe the proposed rule requirements are further complicated if the out-of-service storage vessel is sold to another owner or operator as part of the relocation. ''Tank pedigree'' tracking would quickly become unduly burdensome. The commenter agrees that if the vessel's emissions are above 6 tpy at the new location, it should be fully subject to the rule. The commenters believe that the tracking and recordkeeping burden of having to assess different emissions thresholds on different affected facility storage vessels based solely on their movement within the company is an excessive and unrealistic burden, particularly where the storage vessel emissions are less than 6 tpy at the new location. At this point, according to the commenters, the tank is no longer a storage vessel affected facility and should not be subject to the rule's requirements, including annual reporting, regardless of whether the storage vessel's previous owner/operator used the vessel in a service at a different location and facility, which resulted in emissions sufficient to trigger rule applicability. Unless the storage vessel's emissions are above 6 tpy at the new location, the commenters contend that subpart OOOO requirements should not be imposed on a relocated storage vessel.

One commenter requests that controls only be required when that relocated tank's emissions exceed 6 tpy, and not merely 4 tpy as required in § 60.5395(f)(2)(ii)(B). The commenter does not understand why the initial emissions assessment should be different for a relocated storage vessel compared to a newly constructed storage vessel. The commenter states that the hydrocarbon composition flowing through the relocated storage vessel may be significantly different at the new location, and the owner or operator of the storage vessel should not be penalized with a lower emissions threshold. The commenter points out that a storage vessel affected facility is defined as ''a single storage vessel . . . that has the potential for VOC emissions equal to or greater than 6 tpy . . . [taking] into account requirements under a legally and practically enforceable limit . . .'' The commenter contends that by requiring a 4 tpy threshold for relocated affected facility storage vessels, the EPA is effectively requiring control devices on storage vessels that have emissions below the threshold that is cost effective to control. Therefore, the commenter contends that a 4 tpy threshold for relocated affected facility storage vessels is legally unsupportable.

Finally, another commenter seeks clarification on the requirements for storage vessels that are returned to service at the same location. In the September 23, 2013 final rule amendments, the EPA added requirements at § 60.5395(f)(2)(ii)(B), which states that ''[i]f the uncontrolled VOC emissions without considering control from your storage vessel affected facility are 4 tpy or greater, you must comply with paragraph (d) of this section within 60 days of returning to service.'' However, the commenter points out that storage vessel affected facilities returned to service with uncontrolled emissions less than 4 tpy are not addressed and the commenter seeks clarification of this issue.

Response: We agree with the commenters' assertion that the emissions from a storage vessel are not intrinsic to the vessel but are a result of the operation and service to which the storage vessel is connected. We have provided a detailed discussion of this issue and the final amendments for storage vessels that are removed from service and returned from service in section IV.B.

Comment: Several commenters expressed general support for allowing the use of electronic spark ignition systems on combustion control devices, although many of the commenters also suggested modifications to the proposed requirements.

One commenter notes that Colorado's Regulation Number 7 requires all combustion devices used to control hydrocarbon emissions utilize an auto-igniter to ensure the operation of the continuous flame pilot. During the adoption of this requirement, the Colorado Air Quality Control Commission determined that auto-igniters were a cost-effective method to reduce hydrocarbon emissions. Another commenter notes that the Fort Berthold Indian Reservation Federal Implementation Plan allows for the use of continuous pilots or automatic spark igniters.

Three commenters note that in the Natural Gas STAR program, the EPA published a Partner Recognized Opportunity (PRO) in PRO Fact Sheet No. 903 that discusses the operation and benefits of electronic spark ignition systems. The commenter contends that the EPA should not lose the benefits of this control technology enhancement by disallowing its use in this rule. With this being an established technology in Natural Gas STAR, the commenters do not believe operators should have to petition the EPA for approval under its new control technology provision. The commenters request that the rule be modified to explicitly allow the use of electronic spark ignition systems as an alternative to a continuous pilot flame.

The commenters add that in the arctic environment in Alaska, operators have often encountered situations where, following maintenance on a flare, a new spark igniter with frost buildup cannot re-light the flare pilot. Continuous pilot flames are required for safety and certainty of combustion in arctic Alaska. Therefore, the commenters contend that if an electronic spark ignition system is allowed, it needs to be an option, rather than a requirement. Two other commenters agree that it should only be an option.

One commenter believes that spark ignition systems may be most appropriate for flares which only occasionally operate (such as flares to handle mishap/safety shutdowns, maintenance blowdowns, etc.) and flares that operate more or less continuously, such as a flare for a wet seal compressor seal-degassing unit. In both cases they may be more reliable than a pilot light, since spark ignition systems cannot be blown out and do not consume fuel and increase emissions, as a pilot light does. However, the commenter contends that a spark ignition system should not be the sole ignition mechanism for flares with highly variable flow, such as flares associated with well completion flowback or storage tank control systems. The commenter states that variable flow can lead to sputtering flames, and a failure to burn all the gas

directed to the flare, leading to large emissions of VOC and methane from the flare. The commenter is concerned that a spark ignition device may not restart the flare as rapidly as a pilot light in such situations, which could lead to higher emissions for flares on variable flow sources such as wells and storage tanks. Given the high rate of emissions of VOC and methane during flowback flaring, it would be appropriate to require both pilot lights and spark ignition devices.

One commenter adds that although they believe electronic spark ignition systems should be allowed as an option, the EPA has not provided any evidence or data to suggest that pilots do not remain continuously lit during operation in the applications used for compliance with this rule. Nor has the EPA provided any data on potential environmental benefit of such technology. The commenter also contends that safety implications must be seriously considered when using auto-igniters. When use is appropriate, operators must be able to tailor the auto-igniter configuration and operation to the combustion device, the facility design, the flammability of the waste stream, facility operations and applicable industry standards. The commenter states that the EPA should not attempt to create a blanket mandate for the application or operation of auto-igniters since safety risks must be evaluated, often on a case-by-case basis. Auto-igniters may not be appropriate or allowed in current industry standards for all applications (such as heaters, boilers, and enclosed combustors). The commenter provides details of safety concerns related to electronic spark ignition systems in their comments.

Two commenters recommend that electronic spark ignition systems have fail safe systems such as temperature and pressure monitoring to prevent any venting during periods when vapors are flowing to the device.

One commenter points out that electronic spark ignition systems have been available for over twenty years and have a proven track record of successfully and safely lighting and maintaining flares and fuel burning equipment.

Response: In our response to comments on the 2011 proposed rule, we stated that given the intermittent and inconsistent nature of emissions from storage vessels in this industry combined with the highly variable VOC concentration in the emissions, we did not believe at that time that a spark-ignited flare would achieve the same level of emission reduction as a flare with a continuous flame present.

In the July 17, 2014, proposed rule, we solicited information, including any test data or other documentation, that may help address the following topics relative to the operation of an electronic spark ignition: (1) Appropriate design, operation and maintenance procedures to ensure proper combustion of the waste stream; (2) use of safety valves to ensure that no gas is available for combustion if the ignition system is not functional; (3) measures that could be taken to avoid vapor venting upstream of the control device in cases where the safety valve remains closed; (4) frequency of monitoring for proper operation; (5) specific checks to be made to ensure proper operation; (6) operating parameters that affect pilot-less flare performance and flare flame stability; (7) effects of gas with low BTU content or gas of variable VOC content; and (8) how often these systems need to be replaced.

In addition, we were interested in information on the use of this technology as a means of ensuring that continuous flame pilots remain functional at all times. Therefore, we also solicited comment, including any supporting data or information, on whether automatic spark ignition relighting systems should be required as a means of ensuring that continuous flame pilots remain functional at all times.

Although we received some information, we received no data in response to most of the questions we asked that would help us determine that electronic spark ignition should be allowed as an alternative to a continuous pilot flame.

Accordingly, issues and concerns related to intermittent and inconsistent flow still remain. Specifically, we remain concerned with how quickly an electronic spark ignition system will ignite an emission stream from an intermittent and inconsistent emission source. We also remain to have concerns about flame stability.

In light of the comments received and the lack of information received in response to our solicitation, we are not satisfied at this time that we have sufficient information on which to base a decision to allow electronic spark ignition as an alternative to a continuous pilot flame.

C. Routing of Reciprocating Compressor Rod Packing Emissions to a Process

Comment: One commenter expressed support for the EPA's proposal to allow reciprocating compressor rod packing emissions to be routed to a process. However, the commenter claims that they cannot comply with the structure of the requirements as proposed. Also, the commenter contends that the proposed requirements do not conform to the current structure of the rule. The commenter recommends several changes:

First, the commenter states that proposed § 60.5385(a)(3) references initial compliance requirements with § 60.5411(a) and (b), which is unnecessary and inconsistent with § 60.5385(a)(1) and (2). The commenter also believes it is inconsistent with the rule's structure for other affected facilities.

Second, the commenter states that the EPA is not proposing to modify § 60.5410(c)(1) (initial compliance requirements) which states ''[d]uring the initial compliance period, you must continuously monitor the number of hours of operation or track the number of months since the last rod packing replacement.'' The commenter contends that reciprocating compressor affected facilities complying with § 60.5385(a)(3) cannot comply with this requirement. Thus, the commenter believes that this requirement must be revised. Additionally, the commenter contends that there is not an initial compliance requirement here for compressors complying with § 60.5385(a)(3); thus, it would be inappropriate to reference the § 60.5411(a) and (b) requirements.

Third, the commenter states that in the proposed continuous compliance requirements in § 60.5415(c)(4), the EPA proposes to reference the initial compliance requirements in § 60.5411(a) and (b). The commenter contends that this does not make sense and does not conform to the changes that the EPA is also proposing at § 60.5416(a) and (b) (continuous cover and closed vent system requirements).

Fourth, the commenter states that the EPA is proposing to make § 60.5416(a) and (b) (continuous cover and closed vent system requirements) applicable for reciprocating compressors; however, the recordkeeping requirements associated with § 60.5416(a) and (b) have not been modified to conform to this proposed change. Additionally, the commenter believes § 60.5420(c)(6) currently fails to reference § 60.5416(a)(2). The commenter recommends that the EPA take this opportunity to resolve this oversight.

One commenter does not believe that the proposed application of the closed vent system requirements to reciprocating compressors or the routing of the rod packing equipment through a closed vent system to a process in § 60.5385(a)(3) are appropriate alternatives.

Response: The EPA disagrees with several aspects of the comments but also agrees with certain suggestions. The commenter states that the reference in § 60.5385(a)(3) to § 60.5411(a) and (b) is not necessary. The EPA disagrees with this comment, because we consider it necessary to specify the standards to which a closed vent system and cover must be designed and operated to achieve the emission reductions sought by the rule.

The EPA disagrees with the comment that the reference to § 60.5411(a) and (b) make it inconsistent with § 60.5385(a)(1) and (2). Neither § 60.5385(a)(1) nor (2) relies on additional equipment (*e.g.,* covers and closed vent systems) to be operated properly to obtain the required emission reductions. Therefore, no such reference is needed in § 60.5385(a)(1) or (2).

The EPA agrees that compliance with 60.5410(c)(1) is intended for owners and operators that have not exercised their option to comply with 60.5385(a)(3), and has finalized language to that effect suggested by the commenter. The EPA has added a restrictive clause to § 60.5410(c) such that § 60.5410(c)(1) through (4) apply only to sources electing to comply with § 60.5385(a)(1) and (2). We made this change because several of the provisions of § 60.5410(c)(1) through (4) are inappropriate for affected facilities that have chosen to comply with § 60.5385(a)(3) rather than (a)(1) and (2).

The EPA agrees that owners and operators that route rod packing emissions to a process under § 60.5385(a)(3) are not subject to § 60.5410(c)(1). We have amended § 60.5410(c) to specify that owners and operators using closed vent systems and covers are not subject to § 60.5410(c)(1).

The commenter states that requirements in § 60.5411(a) and (b) are initial compliance requirements and should not be referenced in the continuous compliance requirements of § 60.5415(c)(4). The EPA disagrees with the commenter because there are requirements within § 60.5411(a) and (b) that require compliance beyond initial compliance. Therefore, we believe it is necessary to specify continuous compliance with § 60.5411(a) and (b).

The commenter states that § 60.5416(a) and (b) should be qualified so as to apply only the reciprocating compressors subject to § 60.5385(a)(3). The EPA agrees with this comment and has added language to make this change.

The EPA agrees that § 60.5415(c)(4) is intended to describe the requirements applicable to reciprocating compressors operating under § 60.5385(a)(3) and should refer to the continuous compliance requirements applicable to closed vent systems and covers specified in § 60.5416(a) and (b).

The EPA agrees with the suggested revision of 60.5420(c) (6) through (9), and has made the changes to the regulatory text.

Comment: One commenter also expressed support for the proposed changes to § 60.5385 to allow the emissions from reciprocating compressors to be routed to a process, but believes other revisions, similar to or the same as those suggested by the previous commenter, are needed in the rule to maintain consistency with the proposed changes. The commenter's suggestions are not repeated here but are detailed in their comments.

Response: As discussed in the response to a previous comment, the EPA has made several amendments to the proposed rule language to clarify the requirements for reciprocating compressors.

VI. Technical Corrections and Clarifications

The EPA is finalizing corrections and clarifications to the 2012 NSPS and the 2013 storage vessel amendments including typographical and grammatical errors, as well as incorrect dates and cross-references. Details of the specific changes we are finalizing to the regulatory text may be found in the docket for this action.[4]

VII. Impacts of These Final Amendments

Our analysis shows that owners and operators of affected facilities would choose to install and operate the same or similar air pollution control technologies under this action as would have been necessary to meet the previously finalized standards. We project that these amendments will result in no significant change in costs, emission reductions, or benefits. Even if there were changes in costs for the affected facilities, such changes would likely be small relative to both the overall costs of the individual projects and the overall costs and benefits of the final rule. Since we believe that owners and operators would put on the same controls for this revised final rule that they would have for the original final rule, there should not be any incremental costs related to this final revision.

[4] Memorandum from Moore, Bruce, U.S. EPA, to Docket ID No. EPA–HQ–OAR–2010–0505, *Technical Corrections to the Oil and Natural Gas Sector New Source Performance Standards.* June 30, 2014.

A. What are the air impacts?

We believe that owners and operators of affected facilities will install the same or similar control technologies to comply with the revised standards finalized in this action as they would have installed to comply with the previously finalized standards. Accordingly, we believe that this final rule will not result in significant changes in emissions of any of the regulated pollutants.

B. What are the energy impacts?

This final rule is not anticipated to have an effect on the supply, distribution, or use of energy. As previously stated, we believe that owners and operators of affected facilities would install the same or similar control technologies as they would have installed to comply with the previously finalized standards.

C. What are the compliance costs?

We believe there will be no significant change in compliance costs as a result of this final rule because owners and operators of affected facilities would install the same or similar control technologies as they would have installed to comply with the previously finalized standards.

D. What are the economic and employment impacts?

Because we expect that owners and operators of affected facilities would install the same or similar control technologies to meet the standards finalized in this action as they would have chosen to comply with the previously finalized standards, we do not anticipate that this final rule will result in significant changes in emissions, energy impacts, costs, benefits, or economic impacts. Likewise, we believe this rule will not have any impacts on the price of electricity, employment or labor markets, or the U.S. economy.

E. What are the benefits of the final standards?

As previously stated, the EPA anticipates the oil and natural gas sector will not incur significant compliance costs or savings as a result of this action and we do not anticipate any significant emission changes resulting from these amendments to the rule. Therefore, there are no direct monetized benefits or disbenefits associated with this final rule.

VIII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be

found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0673. Today's action does not change the information collection requirements previously finalized and, as a result, does not impose any additional information collection burden on industry.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. The EPA has determined that none of the small entities subject to this rule will experience a significant impact because today's action imposes no additional compliance costs on owners or operators of affected sources. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act of 1995 (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effect on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

Although at proposal the EPA noted that Executive Order 13175 did not apply, the EPA solicited comment from tribes inclined to comment on the proposed action. The EPA did not receive substantive comments from tribes on our proposal.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

This action does not add to or relieve affected sources from any requirements, and therefore has no impacts; thus, health and risk assessments were not conducted. The public was invited to submit comments or identify peer-reviewed studies and data that assess effects of early life exposure to HAP from oil and natural gas sector activities. The EPA received no substantive information on these risks.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because it does not affect the level of protection provided to human health or the environment. The basis for this determination is that this action is a reconsideration of existing requirements and imposes no new impacts or costs.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 60

Administrative practice and procedure, Air pollution control, Environmental protection, Intergovernmental relations, Reporting and recordkeeping.

Dated: December 19, 2014.

Gina McCarthy,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

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

Subpart OOOO—[Amended]

■ 2. Section 60.5365 is amended by revising paragraph (e) to read as follows:

§ 60.5365 Am I subject to this subpart?

* * * * *

(e) Each storage vessel affected facility, which is a single storage vessel located in the oil and natural gas production segment, natural gas processing segment or natural gas transmission and storage segment, and has the potential for VOC emissions equal to or greater than 6 tpy as determined according to this section by October 15, 2013 for Group 1 storage vessels and by April 15, 2014, or 30 days after startup (whichever is later) for Group 2 storage vessels, except as provided in paragraphs (e)(1) through (4) of this section. The potential for VOC emissions must be calculated using a generally accepted model or calculation methodology, based on the maximum average daily throughput determined for a 30-day period of production prior to

the applicable emission determination deadline specified in this section. The determination may take into account requirements under a legally and practically enforceable limit in an operating permit or other requirement established under a Federal, State, local or tribal authority.

(1) For each new, modified or reconstructed storage vessel receiving liquids pursuant to the standards for gas well affected facilities in § 60.5375, including wells subject to § 60.5375(f), you must determine the potential for VOC emissions within 30 days after startup of production.

(2) A storage vessel affected facility that subsequently has its potential for VOC emissions decrease to less than 6 tpy shall remain an affected facility under this subpart.

(3) For storage vessels not subject to a legally and practically enforceable limit in an operating permit or other requirement established under Federal, state, local or tribal authority, any vapor from the storage vessel that is recovered and routed to a process through a VRU designed and operated as specified in this section is not required to be included in the determination of VOC potential to emit for purposes of determining affected facility status, provided you comply with the requirements in paragraphs (e)(3)(i) through (iv) of this section.

(i) You meet the cover requirements specified in § 60.5411(b).

(ii) You meet the closed vent system requirements specified in § 60.5411(c).

(iii) You maintain records that document compliance with paragraphs (e)(3)(i) and (ii) of this section.

(iv) In the event of removal of apparatus that recovers and routes vapor to a process, or operation that is inconsistent with the conditions specified in paragraphs (e)(3)(i) and (ii) of this section, you must determine the storage vessel's potential for VOC emissions according to this section within 30 days of such removal or operation.

(4) For each new, reconstructed, or modified storage vessel with startup, startup of production, or which is returned to service, affected facility status is determined as follows: If a storage vessel is reconnected to the original source of liquids; used to replace any storage vessel affected facility; or is installed in parallel with any storage vessel affected facility, it is a storage vessel affected facility subject to the same requirements as before being removed from service, or applicable to the storage vessel affected facility being replaced, or with which it is installed in parallel immediately upon startup, startup of production, or return to service.

* * * * *

■ 3. Section 60.5375 is amended by:
■ a. Revising paragraphs (a) introductory text and (a)(1) through (3);
■ b. Revising paragraph (b);
■ c. Revising paragraphs (f)(1)(i) and (ii); and
■ d. Revising paragraph (f)(2).

The revisions read as follows:

§ 60.5375 What standards apply to gas well affected facilities?

* * * * *

(a) Except as provided in paragraph (f) of this section, for each well completion operation with hydraulic fracturing begun prior to January 1, 2015, you must comply with the requirements of paragraphs (a)(3) and (4) of this section unless a more stringent state or local emission control requirement is applicable; optionally, you may comply with the requirements of paragraphs (a)(1) through (4) of this section. For each new well completion operation with hydraulic fracturing begun on or after January 1, 2015, you must comply with the requirements in paragraphs (a)(1) through (4) of this section. You must maintain a log as specified in paragraph (b).

(1) For each stage of the well completion operation, as defined in § 60.5430, follow the requirements specified in paragraph (a)(1)(i) and (ii) of this section.

(i) During the initial flowback stage, route the flowback into one or more well completion vessels or storage vessels and commence operation of a separator unless it is technically infeasible for a separator to function. Any gas present in the initial flowback stage is not subject to control under this section.

(ii) During the separation flowback stage, route all recovered liquids from the separator to one or more well completion vessels or storage vessels, re-inject the liquids into the well or another well or route the recovered liquids to a collection system. Route the recovered gas from the separator into a gas flow line or collection system, re-inject the recovered gas into the well or another well, use the recovered gas as an on-site fuel source, or use the recovered gas for another useful purpose that a purchased fuel or raw material would serve. If it is infeasible to route the recovered gas as required above, follow the requirements in paragraph (a)(3) of this section. If, at any time during the separation flowback stage, it is not technically feasible for a separator to function, you must comply with (a)(1)(i) of this section.

(2) All salable quality recovered gas must be routed to the gas flow line as soon as practicable. In cases where salable quality gas cannot be directed to the flow line, you must follow the requirements in paragraph (a)(3) of this section.

(3) You must capture and direct recovered gas to a completion combustion device, except in conditions that may result in a fire hazard or explosion, or where high heat emissions from a completion combustion device may negatively impact tundra, permafrost or waterways. Completion combustion devices must be equipped with a reliable continuous ignition source.

* * * * *

(b) You must maintain a log for each well completion operation at each gas well affected facility. The log must be completed on a daily basis for the duration of the well completion operation and must contain the records specified in § 60.5420(c)(1)(iii).

* * * * *

(f) * * *

(1) * * *

(i) Each well completion operation with hydraulic fracturing at a wildcat or delineation well.

(ii) Each well completion operation with hydraulic fracturing at a non-wildcat low pressure gas well or non-delineation low pressure gas well.

(2) Route the flowback into one or more well completion vessels and commence operation of a separator unless it is technically infeasible for a separator to function. Any gas present in the flowback before the separator can function is not subject to control under this section. You must capture and direct recovered gas to a completion combustion device, except in conditions that may result in a fire hazard or explosion, or where high heat emissions from a completion combustion device may negatively impact tundra, permafrost or waterways. Completion combustion devices must be equipped with a reliable continuous ignition source. You must also comply with paragraphs (a)(4) and (b) through (e) of this section.

* * * * *

■ 4. Section 60.5385 is amended by:
■ a. Revising paragraph (a) introductory text; and
■ b. Adding paragraph (a)(3).

The revision and addition read as follows:

§ 60.5385 What standards apply to reciprocating compressor affected facilities?

* * * * *

(a) You must replace the reciprocating compressor rod packing according to either paragraph (a)(1) or (2) of this section or you must comply with paragraph (a)(3) of this section.

* * * * *

(3) Collect the emissions from the rod packing using a rod packing emissions collection system which operates under negative pressure and route the rod packing emissions to a process through a closed vent system that meets the requirements of § 60.5411(a).

* * * * *

■ 5. Section 60.5390 is amended by revising paragraph (c)(2) to read as follows:

§ 60.5390 What standards apply to pneumatic controller affected facilities?

* * * * *

(c) * * *

(2) Each pneumatic controller affected facility constructed, modified or reconstructed on or after October 15, 2013, at a location between the wellhead and a natural gas processing plant or the point of custody transfer to an oil pipeline must be tagged with the month and year of installation, reconstruction or modification, and identification information that allows traceability to the records for that controller as required in § 60.5420(c)(4)(iii).

* * * * *

■ 6. Section 60.5395 is amended by:
■ a. Revising paragraph (d)(1)(i); and
■ b. Revising paragraph (f).

The revisions read as follows:

§ 60.5395 What standards apply to storage vessel affected facilities?

* * * * *

(d) * * *

(1) * * *

(i) For each Group 2 storage vessel affected facility, you must achieve the required emissions reductions by April 15, 2014, or within 60 days after startup, whichever is later, except as otherwise provided below in paragraph (f) of this section. For storage vessel affected facilities receiving liquids pursuant to the standards for gas well affected facilities in § 60.5375, you must achieve the required emissions reductions within 60 days after startup of production as defined in § 60.5430.

* * * * *

(f) *Requirements for Group 1 and Group 2 storage vessel affected facilities that are removed from service or returned to service.* If you remove a Group 1 or Group 2 storage vessel affected facility from service, you must comply with paragraphs (f)(1) through (3) of this section. A Group 1 or Group 2 storage vessel is not an affected facility under this subpart for the period that it is removed from service.

(1) For a storage vessel affected facility to be removed from service, you must comply with the requirements of paragraph (f)(1)(i) and (ii) of this section.

(i) You must completely empty and degas the storage vessel, such that the storage vessel no longer contains crude oil, condensate, produced water or intermediate hydrocarbon liquids. A storage vessel where liquid is left on walls, as bottom clingage or in pools due to floor irregularity is considered to be completely empty.

(ii) You must submit a notification as required in § 60.5420(b)(6)(vi) in your next annual report, identifying each storage vessel affected facility removed from service during the reporting period and the date of its removal from service.

(2) If a storage vessel identified in paragraph (f)(1)(ii) of this section is returned to service, you must determine its affected facility status as provided in § 60.5365(e).

(3) For each storage vessel affected facility returned to service during the reporting period, you must submit a notification in your next annual report as required in § 60.5420(b)(6)(vii), identifying each storage vessel affected facility and the date of its return to service.

* * * * *

■ 7. Section 60.5401 is amended by revising paragraphs (d) and (e) to read as follows:

§ 60.5401 What are the exceptions to the equipment leak standards for affected facilities at onshore natural gas processing plants?

* * * * *

(d) Pumps in light liquid service, valves in gas/vapor and light liquid service, pressure relief devices in gas/vapor service, and connectors in gas/vapor service and in light liquid service that are located at a nonfractionating plant that does not have the design capacity to process 283,200 standard cubic meters per day (scmd) (10 million standard cubic feet per day) or more of field gas are exempt from the routine monitoring requirements of §§ 60.482–2a(a)(1), 60.482–7a(a), 60.482–11a(a), and paragraph (b)(1) of this section.

(e) Pumps in light liquid service, valves in gas/vapor and light liquid service, pressure relief devices in gas/vapor service, and connectors in gas/vapor service and in light liquid service within a process unit that is located in the Alaskan North Slope are exempt from the routine monitoring requirements of §§ 60.482–2a(a)(1), 60.482–7a(a), 60.482–11a(a), and paragraph (b)(1) of this section.

* * * * *

■ 8. Section 60.5410 is amended by:
■ a. Revising paragraph (c)(1);
■ b. Adding a new paragraph (c)(2); and
■ c. Revising paragraph (d)(2) to read as follows:

§ 60.5410 How do I demonstrate initial compliance with the standards for my gas well affected facility, my centrifugal compressor affected facility, my reciprocating compressor affected facility, my pneumatic controller affected facility, my storage vessel affected facility, and my equipment leaks and sweetening unit affected facilities at onshore natural gas processing plants?

* * * * *

(c) * * *

(1) If complying with § 60.5385(a)(1) or (2), during the initial compliance period, you must continuously monitor the number of hours of operation or track the number of months since the last rod packing replacement.

(2) If complying with § 60.5385(a)(3), you must operate the rod packing emissions collection system under negative pressure and route emissions to a process through a closed vent system that meets the requirements of § 60.5411(a).

* * * * *

(d) * * *

(2) You own or operate a pneumatic controller affected facility located at a natural gas processing plant and your pneumatic controller is driven by a gas other than natural gas and therefore emits zero natural gas.

* * * * *

■ 9. Section 60.5411 is amended by:
■ a. Revising the section heading and introductory text;
■ b. Revising the heading of paragraph (a);
■ c. Revising paragraph (a)(1);
■ d. Revising paragraph (b)(3); and
■ e. Revising the heading of paragraph (c).

The revisions read as follows:

§ 60.5411 What additional requirements must I meet to determine initial compliance for my covers and closed vent systems routing materials from storage vessels, reciprocating compressors and centrifugal compressor wet seal degassing systems?

You must meet the applicable requirements of this section for each cover and closed vent system used to comply with the emission standards for your storage vessel, reciprocating compressor or centrifugal compressor affected facility.

(a) *Closed vent system requirements for reciprocating compressors and for*

centrifugal compressor wet seal degassing systems. (1) You must design the closed vent system to route all gases, vapors, and fumes emitted from the material in the reciprocating compressor rod packing emissions collection system or the wet seal fluid degassing system to a control device or to a process that meets the requirements specified in § 60.5412(a) through (c).

* * * * *

(b) * * *

(3) Each storage vessel thief hatch shall be equipped, maintained and operated with a weighted mechanism or equivalent, to ensure that the lid remains properly seated. You must select gasket material for the hatch based on composition of the fluid in the storage vessel and weather conditions.

(c) *Closed vent system requirements for storage vessel affected facilities using a control device or routing emissions to a process.*

* * * * *

■ 10. Section 60.5412 is amended by revising paragraph (d) introductory text to read as follows:

§ 60.5412 What additional requirements must I meet for determining initial compliance with control devices used to comply with the emission standards for my storage vessel or centrifugal compressor affected facility?

* * * * *

(d) Each control device used to meet the emission reduction standard in § 60.5395(d) for your storage vessel affected facility must be installed according to paragraphs (d)(1) through (3) of this section, as applicable. As an alternative to paragraph (d)(1) of this section, you may install a control device model tested under § 60.5413(d), which meets the criteria in § 60.5413(d)(11) and § 60.5413(e).

* * * * *

■ 11. Section 60.5413 is amended by:
■ a. Revising the introductory text of paragraph (e); and
■ b. Adding paragraph (e)(7).

The revision and addition read as follows:

§ 60.5413 What are the performance testing procedures for control devices used to demonstrate compliance at my storage vessel or centrifugal compressor affected facility?

* * * * *

(e) *Continuous compliance for combustion control devices tested by the manufacturer in accordance with paragraph (d) of this section.* This paragraph applies to the demonstration of compliance for a combustion control device tested under the provisions in paragraph (d) of this section. Owners or operators must demonstrate that a control device achieves the performance requirements in (d)(11) of this section by installing a device tested under paragraph (d) of this section and complying with the criteria specified in paragraphs (e)(1) through (7) of this section.

* * * * *

(7) Ensure that each enclosed combustion device is maintained in a leak free condition.

■ 12. Section 60.5415 is amended by:
■ a. Revising paragraph (b)(2) introductory text;
■ b. Revising paragraph (c) introductory text;
■ c. Adding paragraph (c)(4); and
■ d. Removing paragraph (h).

The revisions and addition read as follows:

§ 60.5415 How do I demonstrate continuous compliance with the standards for my gas well affected facility, my centrifugal compressor affected facility, my stationary reciprocating compressor affected facility, my pneumatic controller affected facility, my storage vessel affected facility, and my affected facilities at onshore natural gas processing plants?

(b) * * *

(2) For each control device used to reduce emissions, you must demonstrate continuous compliance with the performance requirements of § 60.5412(a) using the procedures specified in paragraphs (b)(2)(i) through (vii) of this section. If you use a condenser as the control device to achieve the requirements specified in § 60.5412(a)(2), you must demonstrate compliance according to paragraph (b)(2)(viii) of this section. You may switch between compliance with paragraphs (b)(2)(i) through (vii) of this section and compliance with paragraph (b)(2)(viii) of this section only after at least 1 year of operation in compliance with the selected approach. You must provide notification of such a change in the compliance method in the next annual report, as required in § 60.5420(b), following the change.

* * * * *

(c) For each reciprocating compressor affected facility complying with § 60.5385(a)(1) or (2), you must demonstrate continuous compliance according to paragraphs (c)(1) through (3) of this section. For each reciprocating compressor affected facility complying with § 60.5385(a)(3), you must demonstrate continuous compliance according to paragraph (c)(4) of this section.

* * * * *

(4) You must operate the rod packing emissions collection system under negative pressure and continuously comply with the closed vent requirements in § 60.5411(a).

* * * * *

■ 13. Section 60.5416 is amended by:
■ a. Revising the section heading;
■ b. Revising the introductory text;
■ c. Revising paragraph (a) introductory text; and
■ d. Revising paragraph (b) introductory text.

The revisions read as follows:

§ 60.5416 What are the initial and continuous cover and closed vent system inspection and monitoring requirements for my storage vessel, centrifugal compressor and reciprocating compressor affected facilities?

For each closed vent system or cover at your storage vessel, centrifugal compressor and reciprocating compressor affected facility, you must comply with the applicable requirements of paragraphs (a) through (c) of this section.

(a) *Inspections for closed vent systems and covers installed on each centrifugal compressor or reciprocating compressor affected facility.* Except as provided in paragraphs (b)(11) and (12) of this section, you must inspect each closed vent system according to the procedures and schedule specified in paragraphs (a)(1) and (2) of this section, inspect each cover according to the procedures and schedule specified in paragraph (a)(3) of this section, and inspect each bypass device according to the procedures of paragraph (a)(4) of this section.

* * * * *

(b) *No detectable emissions test methods and procedures.* If you are required to conduct an inspection of a closed vent system or cover at your centrifugal compressor or reciprocating compressor affected facility as specified in paragraphs (a)(1), (2), or (3) of this section, you must meet the requirements of paragraphs (b)(1) through (13) of this section.

* * * * *

■ 14. Section 60.5420 is amended by:
■ a. Revising paragraph (b)(1)(iv);
■ b. Revising paragraph (b)(6)(ii);
■ c. Revising paragraphs (b)(6)(vi) and (vii);
■ d. Revising paragraphs (c)(1)(iii)(A) and (B);
■ e. Revising paragraph (c)(3)(ii); and
■ f. Revising paragraphs (c)(7), (8) and (9).

The revisions read as follows:

§ 60.5420 What are my notification, reporting, and recordkeeping requirements?

* * * * *

(b) * * *

(1) * * *

(iv) A certification by a certifying official of truth, accuracy, and completeness. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

* * * * *

(6) * * *

(ii) Documentation of the VOC emission rate determination according to § 60.5365(e) for each storage vessel that became an affected facility during the reporting period or is returned to service during the reporting period.

* * * * *

(vi) You must identify each storage vessel affected facility that is removed from service during the reporting period as specified in § 60.5395(f)(1)(ii), including the date the storage vessel affected facility was removed from service.

(vii) You must identify each storage vessel affected facility returned to service during the reporting period as specified in § 60.5395(f)(3), including the date the storage vessel affected facility was returned to service.

* * * * *

(c) * * *

(1) * * *

(iii) * * *

(A) For each gas well affected facility required to comply with the requirements of § 60.5375(a), you must record: The location of the well; the API well number; the date and time of the onset of flowback following hydraulic fracturing or refracturing; the date and time of each attempt to direct flowback to a separator as required in § 60.5375(a)(1)(i); the date and time of each occurrence of returning to the initial flowback stage under § 60.5375(a)(1)(i); and the date and time that the well was shut in and the flowback equipment was permanently disconnected, or the startup of production; the duration of flowback; duration of recovery to the flow line; duration of combustion; duration of venting; and specific reasons for venting in lieu of capture or combustion. The duration must be specified in hours of time.

(B) For each gas well affected facility required to comply with the requirements of § 60.5375(f), you must maintain the records specified in paragraph (c)(1)(iii)(A) of this section except that you do not have to record the duration of recovery to the flow line.

* * * * *

(3) * * *

(ii) Records of the date and time of each reciprocating compressor rod packing replacement, or date of installation of a rod packing emissions collection system and closed vent system as specified in § 60.5385(a)(3).

* * * * *

(7) A record of each cover inspection required under § 60.5416(a)(3) for centrifugal or reciprocating compressors or § 60.5416(c)(2) for storage vessels.

(8) If you are subject to the bypass requirements of § 60.5416(a)(4) for centrifugal or reciprocating compressors or § 60.5416(c)(3) for storage vessels, a record of each inspection or a record each time the key is checked out or a record of each time the alarm is sounded.

(9) If you are subject to the closed vent system no detectable emissions requirements of § 60.5416(b) for centrifugal or reciprocating compressors, a record of the monitoring conducted in accordance with § 60.5416(b).

* * * * *

■ 15. Section 60.5430 is amended by:

■ a. Adding, in alphabetical order, definitions for the terms ''Certifying official,'' ''Collection system,'' ''Initial flowback stage,'' ''Maximum average daily throughput,'' ''Recovered gas,'' ''Recovered liquids,'' ''Removed from service,'' ''Returned to service,'' ''Separation flowback stage,'' ''Startup of production,'' and ''Well completion vessel;''

■ b. Removing the definition of ''Affirmative defense;'' and

■ c. Revising the definitions for ''Equipment'', ''Flowback,'' ''Routed to a process or route to a process,'' ''Salable quality gas,'' and ''Storage vessel.''

The revisions read as follows:

§ 60.5430 What definitions apply to this subpart?

* * * * *

Certifying official means one of the following:

(1) For a corporation: A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

(ii) The Administrator is notified of such delegation of authority prior to the exercise of that authority. The Administrator reserves the right to evaluate such delegation;

(2) For a partnership (including but not limited to general partnerships, limited partnerships, and limited liability partnerships) or sole proprietorship: A general partner or the proprietor, respectively. If a general partner is a corporation, the provisions of paragraph (1) of this definition apply;

(3) For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (*e.g.,* a Regional Administrator of EPA); or

(4) For affected facilities:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions under title IV of the Clean Air Act or the regulations promulgated thereunder are concerned; or

(ii) The designated representative for any other purposes under part 60.

* * * * *

Collection system means any infrastructure that conveys gas or liquids from the well site to another location for treatment, storage, processing, recycling, disposal or other handling.

* * * * *

Equipment, as used in the standards and requirements in this subpart relative to the equipment leaks of VOC from onshore natural gas processing plants, means each pump, pressure relief device, open-ended valve or line, valve, and flange or other connector that is in VOC service or in wet gas service, and any device or system required by those same standards and requirements in this subpart.

* * * * *

Flowback means the process of allowing fluids and entrained solids to flow from a natural gas well following a treatment, either in preparation for a subsequent phase of treatment or in preparation for cleanup and returning the well to production. The term *flowback* also means the fluids and entrained solids that emerge from a natural gas well during the flowback process. The *flowback period* begins when material introduced into the well during the treatment returns to the surface following hydraulic fracturing or refracturing. The *flowback period* ends when either the well is shut in and

permanently disconnected from the flowback equipment or at the startup of production. The flowback period includes the initial flowback stage and the separation flowback stage.

* * * * *

Initial flowback stage means the period during a well completion operation which begins at the onset of flowback and ends at the separation flowback stage.

* * * * *

Maximum average daily throughput means the earliest calculation of daily average throughput during the 30-day PTE evaluation period employing generally accepted methods.

* * * * *

Recovered gas means gas recovered through the separation process during flowback.

Recovered liquids means any crude oil, condensate or produced water recovered through the separation process during flowback.

* * * * *

Removed from service means that a storage vessel affected facility has been physically isolated and disconnected from the process for a purpose other than maintenance in accordance with § 60.5395(f)(1).

Returned to service means that a Group 1 or Group 2 storage vessel affected facility that was *removed from service* has been:

(1) Reconnected to the original source of liquids, connected in parallel to any storage vessel affected facility or has been used to replace any storage vessel affected facility; or

(2) Installed in any location covered by this subpart and introduced with crude oil, condensate, intermediate hydrocarbon liquids or produced water.

Routed to a process or route to a process means the emissions are conveyed via a closed vent system to any enclosed portion of a process where the emissions are predominantly recycled and/or consumed in the same manner as a material that fulfills the same function in the process and/or transformed by chemical reaction into materials that are not regulated materials and/or incorporated into a product; and/or recovered.

Salable quality gas means natural gas that meets the flow line or collection system operator specifications, regardless of whether such gas is sold.

Separation flowback stage means the period during a well completion operation when it is technically feasible for a separator to function. The *separation flowback stage* ends either at the startup of production, or when the well is shut in and permanently disconnected from the flowback equipment.

Startup of production means the beginning of initial flow following the end of flowback when there is continuous recovery of salable quality gas and separation and recovery of any crude oil, condensate or produced water.

Storage vessel means a tank or other vessel that contains an accumulation of crude oil, condensate, intermediate hydrocarbon liquids, or produced water, and that is constructed primarily of nonearthen materials (such as wood, concrete, steel, fiberglass, or plastic) which provide structural support. Two or more storage vessels connected in parallel are considered equivalent to a single storage vessel with throughput equal to the total throughput of the storage vessels connected in parallel. A well completion vessel that receives recovered liquids from a well after startup of production following flowback for a period which exceeds 60 days is considered a storage vessel under this subpart. A tank or other vessel shall not be considered a storage vessel if it has been removed from service in accordance with the requirements of § 60.5395(f) until such time as such tank or other vessel has been returned to service. For the purposes of this subpart, the following are not considered storage vessels:

(1) Vessels that are skid-mounted or permanently attached to something that is mobile (such as trucks, railcars, barges or ships), and are intended to be located at a site for less than 180 consecutive days. If you do not keep or are not able to produce records, as required by § 60.5420(c)(5)(iv), showing that the vessel has been located at a site for less than 180 consecutive days, the vessel described herein is considered to be a storage vessel from the date the original vessel was first located at the site. This exclusion does not apply to a well completion vessel as described above.

(2) Process vessels such as surge control vessels, bottoms receivers or knockout vessels.

(3) Pressure vessels designed to operate in excess of 204.9 kilopascals and without emissions to the atmosphere.

* * * * *

Well completion vessel means a vessel that contains *flowback* during a well completion operation following hydraulic fracturing or refracturing. A well completion vessel may be a lined earthen pit, a tank or other vessel that is skid-mounted or portable. A well completion vessel that receives recovered liquids from a well after startup of production following flowback for a period which exceeds 60 days is considered a storage vessel under this subpart.

* * * * *

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Part IV

Department of Agriculture

Food Safety and Inspection Service

9 CFR Parts 317 and 381
Descriptive Designation for Raw Meat and Poultry Products Containing Added Solutions; Final Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. FSIS–2010–0012]

RIN 0583–AD43

Descriptive Designation for Raw Meat and Poultry Products Containing Added Solutions

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending its regulations to require the use of a descriptive designation as part of the product name on the labels of raw meat and poultry products that contain added solutions and that do not meet a standard of identity. The descriptive designation will have to include the percentage of added solution, and the individual ingredients or multi-ingredient components in the solution listed in descending order of predominance by weight. The print for all words in the product name, including the descriptive designation, must appear in a single easy-to-read type style and color and on a single-color contrasting background. The print may appear in upper and lower case letters, with the lower case letters not smaller than one-third (1⁄3) the size of the largest letter. The percent solution must appear as a number (*e.g.,* 15, 20, 30) with the percentage sign (%) and may be declared with the word ''containing'' or ''contains.'' Under this final rule, the word ''enhanced'' is not allowed in the product name. The Agency is also removing the standard of identity regulation for ''ready-to-cook poultry products to which solutions are added''.

DATES: Effective Date: January 1, 2016.

Applicability Date: The regulation that prescribes that the product name appear with the lower case letters not smaller than one-third (1⁄3) the size of the largest letter in the product name (9 CFR 317.2(e)(2)(iv) and 381.117(h)(4)) will be applicable on January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalyn Murphy-Jenkins, Director, Labeling and Program Delivery Staff, Office of Policy and Program Development, FSIS, USDA; Telephone: (301)504–0879.

SUPPLEMENTARY INFORMATION:

Executive Summary

This rule requires a descriptive designation as part of the product name for raw meat and poultry products that contain added solutions. The Agency proposed changes to the labeling of these products on July 27, 2011, in response to two petitions that requested that the Agency prevent consumers from being misled by the on-going marketing of added solution poultry products.

FSIS, in response to the petitions and after evaluating its experience in reviewing labels, determined that some added- solution product labels that follow current labeling guidance and comply with current regulations are misleading because they do not clearly and conspicuously show that the product contains an added solution, and that, without updated labeling regulations that require the conspicuous labeling of the added solution, consumers likely cannot distinguish between raw single-ingredient products versus similar raw products containing added solution.

Under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA), the labels of meat and poultry products must be truthful and not misleading, and the labels must accurately disclose to consumers what they are buying when they purchase any meat or poultry product. The FMIA and PPIA give FSIS broad authority to promulgate rules and regulations necessary to carry out the provisions of the Acts.

To increase consumer awareness of the added solution and the amount of the added solution in raw meat and poultry products, FSIS proposed that the common or usual name of the product include the percentage and the ingredients of the added solution. In addition, the Agency proposed that the print for all of the words in the name, including the percentage and ingredients in the solution, appear in a single font size, color, and style of print and appear on a single-color contrasting background.

This final rule requires a descriptive designation as part of the product name, not as part of the common or usual name of the product. FSIS made this change to make clear that the descriptive designation is required to be part of the product name but does not need to be on the same line as the rest of the name. The descriptive designation can be above, below, or next to the product name (without intervening text or graphics) on the principle display panel. FSIS also made this change to make this labeling rule more consistent with the rule concerning the labeling of mechanically tenderized beef products. This rule adopts all of the proposed rule's provisions for the listing of the individual ingredients or multi-ingredient components in the solution in descending order of predominance by weight, with the clarification that the added solution percentage must be a number and a percent symbol (*e.g.,* 15%), and that upper- and lower-case lettering may be used, provided that the lower-case lettering is not smaller than one-third (1⁄3) the size of the largest letter in the product name. The requirements concerning type style, color, and background for the product name (including the descriptive designation) are consistent with those in the proposed rule. The final rule also prohibits the use of the word ''enhanced'' in the product name (including the descriptive designation) of meat and poultry products containing added solutions that do not meet a standard of identity.

The final rule will result in one-time costs to establishments and retail facilities that produce and package raw meat and poultry products that contain added solutions and that do not meet a standard of identity. All of the costs pertain to the label modification procedures for the affected products, and are quantified below.

TABLE 1—SUMMARY OF COSTS AND BENEFITS

	Lower bound	Upper bound
Costs		
Annualized Cost (3% Discount Rate, 10 Year)	$5,897,722	$9,555,104
Annualized Cost (7% Discount Rate, 10 Year)	6,895,066	11,170,937
Benefits		
• Improved public awareness of product identities by providing truthful and accurate labeling of meat and poultry products to clearly differentiate products containing added solutions from single-ingredient products.		
• Consumers can better determine whether products containing added solutions are suitable for their personal preferences and dietary needs through the added solutions descriptive designation. For example, consumers' choices of meat and poultry products with added solutions with a high sodium content could have unintended health consequences if labels of these products were inadequate in revealing the information of added ingredients to the consumers.		
• More complete label information may help consumers make more informed decisions leading to an increase in consumer welfare.		

Background

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601–695) and Poultry Products Inspection Act (PPIA) (21 U.S.C. 451–470) (''the Acts'') provide that the labels of meat and poultry products must be approved by the Secretary of Agriculture, who has delegated this authority to FSIS, before these products can enter commerce. The Acts also prohibit the distribution in-commerce of meat or poultry products that are adulterated or misbranded. The FMIA and PPIA give FSIS broad authority to promulgate such rules and regulations as are necessary to carry out the provisions of the Acts (21 U.S.C. 621 and 463(b)).

To prevent meat and poultry products from being misbranded, the meat and poultry product inspection regulations require that the labels of meat and poultry products contain specific information, and that such information be displayed as prescribed in the regulations (9 CFR part 317 and part 381, subpart N). On July 27, 2011, FSIS published a proposed rule to amend the meat and poultry regulations to establish a common or usual name for raw meat and poultry products that contain added solutions that do not meet a standard of identity (76 FR 44855). As FSIS explained in the proposed rule (76 FR 44856), the poultry products regulations include labeling requirements for ready-to-cook, bone-in poultry carcasses and parts with added solutions that increase the weight by approximately 3 percent over the raw product after chilling and washing (9 CFR 381.169). However, since 9 CFR 381.169 was codified on May 16, 1972 (37 FR 9706), and subsequently amended on October 7, 1974 (39 FR 36000), poultry processors developed new technologies that could incorporate more solution into products. In an effort to keep pace with industry practice and prevent false or misleading labeling, FSIS issued labeling guidance for raw bone-in poultry products that contain more than the 3 percent solution permitted by 9 CFR 381.169, and for boneless poultry products that contain added solutions. Policy Memo 042, ''Raw Bone-in Poultry Products Containing Added Solutions,'' (issued February 1982) provided that solutions may be added to raw bone-in poultry and poultry parts at various levels if the product name contained an appropriate qualifying statement. Policy Memo 044A, ''Labeling of Raw Boneless Poultry and Poultry Parts to Which Solutions are Added,'' (issued September 1986) provided for the addition of solution at any level to raw boneless poultry and poultry parts if the addition and the amount of solution were identified. FSIS also issued Policy Memo 066C, ''Uncooked Red Meat Products Containing Added Substances,'' (November 2004) to provide similar guidance for red meat products that contain added solutions.

As discussed in the proposal (76 FR 44856), the intent of the policy memoranda guidance was to assist industry in developing truthful, easy-to-read labeling information about the solutions added to products, so that consumers would be aware of the added solutions and could make informed purchasing decisions. However, it came to the Agency's attention from petitions, comments submitted by the public, and FSIS review of labels, that some product labels are misleading because they do not clearly and conspicuously identify that the raw meat or poultry products contain added solution, and that products that contain added solution have the same product name as products that do not contain added solution. For example, the name for both a single-ingredient chicken breast and a chicken breast with added solution is ''chicken breast,'' even though one is 100 percent chicken, and the other is not. Although the labeling of the product must include a qualifying statement that reflects the fact that the product contains added solution, this fact may not be readily apparent to consumers because the statement is not part of the product name (76 FR 44857). The petitions discussed in the proposed rule are found at *http://www.fsis.usda.gov/wps/portal/searchhelp/sitemap/!ut/p/a0/04_Sj9CPykssy0xPLMnMz0vMAfGjzOINAg3MDC2dDbz8LQ3dDDz9wgL9vZ2dDdx9jfQLsh0VAcILpdM!/?1dmy&current=true&urile=wcm%3Apath%3A%2Ffsis-content%2Fobsolete-archives%2Fproposed-rules%2Ffederal-proposed-rules-archive-2011.*

Therefore, to ensure that labels adequately inform consumers that those raw products that do not meet a standard of identity in 9 CFR part 319 or 9 CFR part 381, subpart P, contain added solutions, the Agency proposed to establish a common or usual name for such raw products. FSIS proposed that the common or usual name of such product consist of the following: an accurate description of the raw meat or poultry component; the percentage of any added solution incorporated into the raw meat or poultry product (total weight of solution ingredients divided by the weight of the raw meat or poultry without solution or any other added ingredients, multiplied by 100) using numerical representation and the percent symbol ''%;'' and the common or usual name of all individual ingredients or multi-ingredient components in the solution listed in descending order of predominance by weight.

After the publication of the proposed rule, the Agency received a letter requesting a 60-day extension of the comment period, and the information, data, and evidence the Agency

considered in developing the proposed rule. On November 8, 2011, in response to the request to extend the comment period, the Agency reopened the comment period for 60 days (76 FR 69146). The Agency's letter responding to the request for additional information, including links to data and specific labels of concern is posted on its Web site at *http://www.fsis.usda.gov/wps/wcm/connect/cf80e9a5-7e39-470f-90c9-0911402268b0/2010-0012_Response_to_AMI_508.pdf?MOD=AJPERES.*

After review and consideration of all the comments submitted, FSIS is amending and clarifying the July 2011 proposed amendments. As is explained above, this rule is necessary because we have found that under current regulations, some product labels are misleading because they do not clearly and conspicuously identify to consumers that the raw meat or poultry products contain added solution. Therefore under, this final rule, such labels would be misbranded.

In response to comments, rather than requiring the added solution information as part of the common or usual name, the final rule requires a product name with a descriptive designation that clearly indicates that the product contains added solutions. The descriptive designation will need to appear as part of the product name on the principal display panel and may be above, below, or next to the product name (without intervening text or graphics).

All of the print and color requirements in the final rule, *i.e.,* a single easy-to-read type style and color and single-color contrasting background are consistent with those from the proposed rule and are applicable to the product name and the descriptive designation. However, in the final rule, FSIS made changes to the regulatory text to clarify that the percentage of added solution must be represented by a number and a percent symbol (*e.g.,* 15%), not words (*e.g.,* fifteen percent), and provide that upper and lower case lettering may be used for the in the product name, provided that the lower case lettering is not smaller than one-third (⅓) the size of the largest letter. Some added solution product labels may comply with current guidance for the labeling these products (Policy Memorandum 042, ''Raw Bone-In Poultry Products Containing Solutions;'' Policy Memorandum 044A, ''Raw Boneless Poultry Containing Solutions;'' and Policy Memorandum 066C, ''Uncooked Red Meat Products Containing Added Substances''). The labeling guidance provides that added solution statements must be one-fourth (¼) the size of the largest or most prominent letter in the product name. To reduce costs to establishments that produce added solutions products, the applicability date for the one-third (⅓) size requirement for the descriptive designation is January 1, 2018.

The Agency is also providing for the use of the words ''containing'' or ''contains'' (*e.g.,* ''containing 15% added solution of water and salt'') and prohibiting the use of the word ''enhanced'' in the product name (including the descriptive designation) of meat and poultry products containing added solutions that do not meet a standard of identity. The amendments and clarifications are discussed in further detail below in the summary of and response to comments.

Summary of and Response to Comments

FSIS received a total of 889 comments. These were from consumers; a coalition representing poultry producers and consumers; consumer advocacy organizations; health organizations; dieticians; State and county departments of agriculture, weights and measures; trade associations that represent meat and poultry processors; an association of agricultural commissioners and sealers; a trade association that represents ingredient manufacturers; a trade association that represents food retailers and wholesalers; and poultry, beef, and pork products manufacturers. The majority of comments were identical form responses submitted electronically by individuals that identified their organization as the coalition of poultry producers and consumers or one of the poultry producers that belong to the coalition.

A. General Support for the Proposed Common or Usual Name Requirements

The majority of comments generally supported the proposed amendments. Many commenters agreed that the current labels for meat and poultry products containing added solutions are misleading. Many commenters stated that the current solution statement is too small to read, and that other claims or statements on the product label make it difficult for consumers to differentiate between single-ingredient products and those with added solutions. One meat association acknowledged that containing statements can appear in fonts that are tall, slanted, and difficult to read. Many commenters stated that product labels should be truthful, clear, easy to read (*e.g.,* clear font, size, color, and style), and easily understandable, so that consumers can compare products and make informed choices. These commenters stated that the proposed regulations accomplish these goals. Additionally, these commenters stated that the proposed regulations would ensure fair competition among retailers and manufacturers.

B. Opposition to the Proposed Common or Usual Name Requirements

Comment: Several commenters stated that the petitions submitted by the Truthful Labeling Coalition (TLC) (with attached research studies) and the California Agriculture Commissioners and Sealers Association (CACSA) did not support the need for the proposed amendments, and that the research was limited and not compelling.

Response: FSIS acknowledged in the proposed rule that findings included in the TLC petition were not generalizable but constituted anecdotal evidence that consumers read and use labels (76 FR 44857). The Sorensen Associates Research, included with the TLC petition, found that consumers of ''enhanced'' chicken products were not aware that the ''enhanced'' product contained additives until they were specifically directed to look at the label. Even after looking at the label, nearly 1 out of 5 ''enhanced'' chicken buyers didn't realize that the chicken contained additives. The CACSA petition stated that in 2006, California Weights and Measures officials conducted a study that indicated that consumers, because they pay for the solution added to products, pay an estimated $246 million for the added solution in California alone. CASCA then estimated, assuming that California has an approximate market share of 12 percent, that the impact to consumers nationwide is projected at $2 billion annually. Also, information from FSIS's Labeling and Program Delivery Staff's (LPDS), formerly the Labeling and Program Delivery Division (LPDD), review of labels and compliance activities indicated that some product labels do not clearly and conspicuously identify that the raw meat or poultry products contain added solution even though they meet current regulatory requirements and follow current guidance. The findings, projected costs from the CACSA petition, and label approval and compliance information were the best data available to the Agency.

Comment: Several meat and poultry companies argued that the proposed requirements would obscure the identity of the meat or poultry component of their products and submitted labels to illustrate this point.

Two companies conducted consumer surveys to compare consumer understanding of labels that meet the current labeling requirements versus those that meet the proposed labeling requirements. The two companies stated that the surveys demonstrated that consumers preferred the current added-solution product labeling to the proposed required labeling.

One consumer survey compared a current meat with added solution label with a meat with added solution label meeting the proposed requirements. The results of the 66 respondent survey showed that the 79 percent of respondents agreed that the ''current'' label and the ''proposed'' label were ''easy to understand.'' The results also showed that eighteen percent of the panelists responded that the current label ''could be confusing,'' in comparison with twenty-three percent of the respondents that stated the proposed label was ''confusing'' (a five percent increase).

The other consumer survey was conducted online with a panel of 857 respondents. The overall results of this survey showed that 65 percent of the respondents preferred the current ''large'' font size label.

Response: The majority of the label examples submitted to illustrate that the proposed amendments would obscure the identity of the meat or poultry component of their products did not accurately reflect the proposed requirements. The common or usual names included superfluous text (*e.g.,* ''tenderness and juiciness improved''), spelled out percentages (*e.g.,* ''twelve percent''), and contained only uppercase letters.

The one consumer survey did not accurately represent the proposed requirements, and the ''current'' label's containing statement was considerably larger than the ¼ size provided in labeling guidance and, therefore, may have been more conspicuous to survey participants than product labels currently available at retail.

Another consumer survey, conducted online, did not offer respondents labels that accurately represented the current labeling guidance versus the proposed labeling requirements. The company presented two versions of four different added solution product labels, fresh chicken breast, frozen chicken wing sections, pork loin, and beef. Respondents were asked to compare the labels that meet the current labeling guidance with the labels that meet the proposed requirements. Three of the four current labels appeared to have containing statements larger than the minimum of ¼ size permitted under the current regulation (9 CFR 381.169) and labeling guidance. The containing statement on three of the four labels that represented the proposed requirements is in upper case letters, which is not a proposed requirement. FSIS proposed to require the added solutions statement in the common or usual name. However, in response to these comments, the Agency is amending this final rule to provide that a descriptive designation that clearly indicates that the product contains added solution will be required on the label as part of the product name, but not as a part of the common or usual name. In addition, the product name (including the descriptive designation) may appear in upper and lower case letters, with the lower case letters not smaller than one-third (⅓) the size of the largest letter (9 CFR 317.2(e)(2)(iii) and 381.117(h)(3)). Current labeling guidance for added solutions statements provide for a one-fourth (¼) size requirement in comparison to the largest letter in the product name. However, the one-third (⅓) size requirement is based on several regulatory requirements (9 CFR 319.104 and 319.105) and is consistent with the requirements in the Descriptive Designation for Needle- or Blade-Tenderized (Mechanically Tenderized) Beef Products final rule.

FSIS is also amending this final rule to require that the percent solution must appear as a number (such as, 15, 20, 30) and the percent symbol (%) (9 CFR 317.2(e)(2)(i) and 381.117(h)(1)). These amendments will ensure that the descriptive designation is easy to recognize and understand, and that the meat or poultry component of the product is not obscured. Also, the product name (including the descriptive designation) must be printed in a single easy-to-read type style and color and must appear on a single-color contrasting background, which will ensure the overall prominence of the descriptive designation on the label (9 CFR 317.2(e)(2)(v) and 381.117(h)(5)).

Examples of labels that met the proposed labeling requirements were included in the proposed rule (76 FR 44860 and 44861). Label examples are included again in this final rule as guidance (Figures 1, 2, and 3). The label in Figure 1 is an example of a product with a descriptive designation that includes a multi-ingredient component. The ingredients of the component are not declared in the descriptive designation but are declared in a separate ingredients statement along with all of the ingredients in the product (9 CFR 317.2(e)(2)(iii) and 381.117(h)(3)). The label in Figure 2 is an example of a product with a descriptive designation that includes the term ''contains'' and lists the individual ingredients in the added solution in descending order of predominance by weight (9 CFR 317.2(e)(2)(i), 317.2(e)(2)(ii), 381.117(h)(1), and 381.117(h)(2)). The label in Figure 3 is an example of a descriptive designation that includes the term ''flavored with'' and lists the individual ingredients in the solution in descending order of predominance by weight (9 CFR 317.2(e)(2)(ii) and 381.117(h)(2)).

Comment: One commenter agreed that it is important to inform consumers when differences exist between single-ingredient raw meat and poultry products and similar raw meat and poultry products containing added solutions, but it did not agree with establishing a common or usual name to describe these differences. The commenter stated that there should be a general common or usual naming convention for all meat and poultry products. In addition, the commenter stated the proposed requirements would change the product names and ingredient declarations of secondary products in which these added solution products are used, resulting in complicated naming conventions for ordinary foods and expanding ingredient declarations.

Response: The intent of this rule is to ensure that consumers have specific, clear, and conspicuous information about the percentage of added solution. As discussed above, although FSIS proposed to require that the percentage and ingredients of the added solution as part of the common or usual name, in response to comments, in this final rule, FSIS is requiring a descriptive designation as part of the product name, consistent with prior labeling guidance FSIS has provided in Policy Memoranda. The declaration of the secondary product's name and the product's ingredients will continue to follow the applicable labeling regulations.

C. Comments Opposed to Removing Ready-To-Cook Poultry Products Regulatory Requirements (9 CFR 381.169) and Rescinding Policy Memoranda for Products With Added Solutions

Comment: Several commenters opposed removing the regulatory requirements and policy guidance for products with added solutions (9 CFR 381.169; Policy Memorandum 042, ''Raw Bone-In Poultry Products Containing Solutions;'' Policy Memorandum 044A, ''Raw Boneless Poultry Containing Solutions;'' and Policy Memorandum 066C, ''Uncooked

Red Meat Products Containing Added Substances''). These commenters were specifically concerned about removing the requirement in 9 CFR 381.169(a) that states that the added materials shall increase the weight of the poultry product by approximately 3 percent over the weight of the raw product, and the policy guidance limiting the amount of solution used in products labeled with the terms ''basted,'' ''marinated,'' or ''for flavoring,'' because removing these provisions would result in the unbridled addition of solutions. The commenters also objected to removing the regulatory requirement in 9 CFR 381.169(c) for processors to control the finished product within a range of three-tenths of 1 percent accuracy, using an approved plant control procedure.

Response: As discussed above, FSIS explained in the proposed rule (76 FR 44856) that after the regulation for ready-to-cook, bone-in poultry (9 CFR 381.169) was codified and amended in the 1970's, poultry processors developed technologies, such as injecting solutions deep into muscle tissue, that increased the amount of solution that could be incorporated into products. Therefore, to provide labeling guidance for ready-to-cook, bone-in poultry products that contained more than the approximate 3 percent added solution and ready-to-cook, boneless poultry products with added solution, the Agency issued Policy Memoranda for the industry to develop truthful, easy-to-read labeling information so that consumers could make informed purchasing decisions. The Agency also later issued labeling guidance for raw red meat products with added solutions. The regulatory requirements provided in 9 CFR 381.169(c) for processors to control the finished product within a specified range are only applicable to ready-to-cook, bone-in poultry products with approximately 3 percent added solution. Raw meat and ready-to-cook, boneless poultry products that contain added solutions, and ready-to-cook, bone-in poultry products that contain more than approximately 3 percent added solution follow the labeling guidance provided in the Policy Memoranda.

FSIS does not believe, and the comments did not provide any evidence, that the terms ''marinated,'' ''basted,'' and ''for flavoring,'' provided in Policy Memoranda imply to today's consumers a specific level of added solution in the product. This final rule establishes consistent regulatory requirements for a descriptive designation as part of the product name for all raw meat and poultry products containing added solutions that do not have a standard of identity (9 CFR 317.2(e)(2) and 381.117(h)), regardless of the amount of solution or other information provided on the label. For this reason, the requirements in 9 CFR 381.169 are no longer needed, and will be deleted with this final rule. In addition, when this rule becomes effective, FSIS will eliminate the Policy Memoranda that provides labeling guidance for meat and poultry products with added solutions. The terms ''marinated,'' ''basted,'' ''for flavor,'' and ''flavored with,'' may be used with any level of solution, provided that the product labeling contains a descriptive designation. The final rule includes an example of added solution product label (Figure 3) that uses the term ''flavored with'' in the descriptive designation.

Comment: The commenters that opposed removing 9 CFR 381.169 and the FSIS Policy Memoranda for products with added solution wanted the Agency to retain the requirement of the method of solution introduction and the function of the added materials. In addition, approximately 133 comments that had been submitted as part of a write-in campaign stated that FSIS should require that the method by which solutions are added to the product be included in the product name.

Response: As discussed above, FSIS is deleting 9 CFR 381.169 because it contains regulatory requirements that are outdated and inconsistent with industry practice. Also, FSIS has never required the method of addition or function of the added solution in the labeling of meat products or boneless poultry products. Companies use various methods to add solutions to meat and poultry products, and the solutions can have various functions. The Agency does not have any data suggesting that including the method of addition and function of the added solution in the product name provides useful information to consumers. Therefore, FSIS has concluded that the product name does not have to refer to the method of addition or the function of the added solution.

Comment: Some commenters were concerned that when Policy Memorandum 066C, ''Uncooked Red Meat Products Containing Added Substances,'' is rescinded, it will eliminate the limit on the addition of enzyme solutions (3 percent) to meat products.

Response: The 3 percent limit for tenderizing solutions is a regulatory requirement (9 CFR 424.21 and 381.87(b)(25)) that is not affected by this final rule.

Comment: Several commenters stated that many products with added solutions currently in the marketplace do not meet regulatory requirements or comply with labeling guidance. The commenters stated that the LPDS should be reviewing and ensuring the accuracy of labels during label review.

Response: The LPDS reviews labels that are submitted to ensure compliance with the labeling regulations in 9 CFR parts 317 and 381. However, as provided by 9 CFR 412.2, FSIS authorizes establishments to use generically approved labels without submitting them for approval. Generically approved labels must bear all applicable mandatory labeling features in a prominent manner in compliance with part 317 or part 381, and is not otherwise false or misleading. Inspection program personnel periodically review products with these labels to ensure compliance with labeling requirements. When the LPDS receives a labeling complaint and determines that a label is false or misleading, FSIS contacts the company and advises it to make corrections. If the company does not make corrections, FSIS may rescind or refuse label approval under 9 CFR 500.8, ''Procedures for Rescinding or Refusing Approval of Marks, Labels, and Containers.''

D. Use of the Term ''Enhanced''

Comment: Several commenters stated that FSIS should not allow the use of the term ''enhanced'' in the product name of raw meat or poultry products that contain added solutions. These commenters stated that the term ''enhanced'' suggests the meat is a higher quality or that the meat has been improved by added solutions when it actually may contain increased levels of sodium, which is a concern for consumers trying to limit their sodium intake. These commenters also asserted that the word ''contains'' does not imply a judgment about the product. One commenter recommended that FSIS prohibit the use of the word ''enhanced'' (or similar terms) anywhere on products containing added solutions.

One commenter argued that the term ''enhanced'' should be permitted because the added solution results in a product that is juicier and has an improved value, quality, desirability, and attractiveness over non-enhanced products.

Response: FSIS agrees that the term ''enhanced'' suggests that the product has been increased or improved in value, quality, desirability, or attractiveness, based on the Merriam-

Webster dictionary definition.[1] A product with added solution may or may not be ''juicier'' when consumed, depending on the way it is cooked or used. Whether or not a product with added solution is of improved value, quality, desirability, or attractiveness is dependent on individual preference. FSIS stated in the proposed rule that it recognized that the term ''enhanced'' could imply a judgment about the value of the product; for this reason, the Agency did not propose to include the term ''enhanced'' in the common or usual name for products containing added solutions (76 FR 44858). The Agency has concluded the term ''enhanced'' is not appropriate in the product name (including the descriptive designation) for raw meat and poultry products containing added solution and is stating in the regulatory text that the term ''enhanced'' must not be used in the product name of meat and poultry products containing added solutions that do not meet a standard of identity. The term ''enhanced,'' however, can be used elsewhere on the label, *e.g.,* in a starburst, or in advertising language.

The Agency agrees that the word ''contains'' does not imply a judgment about the product, and, to provide additional clarification and flexibility to producers, FSIS is clarifying in this final rule that the words ''containing'' or ''contains'' may be used in the descriptive designation of raw meat and poultry products containing added solutions, *e.g.,* ''containing 15% Added Solution of Water and Salt,'' or ''contains 15% Added Solution of Water or Teriyaki Sauce.'' Other terms that may be used in the descriptive designation include ''basted'' or ''marinated,'' as listed in the foregoing sections.

E. Comments on Sodium and Salt

Comment: Many commenters expressed the opinion that the current labeling of products with added solutions does not sufficiently alert consumers to the fact that the products contain added solutions, or the fact that salt is almost always included in the added solutions. One commenter recommended that the labels of products with added salt and sodium solutions contain a disclosure statement such as ''Contains SALT: See sodium content on the Nutrition Facts Panel.'' Another commenter recommended that a similar statement be displayed on raw, partially-heat treated, and fully cooked meat and poultry products with added solutions.

However, other commenters indicated that the appropriate place for nutrition information, and where consumers will look for that information, is the Nutrition Facts panel. Additionally, some commenters stated that the proposed amendments would provide improved consumer awareness of the added ingredients, and that consumers would look at the ingredients statement for ingredients of concern, such as salt.

Response: FSIS agrees that the Nutrition Facts panel is the appropriate place for the sodium content to be displayed and is where consumers will look for that information. This conclusion is supported by the 2010 Food and Health Survey conducted by the International Food Information Council (IFIC) Foundation,[2] which found that 68 percent of consumers use the Nutrition Facts panel to obtain nutrition information. Additionally, the survey reported that, when asked which specific elements consumers use on the Nutrition Facts panel, 63 percent of consumers mentioned the statement of sodium content. FSIS also agrees that the proposed amendments will alert consumers to products containing added solutions, and that, being so alerted, consumers are likely to look at the Nutrition Facts panel and the ingredients statement where all ingredients must be listed.

F. Comments on Fully-Cooked or Partially Heat-Treated Products Containing Added Solutions

Comment: A few commenters stated that FSIS should establish common or usual name requirements for non-standardized fully-cooked or partially-heat treated products that contain added solutions. One of the commenters argued that consumers need this information to make informed choices, because consumers will not be aware that a solution was added that could make up a significant portion of the product weight or contain significant amounts of other ingredients.

Other commenters stated that FSIS should not establish a common or usual name for non-standardized fully cooked or partially-heat treated products that contain added solutions. The commenters stated that consumers understand that fully cooked or partially heat-treated products are not single-ingredient products, and that the required qualifiers, *e.g.,* ''Breaded,'' ''Coated,'' and ''Glazed,'' alert consumers to any added ingredients in the products or that the products have been further processed in some way. One commenter expressed concern that it would not be appropriate to require that the common or usual name for these types of products include a listing of ingredients. One commenter suggested that FSIS, in the regulatory text, specifically exclude these products.

Response: FSIS agrees with the commenters that non-standardized fully-cooked or partially heat-treated products, which are typically breaded, coated, and glazed, are obviously not single-ingredient products, and that consumers understand that these products may contain ingredients that affect the products' weight. These commenters support the Agency's tentative conclusion, stated in the proposed rule (FR 76 44858), that consumers are unlikely to be misled into thinking that non-standardized fully cooked or partially-heated treated products that contain added solutions are single-ingredient products.

The regulatory text clearly states that the requirements are for raw meat and poultry products that contain added solutions and that do not meet a regulatory standard (9 CFR 317.2(e)(2) and 381.117(h)). Therefore, the Agency sees no need to add regulatory text to exclude fully-cooked or partially-heat treated products that contain added solutions.

G. Comments on Retail Labeling of Products With Added Solutions

Comment: A trade association that represents food retailers and wholesalers commented that the proposed rule would impose a burden on the supermarket industry. The association stated that retailers would be affected directly because it is not feasible to calculate marinade absorption rates at the retail level because they do not operate in the same manner as a Federal establishment and do not have precise marination times, temperatures, or solution composition; that retail signage would have to be altered; and that retailers would have to redesign labels at a very significant cost. The trade association also stated that the $1,557 per label cost estimate was too low.

Response: As discussed in the proposed rule (76 FR 44859), the misbranding provisions of the Acts apply to all meat and poultry products, including products that are not subject to the inspection provisions of the Acts (21 U.S.C. 623(d) and 464(e)). Therefore, these regulations apply to raw meat and poultry products containing added solutions that do not meet a regulatory standard of identity and that are sold for retail sale, institutional use, or further

[1] *http://www.merriam-webster.com/dictionary/enhance.*

[2] Available at *http://www.foodinsight.org/Content/3651/2010FinalFullReport.pdf.*

processing. Retail stores must comply with amendments in this final rule, including determining marinade absorption rates, redesigning labels, and altering retail signage.

FSIS requested comment on the number of retail facilities that produce product containing added solution and the volume of such product that would be subject to the proposed requirements (76 FR 44862). The Agency did not receive any comments addressing the number of facilities or the volume of product produced at retail. As discussed in the ''Cost and Benefits'' section below, to acquire a better cost estimate, the Agency utilized the March 2011 FDA labeling cost model and contracted for an expert elicitation on the market shares for raw meat and poultry products containing added solutions, including products produced at retail, and has adjusted the per-label cost estimate to $310 per label for a coordinated minor change and $4,380 for an uncoordinated minor change. The expert elicitation concluded that very few products containing added solutions are produced at retail establishments (<5%). FSIS believes the revised label change cost, provided from the March 2011 labeling cost estimate, is a superior estimate as it represents the most detailed study available on the costs associated with labeling of consumer products. FSIS included the expected costs borne by the retailers in the final estimate.

H. Use of the Term ''Natural''

Comment: Numerous consumers commented that products with added solutions should not be labeled as ''natural.'' Several commenters wanted FSIS to take immediate action or quickly move forward on a proposed rule.

Response: Products with added solutions may meet the current FSIS labeling policy guidance for the term ''natural'' if (1) the product does not contain any artificial flavor or flavoring, coloring ingredient, or chemical preservative (as defined in 21 CFR 101.22), or any other artificial or synthetic ingredient; and (2) the product and its ingredients are not more than minimally processed (the practice of marinating or tenderizing products prior to consumption is a minimal process).

The Agency is developing a proposed rule to define the ''natural'' claim in response to comments received on the 2009 advance notice of proposed rulemaking, ''Product Labeling: Use of the Voluntary Claim ''Natural'' in the Labeling of Meat and Poultry Products'' (74 FR 46951).

I. Compliance Date and Label Review Time

Comment: One commenter stated that the proposed January 1, 2014, compliance date was excessive and unnecessary. The commenter believed that immediate action should be taken, and that the effective date of the final rule could be 30–60 days after publication of the final rule because labeling changes can be easily implemented by industry at a minimal cost.

Another commenter stated that processors need ample time to get through their label inventories and requested that the status of products in-commerce on the effective date of the final rule be clarified by the Agency.

Response: The January 1, 2014, uniform compliance date was applicable for meat and poultry product labeling final rules published between January 1, 2011 and December 31, 2012. On December 31, 2012, FSIS published a final rule establishing January 1, 2016, as the uniform compliance date for meat and poultry product labeling regulations issued between January 1, 2013, and December 31, 2014 (77 FR 76824). Therefore, the effective date of this final rule is January 1, 2016. However, as discussed above, the Agency is providing an applicability date of January 1, 2018 for the one-third (⅓) type size requirement for the descriptive designation to provide additional time and flexibility for establishments to make labeling changes. Based on current guidance for the labeling of these products, many establishments likely use one-fourth (¼) type size for the descriptive designations or qualifying statements for products with added solutions. Establishments may continue to do so until January 1, 2018.

Comment: Several commenters expressed concern that the proposed amendments would overly burden the Agency's label approval process, especially since the proposed labeling changes could not be generically approved within the parameters of 9 CFR 317.5 and 381.133.

Response: On November 7, 2013, FSIS published the final rule, ''Prior Label Approval System: Generic Label Approval'' (78 FR 66826) that expands the circumstances in which FSIS generically approves meat and poultry labels. The labels of meat and poultry products containing added solutions can be generically approved, *i.e.,* the labels do not have to be submitted to FSIS for approval, provided that they display all mandatory features in a prominent manner in compliance with part 317 or part 381, and are not otherwise false or misleading in any particular (9 CFR 412.2). In addition, in May 2012, the Agency launched the Label Submission and Approval System (LSAS). The LSAS will have a significant impact on the speed and accuracy of label review.

J. Comments on Costs and Benefits of the Proposal

Comment: A number of commenters suggested that FSIS underestimated the costs to the industry of the proposed amendments and did not accurately identify the proportion of products with added solution in the marketplace.

Response: FSIS used the more up-to-date model [3] from the secondary cost analysis in the proposed rule to estimate the cost of label changes for the industry. Although a few commenters provided additional cost estimates for label plates, FSIS did not receive any additional numbers that contradict the cost estimates presented in the proposed rule. FSIS continues to believe that these cost estimates are accurate because they represent the most detailed study available on the costs associated with the labeling of consumer products.

In the proposed rule, FSIS estimated that the proportion of products containing added solutions to be about 39 percent of all raw meat and poultry products sold (76 FR 44862). This percentage was based on FSIS's label review process estimates and the pounds of poultry, beef, and pork consumed by households. The sources cited for the pounds of poultry, beef, and pork consumed by household were the U.S. Poultry & Egg Association: Poultry Statistics, 2007; the Economic Research Service, USDA, U.S. Beef and Cattle Industry: Background Statistics and Information, 2007; and the National Pork Producers Council: Background Statistics and Information, 2007. However, the source of the information for the pounds of poultry, beef, and pork consumed by households should have been ''Livestock, Dairy, and Poultry Outlook,'' Dec. 17, 2009. The proposed rule also stated that the number of pounds of poultry consumed by households was 49.2 billion (76 FR 44862), that number, based on the corrected source information, should have been 42.7 billion pounds.

For a better estimate of the amount of product with added solution purchased, FSIS contracted for an expert elicitation on the market shares for raw meat and poultry products containing added

[3] Model to Estimate Costs of Using Labeling as a Risk Reduction Strategy for Consumer Products Regulated by the Food and Drug Administration, FDA, March 2011 (Contract No. GS–10F–0097L, Task Order 5).

solutions. The results of that elicitation showed that the amount of product with added solution purchased is approximately 60 percent of the total. The cost analysis in this final rule uses this market share analysis.

Comment: A number of commenters suggested that the costs associated for the rule would be borne by the consumer in a time of economic uncertainty. Conversely, a number of commenters also suggested that consumers unfairly pay a premium price for products with added solutions. Some commenters suggested that this rule will place products with added solutions at a competitive disadvantage to products without the solution.

Response: The overall impact of the final rule on costs to the consumer is expected to be minimal. The estimated additional cost per package is between $0.0013 and $0.003. Thus, the increase in cost of buying two packages per week is between $.13 and $0.36 per year, and the consumer will only pay a portion of the this cost based on the relative elasticity of demand. Given the high elasticity of demand for this product because of the availability of close substitutes, the minimal cost imposed may be borne more by the producers than the consumers.

FSIS has no data to determine that this rule places products with added solutions at a competitive disadvantage to products without the solution and has no evidence to suggest that the market for these products will be adversely impacted.

Comment: One commenter suggested that the current labeling practices will result in higher health care costs.

Response: This rule does not provide new nutrition information. FSIS did not quantify the health care costs and benefits of this rule.

K. Miscellaneous Comments

Comment: One commenter recommended that all of the proposed requirements apply to meat and poultry products that meet standards of identity.

Response: As explained in the preamble to the proposed rule, under this rule, meat and poultry products that comply with a standard of identity in the regulations will continue to be labeled as the named food specified in the standard. For example, ''corned beef,'' which includes curing solution, is allowed up to a 10 percent gain from the fresh weight of the uncured beef in accordance with the 9 CFR 319.100 standard of identity for corned beef. Products that comply with this standard would be named and labeled as ''corned beef.'' However, if a product similar to ''corned beef'' includes a solution amount that is greater than the standard allows, the product is no longer a standardized product, and, under this proposed rule, it would need to be labeled with a descriptive designation.

Standard of identity regulations provide requirements for added solutions for standardized products. Therefore, consumers likely understand and are aware that products with a standard of identity, such as corned beef or poultry roast, include solutions. The intent of this final rule is to eliminate confusion between single-ingredient products and those similar types of products that contain additional ingredients and solutions. Therefore, the Agency will not include products with a standard of identity in this rulemaking.

Comment: FSIS received numerous comments on an array of issues including: Country of origin labeling for all meat, poultry, fruits, and vegetables; the labeling of genetically modified foods; organic claims; concerns over raising conditions of animals and the use of hormone implants; pesticides and herbicides; mandatory nutrition labeling for liquor products; mandatory declaration of potassium and phosphorus in the Nutrition Facts panel; healthy eating; and nutrition education.

Response: These comments are outside the scope of this rulemaking.

Compliance With This Final Rule

To facilitate Agency verification of compliance with regulatory labeling requirements, FSIS requires that establishments make labeling records available to any authorized USDA official upon request (9 CFR 320.4). Inspection program personnel will perform labeling verification activities to ensure that establishments are complying with the requirements of this final rule. FSIS also performs verification and post-market surveillance activities in-commerce to ensure that meat and poultry product labels comply with all applicable regulations. The Agency will provide guidance on its Web site to assist establishments in meeting the requirements in this final rule. Figures 1 and 2 (below) are examples of labels of pork product containing added solutions and Figure 3 (below) is an example of poultry product containing added solution, all three examples meet the labeling requirements of this final rule.

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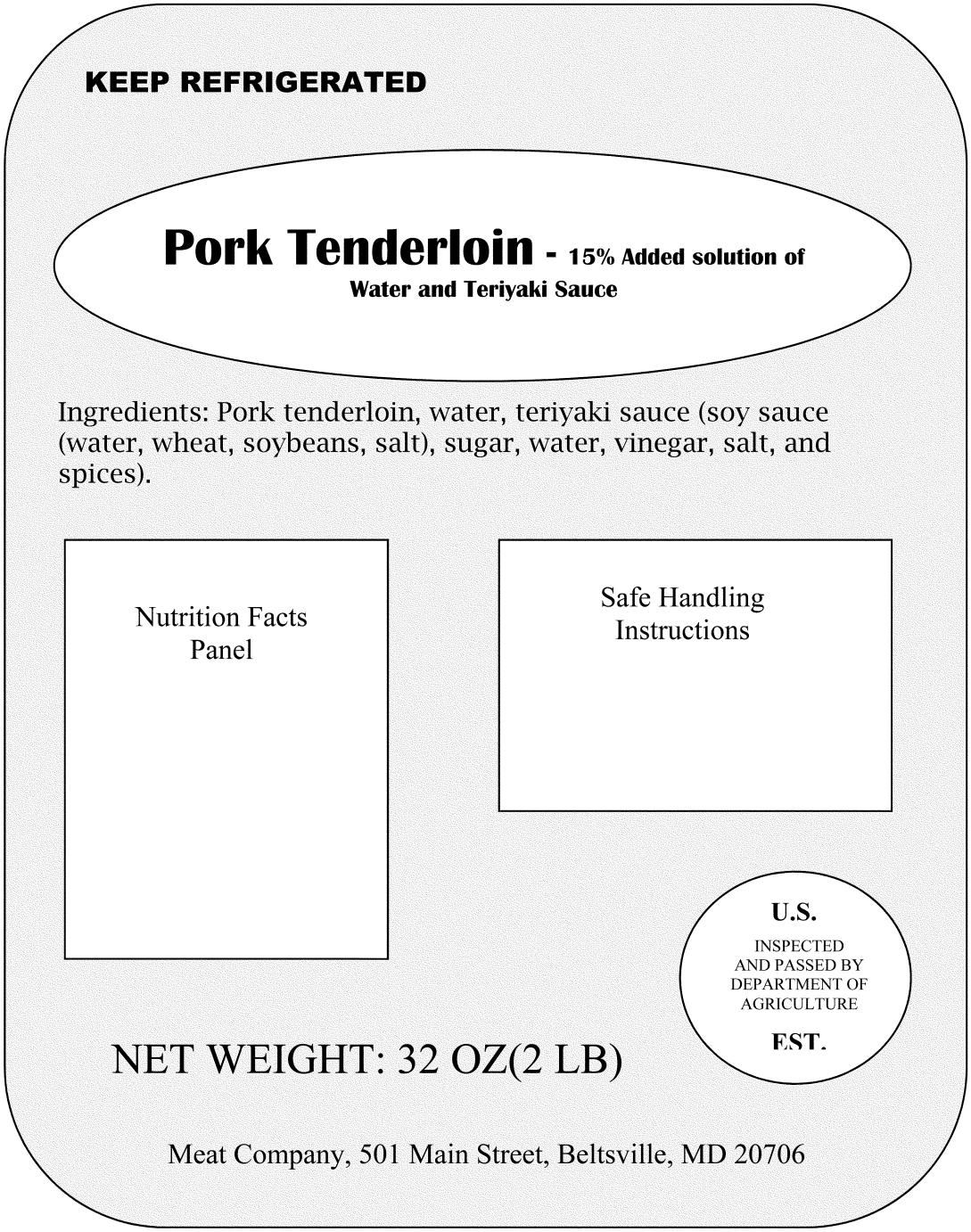
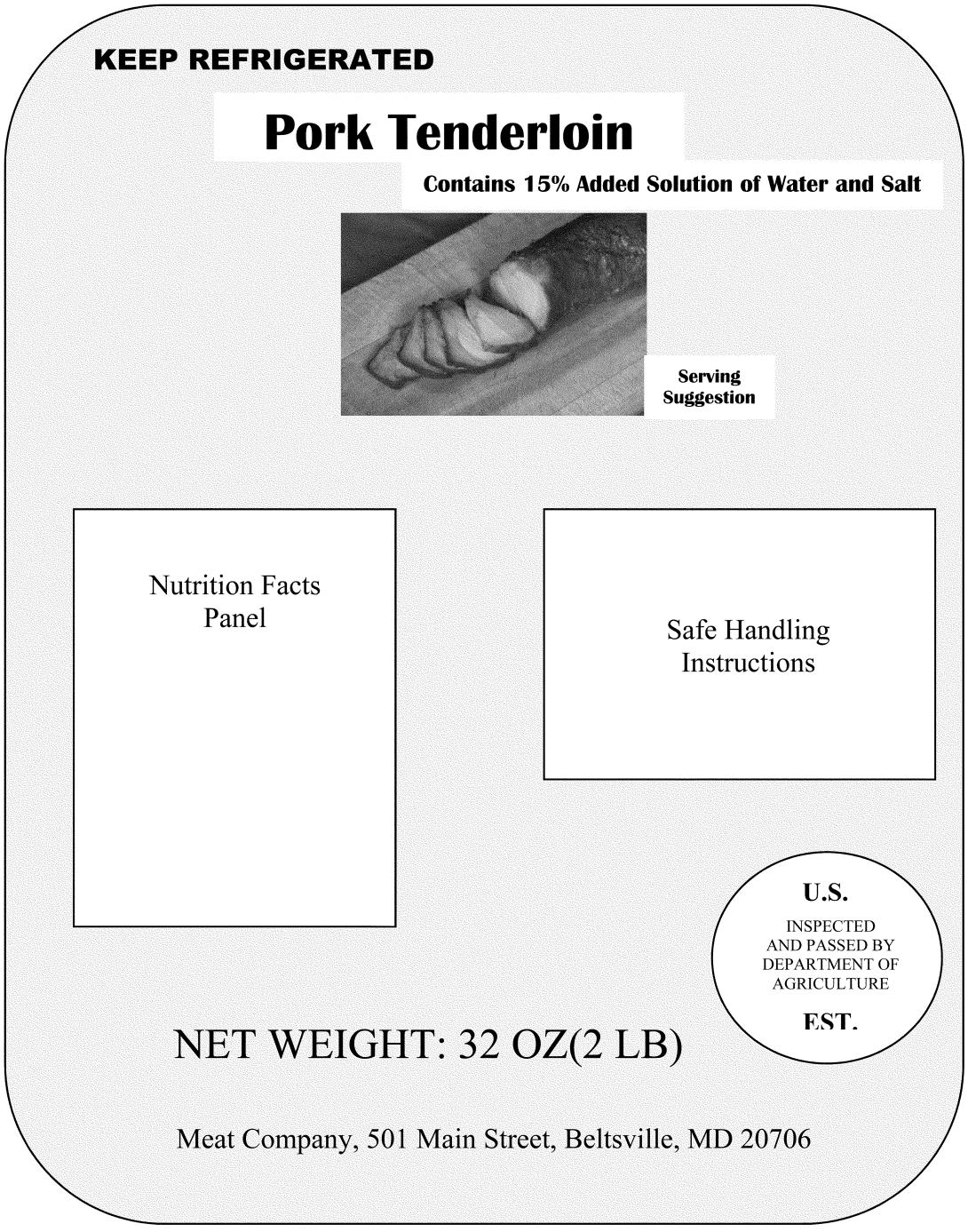
Figure 1. Label example - The product name includes a descriptive designation at one-third (1/3)[4] the size of the largest letter (9 CFR 317.2(e)(2)(iv)), a multi-ingredient component (Teriyaki Sauce), all ingredients in the product are declared in a separate ingredients statement (9 CFR 317.2(e)(2)(iii)).



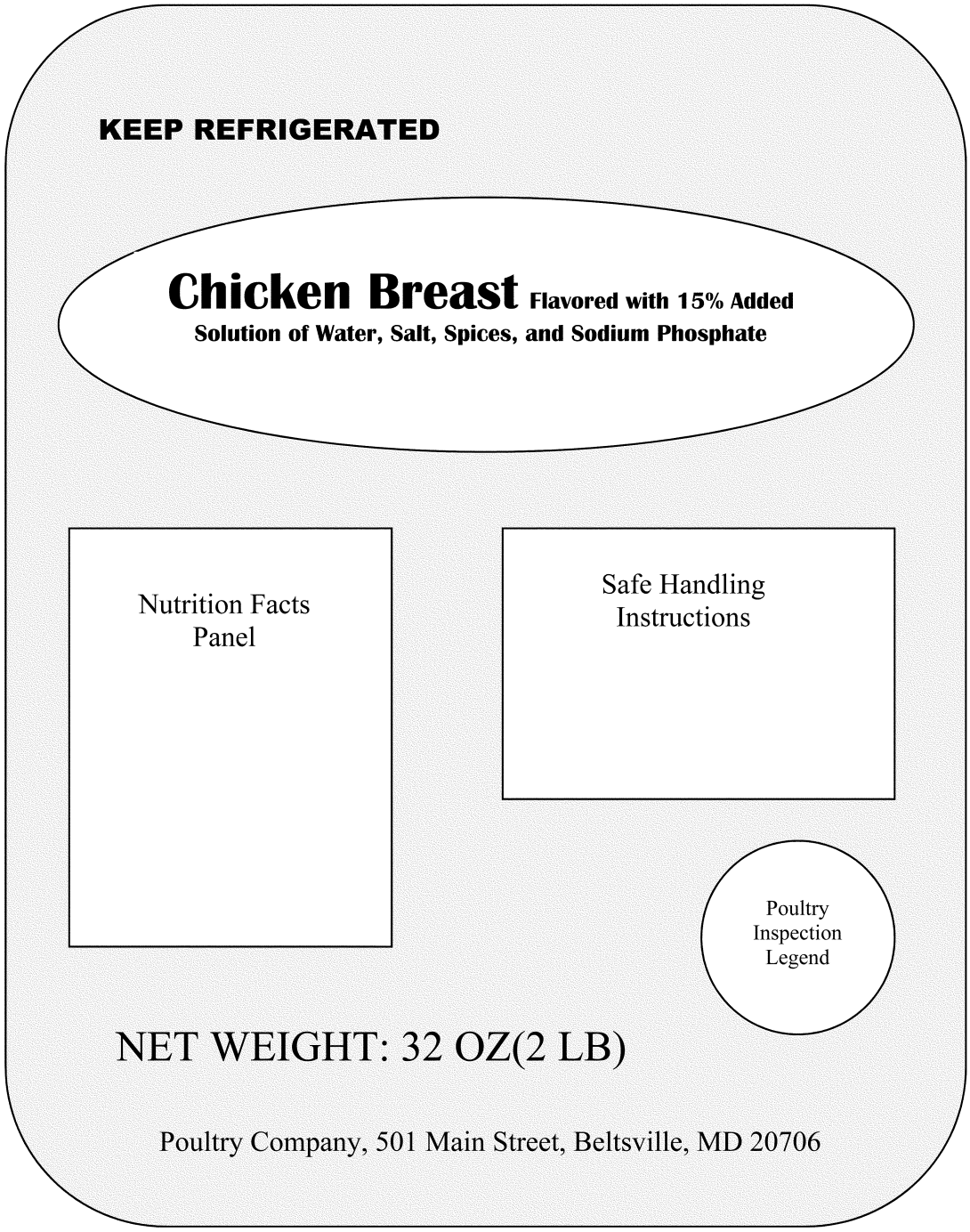
[4] Label shown using the one-third (1/3) font size requirement applicable January 1, 2018.

Figure 2. Label example – The product name includes a descriptive designation at one-third (1/3)[5] the size of the largest letter (9 CFR 317.2(e)(2)(iv)), includes the word "contains" (9 CFR 317.2(e)(2)(i)), the individual ingredients in the solution listed in descending order of predominance by weight (9 CFR 317.2(e)(2)(ii), followed by a vignette of the product.



[5] Label shown using the one-third (1/3) font size requirement applicable effective January 1, 2018.

Figure 3. Label example – The product name includes a descriptive designation at one-third (1/3)[6] the size of the largest letter (9 CFR 381.117(h)(4)), includes the term "flavored with," the individual ingredients in the solution listed in descending order of predominance by weight (9 CFR 381.117 (h)(2)).



[6] Label shown using the one-third (1/3) font size requirement applicable effective January 1, 2018.

BILLING CODE 3410–DM–C

Executive Orders 12866 and 13563 and the Regulatory Flexibility Act

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order (E.O.) 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been reviewed under E.O. 12866. The Office of Management and Budget (OMB) has determined that it is a significant regulatory action under section 3(f) of E.O. 12866 and, therefore, it has been reviewed by OMB.

The final rule will apply to all in-commerce raw meat and poultry products containing added solution that do not meet a standard of identity. The labeling requirements would apply to such products that are produced at federal establishments, retail facilities, such as grocery stores, and products produced in countries deemed equivalent under 9 CFR 327.2 and 381.196.

FSIS updated the Regulatory Impact Analysis to take into account recently updated source data and modified timelines for implementation of the final rule. The changes to the costs and benefits sections incorporate the following factors:

- Information Resources, Inc., (IRI) scanner data was used to calculate the number of raw meat and poultry products in the retail market and the number of private and branded products. IRI gathers data by scanners in supermarkets, drugstores, and mass merchandisers and maintains a panel of consumer households that record purchases at outlets by scanning UPC codes on the products purchased.
- FSIS used the FDA March 2011 labeling cost model [7] from the secondary cost analysis in the proposed rule to estimate the cost of label changes for the industry. FSIS believes the FDA March 2011 labeling cost model represents the most detailed study available on the costs associated with labeling of consumer products and reflects more recent data than the primary analysis used in the proposed rule, and therefore is used in the final rule.
- In response to the change in compliance period when calculating the relabeling cost, FSIS adjusted the percentage of coordinated and uncoordinated label changes.

Need for the Rule

Under FSIS's current regulatory approach, some raw products are not conspicuously identifying that they contain added solution. A survey [8] submitted during the comment period found that only 40 percent of all consumers are aware that the products they purchase may contain added solutions, and therefore, FSIS assumes that current regulations are insufficient to fully inform consumers about the nature of the product they purchase. It is important for consumers to have readily available information on meat and poultry products with added solutions as 87 percent of chicken purchasers care if their chicken contains additives (Sorensen, November 2004).[9] Fifty-four percent of the respondents in this study indicated they felt deceived at the disclosure that some chicken products include additives and 10 percent indicated they felt angry. This research has some limitations such as no reported peer review and some methodological weakness. The research did not provide information on response rate or sample selection which could contribute to survey bias. On the other hand, this study is strengthened by the diversity of the six primary sampling units [10] and a significant sample size; moreover, its results are similar to those of other consumer studies.[11]

FSIS, in response to stakeholder petitions and after evaluating its experience in reviewing labels, determined that some added-solution product labels that follow current labeling guidance and comply with current regulations are misleading because they do not clearly and conspicuously show that the product contains an added solution, and that, without updated labeling regulations that require the conspicuous qualifying statement, consumers likely cannot distinguish between raw single-ingredient products versus similar raw products containing added solution. A market failure exists when raw products with added solutions are misbranded and information is not readily available for the consumer. This market failure results from inadequate information in misbranded products and information asymmetry between producers and retail consumers and leads to suboptimal equilibrium quantities for both products containing solutions and products not containing solutions because consumers cannot readily identify the differences between the two groups. For example, the name for a single-ingredient chicken breast and a chicken breast with added solution is ''chicken breast,'' even though one is 100 percent chicken breast and one may be 60 percent chicken breast and 40 percent solution. The new regulation presented in the final rule addresses the market failure by requiring that all labels for these types of products provide clear and conspicuous labeling.

Baseline

FSIS contracted for an expert elicitation on the market shares for raw meat and poultry products containing added solutions (February 2012 report).[12] The February 2012 report, using FSIS data on the number of establishments that produce each type of product by species and establishment size and the 2010 total volume,[13] provided estimates of numbers of establishments that produce products with added solutions only (*i.e.,* without mechanical tenderization) and establishments that produce mechanically tenderized products with added solutions and estimates of the total volume of these products.

[7] FDA March 2011 labeling cost model: A copy of the document is available in the FSIS Docket Room, Patriots Plaza 3, 355 E. Street SW., Room 8–164, Washington, DC 20250–3700.

[8] Label Contaminant Statement Package Test: Study Results, Prepared for: Tyson Foods, Inc. by Lunt Associates. Question 10. May 2011.

[9] ''Enhanced'' Chicken, Consumer Research, November 2004, SAI Project 04177, Sorensen Associates, Minneapolis, Minnesota (888–616–0123), Portland, Oregon (800–542–4321).

[10] The research in the Sorensen Study was conducted in six primary sampling units; Atlanta, Chicago, San Francisco, Kansas City, Dallas and Seattle.

[11] Label Contaminant Statement Package Test: Study Results, Prepared for: Tyson Foods, Inc. by Lunt Associates. May 2011.

[12] Expert Elicitation on the Market Shares for Raw Meat and Poultry Products Containing Added Solutions and Mechanically Tenderized Raw Meat and Poultry Products. Final Report. Research Triangle Institute. February 2012. Available at: *http://www.fsis.usda.gov/wps/wcm/connect/3a97f0b5-b523-4225-8387-c56a1eeee189/Market_Shares_MTB_0212.pdf?MOD=AJPERES.*

[13] FSIS data estimated the 2010 total volume by multiplying slaughter volumes by average carcass weights.

TABLE 1—ESTIMATED NUMBER OF ESTABLISHMENTS THAT PRODUCE EACH TYPE OF PRODUCT BY SPECIES AND ESTABLISHMENT SIZE [14]

Species	Product	Very small	Small	Large	Total
Beef	Containing added solutions only [15]	181	218	21	420
	Mechanically tenderized with added solutions	251	218	21	490
Pork	Containing added solutions only	285	439	34	758
	Mechanically tenderized with added solutions	256	293	27	576
Lamb and Goat	Containing added solutions only	24	29	0	53
	Mechanically tenderized with added solutions	35	34	0	69
Chicken	Containing added solutions only	282	371	131	784
	Mechanically tenderized with added solutions	267	346	116	729
Turkey	Containing added solutions only	80	123	21	224
	Mechanically tenderized with added solutions	75	127	21	223

Note: Establishments may produce multiple types of products and species and, therefore, may be represented in more than one row of the table.

The February 2012 report also provided updated estimates for the proportion of products containing added solutions. The preliminary regulatory impact analysis estimated that the proportion of products containing added solutions was 39 percent (76 FR 44855–44865). Based on the findings of the February 2012 report, FSIS estimates that approximately 60 percent of all raw meat and poultry products sold contain added solutions. The proportions and volumes for specific product classes are found in Table 2.

TABLE 2—PROPORTION OF RAW PRODUCTS CONTAINING ADDED SOLUTIONS IN MILLIONS OF POUNDS BY SPECIES

Product category	Volume produced (2010) [1]	Proportion of product containing added solutions (%) [2]	Estimated amount of raw product containing added solutions (volume * proportion)
Beef	24,300	21	5,127
Pork	21,400	57	12,134
Lamb and Goat	185	30	55
Chicken	49,400	78	38,532
Turkey	7,000	74	5,194
Total	102,285	60	61,042

[1] Numbers derived from FSIS data, as reported in the Expert Elicitation on the Market Shares for Raw Meat and Poultry Products Containing Added Solutions and Mechanically Tenderized Raw Meat and Poultry Products. Final Report. Research Triangle Institute. February 2012. Section 3.2.1 Available at *http://www.fsis.usda.gov/wps/wcm/connect/3a97f0b5-b523-4225-8387-c56a1eeee189/Market_Shares_MTB_0212.pdf?MOD=AJPERES.*

[2] *Id.,* Table 3.6. Derived by summing median estimates for ''enhanced only'' and ''mechanically tenderized and enhanced.''

* Totals in Estimated Amount do not necessarily add up due to rounding in Proportion of Product Containing Added Solutions.

Currently, although labeling regulations and guidance state that the labeling of products must include a qualifying statement that reflects the fact that the product contains added solution, the statement may not be readily apparent to consumers. This is because the statement is not conspicuous. For example, through label review, FSIS has found product labels contain product names in bold fonts with strong contrasting backgrounds, with the qualifying statement on added solution printed in narrow or slanted fonts at the smallest height permitted, and on background of poor color contrast. While such labeling may be consistent with existing Agency regulations and guidance, it does not clearly identify to consumers that the product contains added solutions. This rule addresses these issues.

The final rule will apply to all in-commerce raw meat and poultry products containing added solution that do not meet a standard of identity. These products will require a new label in order to comply with the final rule.

A March 2011 FDA report [16] defines all labeling changes as minor, major, or extensive. A minor change is one in which only one color is affected, and the label does not need to be redesigned. Examples of this type of change include changing an ingredient list or adding a toll-free number. A major change requires multiple color changes and label redesign. An example of a major change is adding a facts panel or modifying the front of a package. An extensive change is a major format change requiring a change to the product packaging to accommodate labeling information. An example of an extensive change is adding a peel-back label or otherwise increasing the

[14] Expert Elicitation on the Market Shares for Raw Meat and Poultry Products Containing Added Solutions and Mechanically Tenderized Raw Meat and Poultry Products. Final Report. Table 3–11 and 3–16. Available at: *http://www.fsis.usda.gov/wps/wcm/connect/3a97f0b5-b523–4225–8387-c56a1eeee189/Market_Shares_MTB_0212.pdf?MOD=AJPERES.*

[15] The expert elicitation report referred to products ''containing added solutions'' as ''enhanced.''

[16] Model to Estimate Costs of Using Labeling as a Risk Reduction Strategy for Consumer Products Regulated by the Food and Drug Administration, FDA, March 2011 (Contract No. GS–10F–0097L, Task Order 5).

package surface area. FSIS estimates the cost of label modification to accommodate the requirements of this final rule to fall into the minor category.

The March 2011 FDA Report divides the minor category into minor coordinated and minor uncoordinated changes based on the assumption that all products are typically relabeled at least as often as every 3 to 4 years. The cost estimate is $310 per label (with a range of $170 to $440) for minor coordinated changes and $4,380 per label (with a range of $2,417 to $7,330) for minor uncoordinated changes.[17] The model, defined in the report, assigns additional costs, *e.g.* labor, to any change that does not fall into this 3 to 4 year period and is designated to be an uncoordinated change that requires additional cost attributes.

This rule will affect foreign establishments that manufacture and export raw meat or poultry products containing added solutions to the United States, the same as it affects U.S. establishments. The labeling costs for the affected foreign establishments are captured in the total costs outlined later in this analysis. However, these products are not typically imported; based on label review data,[18] the amount of raw meat and poultry products containing added solutions imported into the United States is estimated to be less than 1 percent of the products imported into the United States. For the purposes of this analysis, FSIS assumes that the majority (>99.0 percent) of the affected products are domestically produced.

Regulatory Alternatives

We have identified three regulatory options for this rule.

1. Require or propose the use of ''enhanced'' in the containing statement;
2. The final rule, except no requirement on background color for the qualifying statement;
3. Amend FSIS regulations to establish a common or usual name for raw meat and poultry products that contain added solutions; and
4. The final rule.

1. Require the Use of ''Enhanced'' in the Containing Statement

Under this alternative, FSIS would require the word ''enhanced'' in the qualifying statement, or propose the use of the term ''enhanced'' in the containing statement, *e.g.,* ''enhanced with a 15% solution . . .''

FSIS did not select this alternative to require the word ''enhanced'' in the qualifying statement because the word implies that the product is improved by the addition of the solution. The intent of this rule is to increase transparency to consumers, not to suggest that the product is either better or worse than a raw product without the added solution. The cost for this alternative is the same or slightly less than the preferred alternative; however benefits for consumers may be reduced as a result of decreased transparency of products with and without added solutions.

In addition, consumer research (Sorensen, November 2004)[19] showed that the containing statement, ''enhanced with up to 15% solution of water, salt, and sodium phosphates'' was preferred by fewer study participants (about 10% fewer) than the use of the description ''contains up to 15% water, salt, and sodium phosphates.''

2. Final Rule, Except No Requirement on Background Color for the Qualifying Statement

Under this alternative, the color and style of the product's qualifying statement is not required on a single-color contrasting background. FSIS would still require the qualifying statement to include an accurate description of the raw meat or poultry component, the percentage of added solution, and the common or usual names of the ingredients in the solution, with all of the print in a single font size.

FSIS did not select this alternative because the benefits would likely be reduced. A benefit of this rule is to help consumers determine whether products containing added solutions are suitable for their personal preference and dietary needs. Removing the requirement for background color choice would decrease transparency, as a result of the reduction in contrast, to consumers.

The cost for this alternative is slightly less than the preferred alternative because some existing labels already meet these requirements. FSIS does not have supporting data to estimate the precise number of labels in compliance with this alternative, but we expect the number is minimal. FSIS expects reduced benefits from this alternative as consumers are less likely to distinguish products with and without added solutions, resulting in less informed decisions. Consumers would not fully benefit from improved consumer awareness and understanding that raw meat or poultry products may contain added solutions.

3. Amend FSIS Regulations To Establish a Common or Usual Name for Raw Meat and Poultry Products That Contain Added Solutions

Under this alternative, the common or usual name for a raw meat or poultry product that contains an added solution would need to include the percentage of added solution, and list the individual ingredients or multi-ingredient components of the solution in descending order of predominance by weight. Also, FSIS considered finalizing the proposed provisions that would require that the print for all words in the common or usual name appear in a single font size, color, and style of print. As discussed above, after considering the comments, FSIS concluded that the proposed requirements were more onerous and stricter than necessary. Therefore, FSIS did not select this alternative and made changes to the proposed rule to provide more flexibility and more consistency with other labeling regulations.

4. The Final Rule

Under this alternative, FSIS would require that the qualifying statement includes an accurate description of the raw meat or poultry component, the percentage of added solution, and the common or usual names of the ingredients in the solution, with all of the print in a single font size, color, and style on a single-color contrasting background.

FSIS selected this alternative because it is preferred to the other alternatives and is likely to improve consumer awareness and understanding that the raw meat or poultry product contains an added solution. The percentage of the solution and the ingredients of the solution included in a qualifying statement is information consumers need to make informed purchasing decisions.

Expected Cost of the Final Rule

The final rule will result in one-time costs to establishments and retail facilities that produce and package raw meat and poultry products containing added solutions. Producers may bear most of the cost burden, not the consumers, given the high elasticity of demand for this product because of the availability of close substitutes. All of the costs pertain to the label modification procedures for the affected products. The estimated cost of modifying labels is determined by the number of label plates or digitized label

[17] FDA March 2011 labeling cost model: A copy of the document is available in the FSIS Docket Room, Patriots Plaza 3, 355 E. Street SW., Room 8–164, Washington, DC 20250–3700.

[18] Source: FSIS Labeling and Program Delivery Staff.

[19] Enhanced'' Chicken, Consumer Research, November 2004, SAI Project 04177, Sorensen Associates, Minneapolis, Minnesota (888–616–0123), Portland, Oregon (800–542–4321).

templates required to be modified and the average cost of modifying labels. This methodology provides an estimated cost for all labels of products with added solution in-commerce, including those for retailers and foreign entities that sell meat and poultry in the United States.

Market Share

FSIS has updated the estimates for the proportion of products containing added solutions to reflect the data received in the February 2012 report. Based on the findings of the report, FSIS estimates that approximately 61.0 billion pounds or 60 percent of the 102.3 billion pounds of meat and poultry products produced by federally inspected establishments in the U.S. contain added solutions (Table 2). The February 2012 report applies the estimate to the estimated pounds of enhanced-only products and mechanically tenderized and enhanced products by species, packaging, and labeling type. Based on this data, FSIS is able to estimate (Table 3) the breakdown by percentage of labels for products containing added solutions in the marketplace.[20]

TABLE 3—PERCENT OF ENHANCED-ONLY AND MECHANICALLY TENDERIZED AND ENHANCED PRODUCTS BY SPECIES, PACKAGING, AND LABELING TYPE

Packaging or labeling type	Beef (percent)	Pork* (percent)	Lamb and goat* (percent)	Chicken (percent)	Turkey (percent)	All*[1] (percent)
Brand Name Label for Retail Sales	21	35	34	36	38	35
Private Label for Retail Sales	22	31	27	22	22	24
Foodservice	51	30	38	37	35	37
Retail	6	5	2	5	5	5

[1] Unweighted average.
* Totals do not necessarily add up due to rounding.

Costs for Label Modification

IRI scanner data indicate that there are 13,697[21] raw meat and poultry labels in retail, 16.39 percent (or 2,245) of which are private label, with the remainder (or 11,452) branded. Although IRI's geographic coverage—which includes the largest urban areas in the U.S. and a few whole states—may yield a reasonable estimate of the universe of branded retail labels, a substantial number of chains that are large enough to have their own private labels but that only serve small or medium-sized cities may be missed. For this reason, the IRI results will be used as a lower bound on the number of retail labels affected by this rule. To estimate an upper bound, we make use of the estimates in Table 3, to calculate that 37.5 percent (24%/[35% + 24% + 5%]) of retail labels may be private label. In this case, there are an estimated 6,871 private retail labels and 18,323 (11,452 + 6,871) total retail labels. Because the IRI scanner data do not capture food service labels, these estimates must be adjusted upward; based on the contents of Table 3, about 37 percent of all meat and poultry products are for food service. From this, FSIS estimates about 37 percent of meat and poultry labels are for food service and the remaining 63 percent of label are for retail, yielding estimates of 21,741 (13,697/63%]) to 29,084 (18323*/63%) raw meat and poultry product labels in the marketplace. The market share of raw meat and poultry products that contain added solutions is estimated to be 60 percent. Therefore, FSIS estimates approximately 13,045 (21,741 * 60%) to 17,450 (29,084 * 60%) unique labels for meat and poultry raw products containing added solution in-commerce.

This cost analysis uses the label design modification costs for a minor coordinated label change and a minor uncoordinated label change as defined in the March 2011 FDA Report.[22] The use of the label design modification costs for minor coordinated and uncoordinated label changes are further supported by the 2-year compliance increments defined in the FSIS regulation titled ''Uniform Compliance Date for Food Labeling Regulations.''[23] That regulation helps affected establishments minimize the economic impact of labeling changes because affected establishments possibly could incorporate multiple label redesigns required by multiple Federal rules into one modification during the 2-year increments. Moreover, the ''Uniform Compliance Date for Food Labeling Regulations'' allows establishments time to use existing labels and would, therefore, result in minimal loss of inventory of labels, if any. In other words, the ''Uniform Compliance Date for Food Labeling Regulations'' increases the number of establishments that can incorporate new requirements as a coordinated change, which reduces the cost of complying with the final regulation. (For example, FSIS is simultaneously developing a final rule that would require additional labeling for beef products that are mechanically tenderized. The cost associated with the labels for mechanically tenderized beef products containing added solutions are lessened if both rules' changes are required as of the same Uniform Compliance Date.)

The labeling cost model states that the allocation of label changes between coordinated and uncoordinated depends on the compliance period allowed by the regulation under consideration. For some products affected by this rule, the only necessary label change is an increase in the formatting of the descriptive designation so that the size of the smallest letter is at least one-third, rather than just one-fourth, the size of the largest letter; the cost impact for such products would be appropriately analyzed using the model's results for a 36-month compliance period (100% of branded and 57% of private label changes able to be coordinated). On the other hand,

[20] Expert Elicitation on the Market Shares for Raw Meat and Poultry Products Containing Added Solutions and Mechanically Tenderized Raw Meat and Poultry Products. Final Report. Tables 3–15 and 3–16. Available at: *http://www.fsis.usda.gov/wps/wcm/connect/3a97f0b5-b523–4225–8387-c56a1eeee189/Market_Shares_MTB_0212.pdf?MOD=AJPERES.*

[21] Information Resources, Inc, (IRI) scanner data was used to calculate the number of raw meat and poultry products in the retail market. IRI gathers data by scanners in supermarkets, drugstores, and mass merchandisers and maintains a panel of consumer households that record purchases at outlets by scanning UPC codes on the products purchased.

[22] Model to Estimate Costs of Using Labeling as a Risk Reduction Strategy for Consumer Products Regulated by the Food and Drug Administration, FDA, March 2011 (Contract No. GS–10F–0097L, Task Order 5).

[23] 77 FR 76824.

many products—including the ones currently labeled with term ''enhanced''—will be subject to a 12-month compliance period (for which the model shows 11% of branded and 5% of private label changes can be coordinated). In the absence of data on the portion of products that will need to have label changes in 12 months and the portion that will need to have label changes in 36 months, we present results using only the 12-month estimates, acknowledging that this approach leads to an overstatement of the actual rule-induced costs.

The mid-point label design modification costs for a minor coordinated label change is an estimated $310 per label (with a range of $170 to $440) and $4,380 per label (with a range of $2,417 and $7,330) for a minor uncoordinated change.[24] Using these costs for the number of minor coordinated and uncoordinated changes in branded and private modified labels from Table 4, FSIS estimates that the one-time total cost of modifying labels for all federally inspected processors is between $52 and $84 million as lower and upper bound estimates. Over a ten year period, the lower and upper bound annualized cost for the industry is $5.9 and $9.6 million at a 3 percent discount rate (DR) over ten years and $6.9 and $11 million at a 7 percent DR over ten years.

The relabeling cost estimate is an overestimate for several reasons beyond those already discussed. The model used to calculate the cost for updating food labels encompasses all food labels products, including FDA food labels. Information from FSIS's Labeling and Program Delivery Staff's (LPDS) determined label changes for FSIS products occur more frequently than the model indicates, resulting in an overestimate of costly uncoordinated changes. Additionally, the relabeling estimate includes all unique labels with added solutions while many products with added solutions are already in compliance with regulations provided in this rule. For these reasons, FSIS considers the relabeling cost estimate an overestimate.

TABLE 4—RELABELING COST FOR MEAT AND POULTRY PRODUCTS WITH ADDED SOLUTIONS, 12 MONTH COMPLIANCE PERIOD

Lower bound	Branded		Private		Cost		
	10,907		2,138		Lower	Mid	Upper
Coor Chg	1,200	11%	107	5%	$222,129	$405,059	$574,922
Uncoor Chg	9,707	89%	2,031	95%	28,371,037	51,412,967	71,154,236
Total Lower Bound Cost					28,593,166	51,818,026	71,729,158
Annualized Cost (3% DR, 10 Year)					3,254,360	5,897,722	8,163,928
Annualized Cost (7% DR, 10 Year)					3,804,695	6,895,066	9,544,503
Upper bound	**Branded**		**Private**		**Cost**		
	7,670		3,464		Lower	Mid	Upper
Coor Chg	1,944	11%	173	5%	359,879	656,250	931,452
Uncoor Chg	15,727	89%	3,291	95%	45,964,902	83,295,933	139,397,075
Total Upper Bound Cost					46,324,781	83,952,183	140,328,526
Annualized Cost (3% DR, 10 Year)					5,272,502	9,555,104	15,971,635
Annualized Cost (7% DR, 10 Year)					6,164,118	11,170,937	18,672,547
Minor Coordinated					170	310	440
Minor Uncoordinated					2,417	4,380	7,330

The cost of modifying the labels is small relative to the total volume of meat and poultry products. On a per pound basis, the upper bound one-time cost for this rule is $.0014/per pound ($83 million/61.0 billion pounds). Further, the 2010 National Meat Case Study [25] found that the average number of pounds per package in the market place is 2 pounds. In the study, chicken and pork packages tended to be slightly heavier at 2.5 and 2.1 pounds respectively. Therefore, by applying a range of 1.5 to 2.5 pounds per package to the low and high range mid-point cost estimates, the estimated additional cost per package is between $.0013 and $.003. This cost is only incurred once and would be even smaller if annualized (per package) over future years.

FSIS Budgetary Impact of the Final Rule

This final rule will result in no impact on the Agency's operational costs because the Agency will not need to add any staff or incur any non-labor expenditures.

Expected Benefits of the Final Rule

FSIS anticipates benefits for the consumer such as improved consumer awareness and understanding that raw meat or poultry products may contain added solutions. This may increase consumer welfare.

The rule will likely improve public awareness of product identities by providing truthful and accurate labeling of meat and poultry products to clearly differentiate products containing added solutions from single-ingredient products. As noted in the need for rule sections, nearly 60 percent of consumers are unaware that meat and poultry products contain added solutions. Therefore, 60 percent of consumers purchasing a chicken containing 15 percent added solution are unaware they are purchasing a product that is 85 percent chicken and 15 percent added solution. Providing truthful and

[24] All costs are shown in 2010 Dollars.

[25] 2010 National Meat Case Study Executive Summary. Accessed here: *http://www.beefretail.org/CMDocs/BeefRetail/research/2010NationalMeatCaseStudy.pdf.*

accurate information on the label allows consumers to compare value among such products and make a more informed purchasing decision.

Consumers can better determine whether products containing added solutions are suitable for their personal preferences and dietary needs through the added solutions qualifying statement. Consumers' choices of meat and poultry products with added solutions with a high sodium content could have unintended health consequences if labels of these products were inadequate in revealing the information of added ingredients to the consumers. For example, a raw chicken breast containing added solutions averages an additional 333 mg of sodium than chicken without added solutions, (122mg–455mg).[26] High intakes of sodium are directly associated with elevated blood pressure leading to risks of cardiovascular disease (CVD) and stroke.[27] While some research [28] suggests a U-shape relationship between sodium and health with favorable sodium intake between 2,645 and 4,945 mgs, a Nutrition Impact Model developed by Tim Dall estimates 1.5 million fewer cases of hypertension with a potential annual savings of $2.3 billion if adults with uncontrollable hypertension reduced their daily sodium intake by 400 mg.[29]

Additionally, it is estimated that there are about 3 million pre-hypertensive and hypertensive persons in the US population.[30] A consumer research study indicates that 39% of consumers read but do not understand current labels,[31] and an FDA consumer study estimates that 49% of consumers would read and be able to understand new labels.[32] Considering that difference and the estimates of pre-hypertensive and hypertensive adults in the U.S. population, about 1 million individuals may be able to better understand and apply the new label information and, thereby, be better able to stay within their dietary salt intake requirements.

More complete label information should increase consumer welfare. Based on 2009–2010 National Health and Nutrition Examination Survey data, NHANES, 46 percent of consumers rarely or never read food labels when buying raw meat, poultry or fish products.[33] Of the consumers who rarely or never using food labels, 21 percent specified they are not checking food labels because they did not know what to look for. Results from the 2008 Health and Diet Survey indicated 29 percent of respondents who never read food labels are not using labels because it is hard to understand. The new requirements in this rule may make it easier for consumers to understand the label and identify what to look for. Providing more complete label information, currently unavailable in the marketplace, will reduce transaction costs for consumers trying to satisfy individual dietary or other preferences. Consumers with complete information will be better able to discriminate between products with added solutions and those without and select the products they prefer, resulting in an increase in consumer welfare.

Regulatory Flexibility Analysis

The FSIS Administrator certifies that, for the purposes of the Regulatory Flexibility Act (5 U.S.C. 601–602), the final rule will not have a significant economic impact on a substantial number of small entities in the United States.

There are about 6,099 federally inspected establishments, of which 2,616 are small (with 10 or more but less than 500 employees), and 3,103 are very small (with fewer than 10 employees) based on the classifications outlined in the Pathogen Reduction; Hazard Analysis Critical Control Point (HACCP) final rule (61 FR 38819). Hence, more than 90 percent of the federal establishments [34] that produce meat and poultry products with added solutions which could possibly be affected by this rule are small or very small according to the FSIS HACCP definition.

In the cost analysis above, FSIS estimated that the total upper and lower bound one-time cost for the industry is about $52 to $84 million. This results in an average one-time cost per establishment of about $8496 ($52 million/6,099 establishments) to $13765 ($84 million/6,099) or $967 to $1567 annualized (3 percent, 10 years). The small and very small establishments produce less output and fewer unique labels, and therefore their average one-time cost per establishment will be lower. Thus, FSIS believes that the cost to small and very small establishments of providing modified labels for the meat and poultry products with added solutions will be negligible.

Executive Order 13175

This final rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' FSIS has concluded, on the basis of its evaluation, that this final rule will not have substantial and direct effects on Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power or responsibilities between the Federal Government and Indian Tribes. Nonetheless, FSIS will include Tribes and intertribal organizations, involved in or interested in the meat and poultry sectors, in the Agency's outreach efforts associated with implementation and administration of this final rule.

Executive Order 12988 Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under this rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no retroactive proceedings will be required before parties may file suit in court challenging this rule.

[26] U.S. Department of Agriculture, Agricultural Research Service. 2013. USDA National Nutrient Database for Standard Reference, Release 26. Nutrient Data Laboratory Home Page, available at: *http://ndb.nal.usda.gov/ndb/.*

[27] Institute of Medicine (IOM) of the National Academies. ''Sodium Intake in Populations: Assessment of Evidence (2013), Chapter 4: Sodium Intake and Health Outcomes,'' Washington, DC: National Academies Press; 2013. pp.57.

[28] N. Graudal, G. Jurgens, B. Baslund, M.H. Alderman. Compared With Usual Sodium Intake, Low- and Excessive-Sodium Diets Are Associated With Increased Mortality: A Meta-Analysis. *American Journal of Hypertension,* 2014; DOI: *10.1093/ajh/hpu028.*

[29] Dall, T.M., V.L. Fulgoni III, Y. Zhang, K.J. Reimers, P.T. Packard, and J.D. Astwood. 2009. Potential health benefits and medical cost savings from calorie, sodium, and saturated fat reductions in the American diet. American Journal of Health Promotion. 23 (6), 12–22.

[30] Estimate is derived using U.S. Census Bureau, 2013 population estimates and studies that indicate that about 31% of American adults have high blood pressure (CDC. *Vital signs: awareness and treatment of uncontrolled hypertension among adults—United States, 2003–2010. MMWR.* 2012;61(35):703–9) and an additional one in three have prehypertension (Go AS, Mozaffarian D, Roger VL, *et al. Heart disease and stroke statistics—2013 update: a report from the American Heart Association. Circulation.* 2013;127:e6–245).

[31] Label Contaminant Statement Package Test: Study Results, Prepared for: Tyson Foods, Inc. by Lunt Associates. Question 10. May 2011.

[32] FDA. ''Consumer Behavior Research 2008 Health and Diet Survey'' Topline Frequencies. Question C3. Available at: *http://www.fda.gov/Food/FoodScienceResearch/ConsumerBehaviorResearch/ucm193895.htm.*

[33] NHANES. 2013 ''Questionnaires, Datasets, and Related Documentation'' Center for Disease Control and Prevention. Accessed on 6/16/2014. Available at: *http://www.cdc.gov/nchs/nhanes/nhanes_questionnaires.htm.*

[34] Expert Elicitation on the Market Shares for Raw Meat and Poultry Products Containing Added Solutions and Mechanically Tenderized Raw Meat and Poultry Products. Final Report. Table 3–11. Available at: *http://www.fsis.usda.gov/wps/wcm/connect/3a97f0b5-b523-4225-8387-c56a1eeee189/Market_Shares_MTB_0212.pdf?MOD=AJPERES.*

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or record keeping requirements included in this final rule have been submitted for approval to the Office of Management and Budget (OMB). This information collection request is at OMB awaiting approval. FSIS will collect no information associated with this rule until the information collection is approved by OMB.

Copies of this information collection assessment can be obtained from Gina Kouba, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6083, South Building, Washington, DC 20250–3700; (202) 690–6510.

E-Government Act

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, *et seq.*) by, among other things, promoting the use of the Internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

Additional Public Notification

FSIS will announce this rule online through the FSIS Web page located at *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register/interim-and-final-rules.*

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/wps/portal/fsis/programs-and-services/email-subscription-service.* Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

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Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

List of Subjects

9 CFR Part 317

Food labeling, Food packaging, Meat inspection, Nutrition, Reporting and recordkeeping requirements.

9 CFR Part 381

Food labeling.

For the reasons discussed in the preamble, FSIS is amending 9 CFR chapter III as follows:

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

■ 1. The authority citation for part 317 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

■ 2. Amend § 317.2 by redesignating paragraph (e) as paragraph (e)(1) and adding paragraph (e)(2) to read as follows:

§ 317.2 Labels: definition; required features.

* * * * *

(e) * * *

(2) The product name for a raw meat product that contains added solution and does not meet a standard of identity in 9 CFR part 319 must contain a descriptive designation that includes:

(i) The percentage of added solution (total weight of the solution ingredients divided by the weight of the raw meat without solution or any other added ingredients multiplied by 100). The percentage of added solution must appear as a number (such as, 15, 20, 30) and the percent symbol (%). The percentage of added solution may be declared by the words ''containing'' or ''contains'' (such as, ''contains 15% added solution of water and salt,'' or ''containing 15% added solution of water and teriyaki sauce'').

(ii) The common or usual name of all individual ingredients or multi-ingredient components in the solution listed in descending order of predominance by weight.

(iii) When the descriptive designation includes all ingredients in the solution, a separate ingredients statement is not required on the label. When the descriptive designation includes multi-ingredient components and the ingredients of the component are not declared in the descriptive designation, all ingredients in the product must be declared in a separate ingredients statement on the label as required in § 317.2(c)(2) and (f).

(iv) The product name and the descriptive designation must be printed in a single easy-to-read type style and color and must appear on a single-color contrasting background. The print may appear in upper and lower case letters, with the lower case letters not smaller than one-third (⅓) the size of the largest letter.

(v) The word ''enhanced'' cannot be used in the product name.

* * * * *

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

■ 3. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.7, 2.18, 2.53.

■ 4. Amend § 381.117 by adding paragraph (h) to read as follows:

§ 381.117 Name of product and other labeling.

* * * * *

(h) The product name for a raw poultry product that contains added solution and does not meet a standard of identity in this part must contain a descriptive designation that includes:

(1) The percentage of added solution (total weight of the solution ingredients divided by the weight of the raw poultry without solution or any other added

ingredients multiplied by 100). The percentage of added solution must appear as a number (such as, 15, 20, 30) and the percent symbol (%). The percentage of added solution may be declared by the words ''containing'' or ''contains'' (such as, ''contains 15% added solution of water and salt,'' or ''containing 15% added solution of water and teriyaki sauce'').

(2) The common or usual name of all individual ingredients or multi-ingredient components in the solution listed in descending order of predominance by weight.

(3) When the descriptive designation includes all ingredients in the solution, a separate ingredients statement is not required on the label. When the descriptive designation includes multi-ingredient components and the ingredients of the component are not declared in the product name, all ingredients in the product must be declared in a separate ingredients statement on the label as required in § 381.118.

(4) The product name and the descriptive designation must be printed in a single easy-to-read type style and color and must appear on a single-color contrasting background. The print may appear in upper and lower case letters, with the lower case letters not smaller than one-third (⅓) the size of the largest letter.

(5) The word ''enhanced'' cannot be used in the product name.

§ 381.169 [Removed and Reserved]

■ 5. Remove and reserve § 381.169.

Done at Washington, DC, on December 23, 2014.

Alfred Almanza,

Acting Administrator.

[FR Doc. 2014–30472 Filed 12–30–14; 8:45 am]

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FEDERAL REGISTER

Vol. 79 Wednesday,
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Part V

Department of State

Office of the Secretary

22 CFR Part 22

Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates—Visa Services Fee Changes; Final Rule

DEPARTMENT OF STATE

22 CFR Part 22

[Public Notice:8990]

RIN 1400–AD72

Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates—Visa Services Fee Changes

ACTION: Final rule.

AGENCY: Department of State.

SUMMARY: The Department of State amends the Schedule of Fees for Consular Services (Schedule) for visa fees. More specifically, the rule amends the Border Crossing Card fee paid by a Mexican citizen under age 15 whose parent or guardian has applied or is applying for a border crossing card (the ''reduced Border Crossing Card fee''). The Department of State is increasing the fee in light of the passage of the Emergency Afghan Allies Extension Act of 2014, which added a $1 surcharge to the fees for Machine Readable Visa (MRV) and Border Crossing Card (BCC) application processing. The Department must raise the reduced Border Crossing Card fee by $1, for a total fee of $17, to continue to collect the legislatively mandated fee amount of $13 and all applicable surcharges.

DATES: Effective January 1, 2015, except for the amendment to § 22.1 in amendatory instruction 3, which is effective October 4, 2015.

ADDRESSES: Interested parties may contact the Department by any of the following methods:

- Visit the Regulations.gov Web site at: *http://www.regulations.gov* and search the RIN, 1400–AD72 or docket number DOS–2014–0029.
- Mail (paper, disk, or CD–ROM): U.S. Department of State, Office of the Comptroller, Bureau of Consular Affairs (CA/C), SA–17 8th Floor, Washington, DC 20522–1707.
- Email: *fees@state.gov*. You must include the RIN (1400–AD72) in the subject line of your message.

FOR FURTHER INFORMATION CONTACT: Celeste Scott, Special Assistant, Office of the Comptroller, Bureau of Consular Affairs, Department of State; phone: 202–485–6681, telefax: 202–485–6826; email: *fees@state.gov.*

SUPPLEMENTARY INFORMATION:

Background

This final rule makes changes to the Schedule of Fees for Consular Services of the Department of State's Bureau of Consular Affairs. The Department sets and collects its fees based on the concept of full cost recovery, but some fees are set by statute. Please note that certain ''no fee'' consular services are included in the Schedule of Fees so that members of the public will be aware of significant consular services provided by the Department at no charge to the recipient of the service. The Department of State is adjusting the reduced Border Crossing Card fee in light of the passage of the Emergency Afghan Allies Extension Act of 2014, Sec. 2, Public Law 113–160, which added a temporary $1 surcharge to the fees for MRV and BCC application processing.

What is the authority for this action?

The Department of State derives the general authority to set fees based on the cost of the consular services it provides, and to charge those fees, from the general user charges statute, 31 U.S.C. 9701. See, *e.g.,* 31 U.S.C. 9701(b)(2)(A) (''The head of each agency . . . may prescribe regulations establishing the charge for a service or thing of value provided by the agency . . . based on . . . the costs to the government.''). As implemented through Executive Order 10718 of June 27, 1957, 22 U.S.C. 4219 further authorizes the Department to establish fees to be charged for official services provided by U.S. embassies and consulates. Other authorities allow the Department to charge fees for consular services, but not to determine the amount of such fees, as the amount is statutorily determined.

Several statutes address specific fees relating to nonimmigrant visas. For instance, 8 U.S.C. 1351 establishes reciprocity as the basic principle for setting the nonimmigrant visa issuance fee, meaning that the fee charged an applicant from a foreign country is based, insofar as practicable, on the amount of visa or other similar fees charged to U.S. nationals by that foreign country. In addition to the reciprocity issuance fee, Sec. 140(a) of Public Law 103–236, 108 Stat. 382, as amended, reproduced at 8 U.S.C. 1351 (note), establishes a cost-based application processing fee for nonimmigrant MRVs and BCCs. *See also* 8 U.S.C. 1713(b). Such fees remain available to the Department until expended. 8 U.S.C. 1351 (note) and 1713(d). Furthermore, Sec. 501 of Public Law 110–293, Title V, 122 Stat. 2968, reproduced at 8 U.S.C. 1351 (note) requires the Secretary of State to collect an additional $2 surcharge (the ''HIV/AIDS/TB/Malaria surcharge'') on all MRVs and BCCs as part of the application processing fee; this surcharge must be deposited into the Treasury and goes to support programs to combat HIV/AIDS, tuberculosis, and malaria. Section 2 of Public Law 113–42, reproduced at 8 U.S.C. 1351 (note) imposes a temporary $1 surcharge, called the Special Immigrant Visa Surcharge, on the fees for MRV and BCC application processing, to be deposited into the general fund of the Treasury. This provision sunsets two years after the first date on which the increased fee is collected, which was on October 4, 2013. Section 2 of Public Law 113–160, reproduced at 8 U.S.C. 1351 (note), also imposes a temporary $1 surcharge on the fees for MRV and BCC application processing, to be deposited into the general fund of the Treasury, resulting in $2 in Special Immigrant Visa Surcharges. This provision will sunset five and a half years after the first date on which the increased fee is collected, which will be on January 1, 2015.

The Border Crossing Card application processing fee for certain Mexican citizen minors is statutorily set at $13, even though such BCCs cost the Department the same amount to process as all other MRVs and BCCs—that is, significantly more than $13. See, Public Law 105–277, 112 Stat. 2681–50, div. A, Title IV, section 410, reproduced at 8 U.S.C. 1351 (note). Adding the two $1 SIV surcharges and the $2 HIV/AIDS/TB/Malaria surcharge brings the total for the Border Crossing Card application processing fee for certain Mexican citizen minors to $17. The Department's costs beyond $13 must, by statute, be recovered by charging more for all MRVs, as well as all BCCs that do not meet the requirements for the reduced fee. See Public Law 105–277, 112 Stat. 2681–50, div. A, Title IV, section 410(a)(3), reproduced at 8 U.S.C. 1351 (note) (requiring that the Department ''shall set the amount of the fee [for processing MRVs and all other BCCs] at a level that will ensure the full recovery by the Department . . . of the costs of processing'' all MRVs and BCCs, including reduced cost BCCs for qualifying Mexican citizen minors).

Certain people are exempted by law or regulation from paying specific fees or are expressly made subject to special fee charges by law. These are noted in the text below. They include, for instance, several exemptions from the nonimmigrant visa application processing fee for certain individuals who engage in charitable activities or who qualify for diplomatic visas. *See* 8 U.S.C. 1351; 22 CFR 41.107(c).

Although the funds collected for many consular fees must be deposited into the general fund of the Treasury pursuant to 31 U.S.C. 3302(b), various statutes permit the Department to retain some or all of the fee revenue it collects.

The Department retains the MRV and BCC fees, *see* Public Law 103–236, Title I, 140(a)(2), 112 Stat. 2681–50, reproduced at 8 U.S.C. 1351 (note) and 8 U.S.C. 1713(d).

The Department last changed nonimmigrant visa fees in an interim final rule dated August 28, 2014. *See* 22 CFR part 22 (79 FR 51247). Those changes to the Schedule went into effect September 12, 2014. The final rule regarding those fees has not yet been published.

Why is the Department adjusting certain nonimmigrant visa services fees at this time?

The Department of State is mandated by law to collect a Border Crossing Card application processing fee for certain Mexican citizen minors. Statutes imposing surcharges brought that fee to a total of $16. The Department is raising the Border Crossing Card application processing fee for certain Mexican citizen minors by $1 to $17 from January 1, 2015 to October 4, 2015 to reflect the required additional $1 Special Immigrant Visa Surcharge during that time. On October 4, 2015 the first Special Immigrant Visa Surcharge corresponding to Public Law 113–42 will expire, and the Border Crossing Card application processing fee for certain Mexican citizen minors will decrease by $1, returning to $16.

Regulatory Findings

Administrative Procedure Act

The Department is publishing this rule as a final rule, with an effective date less than 30 days from the date of publication, based on the ''good cause'' exceptions set forth at 5 U.S.C. 553(b)(3)(B) and 553(d)(3). The Department is issuing this final rule with an effective date on January 1, 2015. The APA permits a final rule to become effective fewer than 30 days after the publication if the issuing agency finds good cause. 5 U.S.C. 553(d)(3). The Department finds that good cause exists for an early effective date in this instance because Congress has already mandated that the Border Crossing Card application processing fee for certain Mexican citizen minors be $13, the HIV/AIDS/TB/Malaria Surcharge be $2, and the Special Immigrant Visa Surcharges total $2.

Regulatory Flexibility Act

The Department has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities as defined in 5 U.S.C. 601(6). This rule increases the Border Crossing Card application processing fee for certain Mexican citizen minors.

Unfunded Mandates Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501–1504.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 5 U.S.C. 804(2).

Executive Orders 12866 and 13563

The Department has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in the Executive Orders. This rule has been submitted to OMB for review.

This rule is necessary in light of the passage of the Emergency Afghan Allies Extension Act of 2014, which raises the Special Immigrant Visa Surcharge by $1. The Department of State is mandated by law to collect a $13 Border Crossing Card application processing fee for certain Mexican citizen minors. The Department is raising the Border Crossing Card application processing fee for certain Mexican citizen minors by $1 to $17 from January 1, 2015 to October 4, 2015 to coincide with the addition of the second $1 Special Immigrant Visa Surcharge during that time. On October 4, 2015 the first Special Immigrant Visa Surcharge corresponding to Public Law 113–42 will expire, and the Department of State will reduce the Special Immigrant Visa Surcharge by $1, returning to $16.

Details of the fee changes are as follows:

Item No.	Fee	Unit cost	Current fee	Change in fee	Percentage increase	Estimated number of applications affected [1]	Estimated change in annual fees collected [2]
SCHEDULE OF FEES FOR CONSULAR SERVICES							
* * *	*	*	*	*	*	*	
NONIMMIGRANT VISA SERVICES							
21. Nonimmigrant Visa Application and Border Crossing Card Processing Fees (per person): (f) Border crossing card—under age 15; for Mexican citizens if parent or guardian has or is applying for a border crossing card (valid 10 years or until the applicant reaches age 15; whichever is sooner)	$17	[3]	$16	$1	6%	18,750	$18,750
* * *	*	*	*	*	*	*	

[1] Based on approximately 10 months of validity for this rule.
[2] Using projected FY 2015 workload to generate projections.
[3] The fee for Border Crossing Card applications by minors is statutorily set.

Historically, the workload for Border Crossing Card applications for certain Mexican citizen minors has not increased from year to year, potentially due to the small category of applicants who qualify for the reduced fee. For example, Mexican citizen minors only qualify for the reduced Border Crossing Card application fee if a parent or guardian already has applied or is applying for a Border Crossing Card. All Border Crossing Card applications for certain Mexican citizen minors are sought by and paid for entirely by foreign national applicants. The revenue increases resulting from those fees should not be considered to have a

direct cost impact on the domestic economy.

Executive Orders 12372 and 13132

This regulation will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations, nor does it warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on federal programs and activities do not apply to this regulation.

Executive Order 13175

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

Paperwork Reduction Act

This rule does not create or revise any reporting or record-keeping requirements.

List of Subjects in 22 CFR Part 22

Consular services, fees, passports and visas.

Accordingly, for the reasons stated in the preamble, 22 CFR part 22 is amended as follows:

PART 22—SCHEDULE OF FEES FOR CONSULAR SERVICES—DEPARTMENT OF STATE AND FOREIGN SERVICE

■ 1. The authority citation for part 22 continues to read as follows:

Authority: 8 U.S.C. 1101 note, 1153 note, 1183a note, 1351, 1351 note, 1714, 1714 note; 10 U.S.C. 2602(c); 11 U.S.C. 1157 note; 22 U.S.C. 214, 214 note, 1475e, 2504(a), 4201, 4206, 4215, 4219, 6551; 31 U.S.C. 9701; Exec. Order 10,718, 22 FR 4632 (1957); Exec. Order 11,295, 31 FR 10603 (1966).

■ 2. In § 22.1, effective January 1, 2015, amend § 22.1 by revising Item 21.(f) in the table to read as follows:

§ 22.1 Schedule of fees.

* * * * *

SCHEDULE OF FEES FOR CONSULAR SERVICES

Item No.	Fee
* * * * *	
NONIMMIGRANT VISA SERVICES	
* * * * *	
21. * * *	
(f) Border crossing card—under age 15; for Mexican citizens if parent or guardian has or is applying for a border crossing card (valid 10 years or until the applicant reaches age 15, whichever is sooner)	$17

* * * * *

■ 3. In § 22.1, effective October 4, 2015, amend § 22.1 by revising Item 21.(f) in the table to read as follows:

§ 22.1 Schedule of Fees

* * * * *

SCHEDULE OF FEES FOR CONSULAR SERVICES

Item No.	Fee
* * * * *	
NONIMMIGRANT VISA SERVICES	
* * * * *	
21. * *	
(f) Border crossing card—under age 15; for Mexican citizens if parent or guardian has or is applying for a border crossing card (valid 10 years or until the applicant reaches age 15, whichever is sooner)	$16

* * * * *

Dated: December 24, 2014.

Patrick Kennedy,

Under Secretary of State for Management, Department of State.

[FR Doc. 2014–30710 Filed 12–30–14; 8:45 am]

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Federal Register

Vol. 79, No. 250

Wednesday, December 31, 2014

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Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

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FEDERAL REGISTER PAGES AND DATE, DECEMBER

70995–71294 1
71295–71620 2
71621–71954 3
71955–72106 4
72107–72538 5
72539–72966 8
72967–73190 9
73191–73460 10
73461–73800 11
73801–74014 12
74015–74584 15
74585–75042 16
75043–75416 17
75417–75734 18
75735–76226 19
76227–76864 22
76865–77356 23
77357–77832 24
77833–78286 29
78287–78688 30
78689–79066 31

CFR PARTS AFFECTED DURING DECEMBER

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.

1 CFR

Proposed Rules:
Ch. I 74654

2 CFR

1 75871
25 75871
170 75871
180 75871
200 75871
300 75871
400 75871
415 75871
416 75871
418 75871
422 75871
600 75871
700 75871
802 75871
910 75871
1000 75871
1103 75871
1201 75871
1327 75871
1402 75871
1500 75871
1800 75871
2205 75871
2300 75871
2400 75871
2500 75871
2600 75872
2701 75872
2800 75872
2900 75872
3002 75872
3187 75872
3255 75872
3374 75872
3474 75872
3603 75872
5900 75872

Proposed Rules:
2700 73853

3 CFR

Proclamations:
9198 72539
9214 71621
9215 ..... 71951, 72541
9216 ..... 71953, 72543
9217 72537
9218 73799
9219 74013
9220 75415
9221 75733
9222 76225
9223 78681

Executive Orders:
11030 (amended by EO 13683) 75041
13653 (amended by EO 13683) 75041
13673 (amended by EO 13683) 75041
13682 73459
13683 75041
13684 76865
13685 77357
13686 77361

Administrative Orders:
Presidential Determinations:
No. 2015–02 of November 21, 2014 71619
No. 2015–03 of December 3, 2014 74009

5 CFR

211 77833
532 74585
890 75043
2641 71955

Proposed Rules:
430 73239
532 72997
534 73239
890 71695
892 71695

6 CFR

37 77836

7 CFR

15c 73191
319 ..... 74585, 77839
361 74585
718 74561
761 ..... 75871, 78689
762 78689
764 78689
765 78689
785 75871
987 72967
1407 75871
1412 74561
1416 74561
1423 70995
1437 74561
1466 73954
1470 76867
1485 75871
1703 75871
1709 75871
1710 75871
1717 75871
1724 75871
1726 75871
1737 75871
1738 75871
1739 75871
1740 75871
1773 75871
1774 75871

1308.....75767

22 CFR

22.....79064
121.....77884
126.....77884
135.....75871
145.....75871
226.....75871

24 CFR

5.....74612
84.....75871
85.....75871
232.....74612
267.....77602

Proposed Rules:

891.....73507
892.....73507

25 CFR

151.....76888

Proposed Rules:

81.....75103
82.....75103
170.....76192

26 CFR

1 .....73817, 77388, 78696, 78954
53.....78696, 78954
602.....78954

Proposed Rules:

1.....76928
54.....76931, 78578

28 CFR

66.....75872
70.....75872
551.....72545

29 CFR

101.....74038
102.....74038
103.....74038
1910.....76897
4022.....74021
4044.....71019, 74021

Proposed Rules:

2590.....76931, 78578

30 CFR

553.....73832
780.....76227
784.....76227
816.....76227
817.....76227
934.....74613

Proposed Rules:

100.....78749

31 CFR

210.....73841
347.....74023

Proposed Rules:

1010.....74073

32 CFR

199 .....78698, 78703, 78707
273.....78144

Proposed Rules:

199.....78362

33 CFR

110.....71654
117 .....72140, 72975, 73474, 73842, 74025, 75430, 78303, 78304, 78305, 78306
165 .....71020, 71022, 74025, 74028, 74030, 75050, 75054, 76233, 76897, 78307

Proposed Rules:

101.....73255, 77981
104.....73255
105.....73255, 77981
117 .....72154, 76249, 78365
120.....73255
128.....73255
165 .....72155, 74044, 77415, 78369
167.....72157

34 CFR

74.....75872
75.....75872
76.....75872
77.....75872
80.....75872
101.....75872
206.....75872
222.....75872
225.....75872
226.....75872
270.....75872
280.....75872
299.....75872
300.....75872
303.....75872
350.....75872
361.....75872
363.....75872
364.....75872
365.....75872
367.....75872
369.....75872
370.....75872
373.....75872
377.....75872
380.....75872
381.....75872
385.....75872
396.....75872
400.....75872
426.....75872
460.....75872
464.....75872
491.....75872
535.....75872
600.....71957
606.....75872
607.....75872
608.....75872
609.....75872
611.....75872
614.....75872
628.....75872
636.....75872
637.....75872
642.....75872
643.....75872
644.....75872
645.....75872
646.....75872
647.....75872
648.....75872
650.....75872
654.....75872
655.....75872
661.....75872
662.....75872
663.....75872
664.....75872
668.....71957
682.....75872
692.....75872
694.....75872
1100.....75872

Proposed Rules:

Ch. VI.....75771
263.....71930
612.....71820
686.....71820

36 CFR

1206.....75872
1207.....75872
1210.....75872

37 CFR

1.....74618
2.....74633
381.....71319

Proposed Rules:

201.....73856

38 CFR

12.....71319
17.....71653
41.....75871
43.....75871

Proposed Rules:

3.....71366

39 CFR

111.....75058
3020.....78714

Proposed Rules:

111.....76930
3050.....77424

40 CFR

9 .....74639, 76900, 77891
30.....75871
31.....75871
33.....75871
35.....75871
40.....75871
45.....75871
46.....75871
47.....75871
51.....71663
52 .....71025, 71663, 71672, 72548, 72552, 72976, 72979, 73202, 73203, 73205, 73842, 74647, 74818, 75032, 75431, 75748, 76235, 77911, 78309
60.....79018
80.....77915
81 .....72552, 72981, 75032, 75035, 75748, 76235, 77389
97.....71663, 71674
98.....73750, 77391
168.....75752
180 .....71676, 72140, 73210, 73214, 73218, 73224, 75059, 75065, 75764, 77391, 77395
300 .....71679, 73475, 73478
721 .....74639, 76900, 77891
766.....72984

Proposed Rules:

50.....75234, 78750
51.....75234, 78750
52 .....71040, 71057, 71061, 71369, 71712, 72999, 73272, 73508, 73512, 73525, 73872, 74046, 74655, 74818, 75104, 75234, 75527, 76251, 77996, 78372, 78750, 78752, 78755
53.....75234, 78750
58.....75234, 78750
60.....73872, 74656
63 .....72160, 72874, 72914, 73273, 73872, 74656, 75622, 78768
80.....73007
81 .....73525, 76251, 78755
98.....73148, 76267
122.....71066
123.....71066
127.....71066
180.....71713, 75107
300.....73538, 73539
403.....71066, 75772
441.....75772
501.....71066
503.....71066
721.....75111

41 CFR

60–1.....72985
60–2.....72985
60–3.....72985
60–4.....72985
60–5.....72985
102–33.....77338

42 CFR

403.....78716
405.....72500, 78716
409.....71320
410.....78716
411.....78716
412.....78716
413.....78716
414.....78716
424.....72500
425.....78716
447.....71679
489.....78716
495.....78716
498.....72500, 78716

Proposed Rules:

88.....75528
136.....72160
409.....71081
410.....71081
416.....73873
418.....71081, 73873
425.....72760
440.....71081
482.....73873
483.....73873
484.....71081
485.....71081, 73873
488.....71081
1001.....78376

43 CFR

12.....75871

44 CFR

13.....75872
64.....74650, 78718
67.....73482, 78722
78.....75872
79.....75872
152.....75872
201.....75872
204.....75872
206.....75872
207.....75872
208.....75872

304.....75872
360.....75872
361.....75872

45 CFR

74.....75871
75.....75871
92.....75871
411.....77768
602.....75871
1157.....75872
1174.....75872
1180.....75872
1183.....75872
1235.....75871
2510.....75871
2520.....75871
2541.....75871
2543.....75871
2551.....75871
2552.....75871
2553.....75871

Proposed Rules:

146.....76931
147.....78578

46 CFR

502.....76901

Proposed Rules:

401.....71082

47 CFR

0.....76902
1 .....72143, 73844, 76902
2 .....71321, 73486, 76902
15.....73486, 76902
22.....72143
27.....76902
64.....73227
73 .....72153, 73237, 75433, 75530, 76239, 76902, 76903
74.....76902, 77915
79.....77916
80.....77917
87.....77917
90.....71321
95.....77917
300.....73486

Proposed Rules:

0.....76268
1 .....73008, 75530, 76268
20.....76944
22.....76268
27.....75530, 76282
25.....71714
73 .....75113, 75773, 76282, 76295
79.....78723
90.....73009

48 CFR

Ch. 1.....74544, 74554
1.....74544, 75434
9.....74554
22.....74544, 75434
52 .....74544, 74554, 75434
203.....73487
204 .....73488, 73490, 73492, 74652
209.....73488
212.....73488, 73490
215.....73493
225 .....73488, 73490, 73498, 73499
235.....73500
236.....73498
237.....73500
252 .....73488, 73490, 73492, 73499, 73500, 74652, 75757
701.....74986
702.....74986
703.....74986
704.....74986
705.....74986
706.....74986
707.....74986
709.....74986
711.....74986
713.....74986
714.....74986
715.....74986
716.....74986
717.....74986
719.....74986
722.....74986
725.....74986
726.....74986
727.....74986
728.....74986
731.....74986
732.....74986
733.....74986
736.....74986
742.....74986
745.....74986
747.....74986
750.....74986
752.....74986
1509.....76239
1511.....75434
1527.....76239
1552.....75434, 76239

Proposed Rules:

1.....71975
4.....71975
6.....78378
9.....71975
22.....71975
52.....71975, 74558
Ch. 2.....73539
701.....74681
702.....74681
703.....74681
704.....74681
705.....74681
706.....74681
707.....74681
709.....74681
711.....74681
713.....74681
714.....74681
715.....74681
716.....74681
717.....74681
719.....74681
722.....74681
725.....74681
726.....74681
727.....74681
728.....74681
731.....74681
732.....74681
733.....74681
736.....74681
742.....74681
745.....74681
747.....74681
750.....74681
752.....74681
1001.....76948
1002.....76948
1016.....76948
1019.....76948
1022.....76948
1028.....76948
1032.....76948
1034.....76948
1042.....76948
1052.....76948
1609.....74054
1615.....74054
1632.....74054
1652.....74054

49 CFR

18.....75757
19.....75757
219.....75757
225.....77397
392.....75437
395.....76241
396.....75437

Proposed Rules:

350.....76295
380.....73273

50 CFR

17.....73706
223.....78723
224 .....73978, 78723, 78725
229.....73848, 77919
300.....71327, 77942
600.....76914, 77399
622 .....71959, 72556, 72996
635 .....71029, 71331, 71510, 72557, 74652, 75068, 77943, 78310
648 .....71339, 71960, 72560, 76917, 77399, 77946, 78311
660 .....71340, 75070, 75449, 76242
679 .....71313, 71344, 71350, 76917
697.....73848

Proposed Rules:

17 .....71373, 72450, 76950, 78775
20.....78379
223.....74954
224.....74954, 77998
226.....71714, 73010
300.....71729
622 .....72566, 72567, 75780, 77425
648.....74056, 78022
660.....77426
679.....72571, 72593
680.....74058, 77427

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 December 29, 2014

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