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FEDERAL REGISTER

Vol. 80 Wednesday,
No. 126 July 1, 2015

Pages 37529–37920

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

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Title 3—

The President

Executive Order 13699 of June 26, 2015

Establishing the Advisory Board on Toxic Substances and Worker Health

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Carl Levin and Howard P. ''Buck'' McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291), and to allocate the responsibilities imposed by that Act, it is hereby ordered as follows:

Section 1. *Establishment.* There is established within the Department of Labor the Advisory Board on Toxic Substances and Worker Health (Advisory Board).

Sec. 2. *Membership.* (a) The Advisory Board shall reflect a proper balance of perspectives from the scientific, medical, and claimant communities.

(b) The Advisory Board shall consist of no more than 15 members to be appointed by the Secretary of Labor in consultation with organizations with expertise on worker health issues. Members shall serve without compensation as Special Government Employees, but shall be allowed travel and meal expenses, including per diem in lieu of subsistence, to the extent permitted by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707).

(c) The Secretary of Labor shall designate a Chair of the Board from among its members.

Sec. 3. *Functions.* (a) The Advisory Board shall advise the Secretary of Labor with respect to:

(i) the site exposure matrices of the Department of Labor;

(ii) medical guidance for claims examiners for claims under subtitle E of the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA) with respect to the weighing of the medical evidence of claimants;

(iii) evidentiary requirements for claims under EEOICPA subtitle B related to lung disease; and

(iv) the work of industrial hygienists, staff physicians, and consulting physicians of the Department of Labor and reports of such hygienists and physicians to ensure quality, objectivity, and consistency.

(b) To the extent necessary, the Advisory Board also shall coordinate exchanges of data and findings with the Advisory Board on Radiation and Worker Health, which was authorized by EEOICPA and established by Executive Order 13179 of December 7, 2000.

Sec. 4. *Administration.* (a) The Secretary of Labor shall provide the Advisory Board with funding and administrative support, including the appointment of staff and, as the Secretary determines appropriate, authorization for the detail of Federal employees from within the Department of Labor and employment of outside contractors and specialists, to the extent permitted by law and within existing appropriations. The Secretary also shall perform the administrative functions of the President under the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), with respect to the Advisory Board.

(b) The Secretary of Labor shall designate a senior officer of the Department of Labor to serve as the Director of the staff of the Advisory Board.

Sec. 5. *Termination.* The Advisory Board shall terminate on the date that is 5 years after the enactment of the National Defense Authorization Act for Fiscal Year 2015.

Sec. 6. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,
June 26, 2015.

[FR Doc. 2015–16334
Filed 6–30–15; 08:45 am]
Billing code 3295–F5

Rules and Regulations

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

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Doc. No. AMS–FV–14–0091; FV15–929–1 FR]

Cranberries Grown in States of Massachusetts, et al.; Revising Determination of Sales History

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule implements a recommendation from the Cranberry Marketing Committee (Committee) to revise the determination of sales history provisions currently prescribed under the cranberry marketing order (order). The Committee, which consists of 13 growers and 1 public member, locally administers the order regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. Under the order, there are two different sales history calculations that have been established for this program. This action clarifies when the different methods for calculating sales history will be used. This action also removes the fresh fruit exemption from one of the calculations.

DATES: Effective July 2, 2015.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 291–8614, or Email: *Doris.Jamieson@ams.usda.gov* or *Christian.Nissen@ams.usda.gov.*

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

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 929, as amended (7 CFR part 929), regulating the handling of cranberries grown in the states of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

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

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

There are two sales history calculations in effect under two separate sections of the order. This final rule clarifies when the different methods for calculating sales history will be used. This final rule also removes the exemption for fresh fruit from the sales history calculation found in § 929.149. The Committee unanimously recommended these changes at meetings held on February 10 and August 20, 2014.

The order provides authority for volume control in the form of a producer allotment program. When in effect, this program limits the quantity of cranberries that handlers may purchase or handle on behalf of growers in years of oversupply. Each year, prior to determining if volume regulation is needed, grower sales histories are calculated. The sales history averages recent years' sales data using information submitted by each grower on a production and eligibility report filed with the Committee. If the Committee determines that volume regulation is needed, a producer allotment percentage is calculated. Each grower's allotment of cranberries eligible for handling is then calculated by multiplying the allotment percentage by the grower's sales history.

Section 929.48 of the order contains provisions for computing an annual grower sales history. Section 929.48 also provides that the Committee, with the approval of the Secretary, may establish alternative grower's sales history calculations as warranted. One such alternative calculation is established in § 929.149. This alternative calculation supplements the calculation found in § 929.48 by including an additional sales history for growers with new and renovated acreage. It also provides that the sales history be computed for processed fruit only, with fresh fruit sales deducted from the calculation. The alternative calculation method established in § 929.149 was developed for the 2001–02 marketing year, the last time volume regulation was implemented, and was recently revised so that it could be used for any season.

The Committee believes the provisions in the alternative sales history calculation are beneficial and provide equity to growers who have recently planted or renovated acreage. However, the alternative method for calculating sales history requires physical verification of the renovated or new acreage, thus resulting in additional costs to the Committee. When considering the costs and the benefits of both sales history calculation methods, the Committee concluded that the method in § 929.48 was adequate for annual calculations when volume regulation was not anticipated.

However, due to the importance of a grower's sales history in the determination of that grower's allotment during years of volume regulation, the inclusion of new and renovated acreage is paramount. Accordingly, the Committee concluded that the sales history calculation in § 929.149 should be used in all years when volume regulation is anticipated.

Consequently, at its February 10 and August 20, 2014, meetings, the Committee recommended that the alternative calculation method found in § 929.149 only apply during times when a producer allotment volume regulation is being implemented. When a producer allotment volume regulation is not being implemented, the Committee will calculate grower's sales history according to the provisions provided in § 929.48 of the order.

The Committee also recommended revising the alternative calculation method in § 929.149 by removing the exemption for fresh fruit sales. Committee members stated that automatically exempting fresh fruit from the sales history calculation provides the grower with an inaccurate representation of their total sales. Further, the exclusion of fresh fruit affects the industry's total sales history, which is used to determine the allotment percentage under a producer allotment program. The Committee believes if any exemptions to future producer allotment calculations are warranted, such exemptions should be considered and recommended to USDA as part of a proposed volume regulation. Removing the fresh exemption provision from the alternative calculation allows the Committee to determine, on an as-needed basis, whether or not volume regulation should apply to the fresh cranberry supply.

Final Regulatory Flexibility Analysis

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

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

There are approximately 1,300 cranberry growers in the regulated area and approximately 45 cranberry handlers who are subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those having annual receipts of less than $7,000,000 (13 CFR 121.201).

According to industry and Committee data, grower prices ranged between $15 and $47 per barrel for cranberries during the 2012–13 marketing year, and total sales were around 7.8 million barrels. Based on production data and grower prices, the average annual grower revenue is below $750,000. Using Committee information and shipment data, 44 out of the 45 cranberry handlers could also be considered small businesses under SBA's definition. Therefore, the majority of cranberry growers and handlers may be classified as small entities.

This final rule revises the rules and regulations pertaining to the determination of sales history currently prescribed in § 929.149 of the order. There are two sales history calculations under two separate sections of the order. This action clarifies when the different methods for calculating sales history will be used. It also removes the exemption for fresh fruit from the calculation method found in § 929.149. These changes were unanimously recommended by the Committee at meetings held on February 10 and August 20, 2014. Authority for these changes is provided in § 929.48 of the order.

It is not anticipated that this action will impose any additional costs on the industry. Each year, the Committee is required to calculate a sales history for each grower. This rule clarifies that the alternative sales history calculation method established under § 929.149 will only apply when a producer allotment regulation is being implemented. The calculation method found in § 929.48 will be used when volume regulation is not being implemented.

Removing the fresh exemption provision from the calculation found in § 929.149 allows the Committee to determine, on an as-needed basis, whether or not volume regulation should apply to the fresh cranberry supply. It also provides growers, and the Committee, with a more accurate representation of their sales history. The benefits of this rule are not expected to be disproportionately greater or lesser for small handlers or producers than for large entities.

The Committee considered the alternative of making no changes to the rules and regulations pertaining to the determination of sales history. However, the Committee recognized that this change would help the industry avoid the additional costs of acreage verification in years when volume regulation is not being implemented. Also, the Committee agreed that the current grower sales history tabulation exempting fresh fruit was not representative of the actual sales. Therefore, this alternative was rejected.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0189, Generic Fruit Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This action will not impose any additional reporting or recordkeeping requirements on either small or large cranberry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this final rule.

In addition, the Committee's meetings were widely publicized throughout the cranberry industry, and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the February 10 and August 20, 2014, meetings were public meetings, and all entities, both large and small, were able to express views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on April 22, 2015 (80 FR 22431). Copies of the rule were mailed or sent via facsimile to all Committee members and cranberry handlers. Finally, the rule was made available through the internet by USDA and the Office of the Federal Register. A 15-day comment period ending May 7, 2015, was provided to allow interested

persons to respond to the proposal. No comments were received. Accordingly, no changes will be made to the rule as proposed.

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

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

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the Committee is beginning discussions regarding establishing a producer allotment volume regulation for the coming season. As such, it is important to have these changes in place as the Committee moves forward with these discussions and potential implementation. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 15-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 929 is amended as follows:

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

■ 1. The authority citation for 7 CFR part 929 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 929.149 [Amended]

■ 2. In § 929.149, the words ''when a producer allotment volume regulation is in effect'' are added to the end of the introductory text, and paragraphs (e) and (f) are removed.

Dated: June 26, 2015.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2015–16177 Filed 6–30–15; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Doc. No. AMS–FV–14–0105; FV15–932–1 FR]

Olives Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule implements a recommendation from the California Olive Committee (committee) for an increase of the assessment rate established for the 2015 and subsequent fiscal years from $15.21 to $26.00 per assessable ton of olives handled. The committee locally administers the marketing order and is comprised of producers and handlers of olives grown in California. Assessments upon olive handlers are used by the committee to fund reasonable and necessary expenses of the program. The fiscal year begins January 1 and ends December 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective July 2, 2015.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Senior Marketing Specialist or Martin Engeler, Regional Manager, California Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: *Terry.Vawter@ams.usda.gov* or *Martin.Engeler@ams.usda.gov.*

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 148 and Order No. 932, both as amended (7 CFR part 932), regulating the handling of olives grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California olive handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate issued herein will be applicable to all assessable olives beginning on January 1, 2015, and continue until amended, suspended, or terminated.

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

This rule increases the assessment rate established for the committee for the 2015 and subsequent fiscal years from $15.21 to $26.00 per ton of assessable olives.

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

For the 2014 and subsequent fiscal years, the committee recommended, and USDA approved, an assessment rate that

would continue in effect from fiscal year to fiscal year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the committee or other information available to USDA.

The committee met on December 9, 2014, and unanimously recommended 2015 fiscal year expenditures of $1,374,072, and an assessment rate of $26.00 per ton of assessable olives. Olives are an alternate-bearing crop: A large crop followed by a smaller crop. Olive producers and handlers are accustomed to wide swings in crop yields, which necessarily result in fluctuations in the assessment rate from year to year. In comparison, last year's budgeted expenditures were $1,262,460. The assessment rate of $26.00 is $10.79 higher than the rate currently in effect.

The committee recommended the higher assessment rate because of a substantial decrease in assessable olive tonnage for the 2014 crop year. The olive tonnage available for the 2014 crop year was less than 40,000 tons, which compares to the 91,000 tons reported for the 2013 crop year, as reported by the California Agricultural Statistics Service (CASS).

The reduced crop is due to olives being an alternate-bearing fruit. The 2014 crop was what is called the ''off'' crop—the smaller of the two bearing-year crops.

In addition to the funds from handler assessments, the committee also plans to use available reserve funds to help meet its 2015 fiscal year expenses.

The major expenditures recommended by the committee for the 2015 fiscal year include $259,231 for research, $450,000 for marketing activities, $122,000 for inspection equipment and electronic reporting development, and $393,500 for administration. The major expenditures for the 2014 fiscal year included $312,560 for research, $565,600 for marketing activities, $37,800 for inspection equipment and electronic reporting development, and $346,500 for administration.

Overall 2015 expenditures include an increase in inspection equipment and electronic reporting development expenses due to the need to purchase, test, install, and link new sizers to the electronic reporting system. Additionally, the research budget contains a contingency of $41,000 for new opportunities that may arise during the fiscal year, and the administrative budget includes a $31,000 contingency for unforeseen issues.

The assessment rate recommended by the committee resulted from consideration of anticipated fiscal year expenses, actual olive tonnage received by handlers during the 2014 crop year, and additional pertinent information. As reported by CASS, actual assessable tonnage for the 2014 crop year is under 40,000 tons or less than half of the 91,000 assessable tons in the 2013 crop year, which is a result of the alternate-bearing characteristics of olives.

Income derived from handler assessments, along with interest income and funds from the committee's authorized reserve will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order of approximately one fiscal year's expenses (§ 932.40).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the committee or other available information. Although this assessment rate will be in effect for an indefinite period, the committee will continue to meet prior to or during each fiscal year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of committee meetings are available from the committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The committee's 2015 fiscal year budget and those for subsequent fiscal years will be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

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

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. There are approximately 1,000 producers of olives in the production area and 2 handlers subject to regulation under the marketing order. The Small Business Administration (13 CFR 121.201) defines small agricultural producers as those having annual receipts of less than $750,000, and small agricultural service firms as those whose annual receipts are less than $7,000,000 (13 CFR 121.210).

Based upon information from the industry and CASS, the average producer price for the 2014 crop year was approximately $1,027 per ton, and total assessable volume was less than 40,000 tons. Based on production, producer prices, and the total number of California olive producers, the average annual producer revenue is less than $750,000. Thus, the majority of olive producers may be classified as small entities. Both of the handlers may be classified as large entities.

This rule will increase the assessment rate established for the committee and collected from handlers for the 2015 and subsequent fiscal years from $15.21 to $26.00 per ton of assessable olives. The committee unanimously recommended 2015 fiscal year expenditures of $1,374,072, and an assessment rate of $26.00 per ton. The higher assessment rate is necessary because assessable olive receipts for the 2014 crop year were reported by CASS to be less than 40,000 tons, compared to 91,000 tons for the 2013 crop year.

Income derived from the $26.00 per ton assessment rate, along with funds from the authorized reserve and interest income, should be adequate to meet this fiscal year's expenses.

The major expenditures recommended by the committee for the 2015 fiscal year include $259,231 for research, $450,000 for marketing activities, $122,000 for inspection equipment development, and $393,500 for administration. Budgeted expenses for these items in 2014 were $312,560 for research, $565,600 for marketing activities, $37,800 for inspection equipment and electronic reporting development, and $346,500 for administration.

The committee deliberated many of the expenses, weighing the relative value of various programs or projects, and decreased their costs for research and marketing, while increasing their costs for inspection equipment and electronic reporting development, as well as their administrative expenses.

Prior to arriving at this budget, the committee considered information from various sources such as the committee's Executive, Marketing, Inspection, and Research Subcommittees. Alternate expenditure levels were discussed by these groups based upon the relative

value of various projects to the olive industry and the reduced olive production. The assessment rate of $26.00 per ton of assessable olives was derived by considering anticipated expenses, the volume of assessable olives, and additional pertinent factors.

A review of preliminary information indicates that average producer prices for 2014 crop olives were approximately $1,027 per ton. Therefore, utilizing the assessment rate of $26.00 per ton, the estimated assessment revenue for the 2015 fiscal year as a percentage of total producer revenue would be approximately 2.5 percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived from the operation of the marketing order. In addition, the committee's meeting was widely publicized throughout California's olive industry and all interested persons were invited to attend the meeting and encouraged to participate in committee deliberations on all issues. Like all committee meetings, the December 9, 2014, meeting was a public meeting and all entities, both large and small, were encouraged to express views on this issue.

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

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

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

A proposed rule concerning this action was published in the **Federal Register** on March 30, 2015 (80 FR 16590). Copies of the proposed rule were also provided to all olive handlers, as well as to all committee members. Finally, the proposal was made available through the Internet by USDA and the Office of the Federal Register. A 30-day comment period, ending April 29, 2015, was provided for interested persons to respond to the proposal. One comment was received.

The commenter noted that the net increase in the assessment rate is not proportional to the proposed increase in expenses for the committee, and the proposed rule did not explain how the magnitude of the proposed increase in the assessment rate was reached.

In response to the comment, the assessment rate is based upon several factors: The assessable production, the programs and costs the committee finds reasonable and necessary for the fiscal year (proposed budget of expenses), as well as the amount of funds available in the committee's financial reserve, if they choose to use such funds to offset their proposed expenses. The committee determines, based upon their experience with costs in their area and the types of marketing programs they propose, what their budget of expenses will be. Thus, they agreed that increasing the assessment rate to meet their program administration and marketing needs was acceptable, reasonable, and necessary to achieve their program administration and marketing goals. They also determined that an even larger assessment increase could be averted by utilizing funds from their financial reserves.

The commenter also noted that the proposed rule states that the assessment rate ''would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the committee or other available information.'' The commenter stated that such language seemed at odds to language in the rule indicating that the alternate-bearing characteristics of olives result in wide swings in production, causing frequent changes to the assessment rate.

In response to this comment, such language is necessary to ensure that the assessment rate established continues throughout the entire fiscal period and beyond, if necessary, thereby ensuring that assessments on olives continue uninterrupted. Should the committee find it necessary to change the assessment rate at any time, USDA would consider their recommendation and other available information.

Accordingly, no changes will be made to the rule as proposed based on the comment received.

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

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

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because olive handlers have already received 2014–15 crop year olives from producers, the fiscal year began on January 1, 2015, and the assessment rate applies to all olives received during the 2014–15 crop year. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 932

Olives, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 932 is amended as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 932 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 932.230 is revised to read as follows:

§ 932.230 Assessment rate.

On and after January 1, 2015, an assessment rate of $26.00 per ton is established for California olives.

Dated: June 26, 2015.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2015–16176 Filed 6–30–15; 8:45 am]

BILLING CODE 3410–02–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 231, 241, 271, and 276

[Release Nos. 33–9850; 34–75250; IA–4122; IC–31684]

Commission Guidance Regarding the Definition of the Terms ''Spouse'' and ''Marriage'' Following the Supreme Court's Decision in United States v. Windsor

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: The Securities and Exchange Commission is publishing interpretive guidance to clarify how the Commission will interpret the terms ''spouse'' and ''marriage'' in light of the Supreme Court's ruling in *United States* v. *Windsor*.

DATES: Effective July 1, 2015.

FOR FURTHER INFORMATION CONTACT: Questions should be referred to Benjamin Schiffrin, Senior Litigation Counsel, Office of the General Counsel, at (202) 551–5003, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–9040.

SUPPLEMENTARY INFORMATION: On June 26, 2013, the Supreme Court of the United States ruled in *United States* v. *Windsor* that Section 3 of the Defense of Marriage Act (''DOMA'') is unconstitutional.[1] Section 3 provides that in ''determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States,'' the ''word 'spouse' refers only to a person of the opposite sex who is a husband or a wife,'' and the ''word 'marriage' means only a legal union between one man and one woman as husband and wife.''[2] This section, the Court stated, ''enacts a directive applicable to over 1,000 federal statutes and the whole realm of federal regulations.''[3] The Court found that this directive ''undermines both the public and private significance of state-sanctioned same-sex marriages'' and concluded that ''no legitimate purpose overcomes the purpose and effect to disparage and to injure those whom the State, by its marriage laws, sought to protect in personhood and dignity.''[4] The Court thus held that Section 3 of DOMA was invalid.[5]

In light of this decision, the Commission will read the terms ''spouse'' and ''marriage,'' where they appear in the federal securities statutes administered by the Commission, the rules and regulations promulgated thereunder, releases, orders, and any guidance issued by the staff or the Commission, to include, respectively, (1) an individual married to a person of the same sex if the couple is lawfully married under state law, regardless of the individual's domicile, and (2) such a marriage between individuals of the same sex. This guidance is consistent with *Windsor*.

List of Subjects in 17 CFR Parts 231, 241, 271, and 276

Securities.

Amendments to the Code of Federal Regulations

For the reasons set out above, the Commission is amending Title 17, chapter II of the Code of Federal Regulations as set forth below:

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

■ 1. Part 231 is amended by adding Release No. 33–9850 to the list of interpretive releases as follows:

Subject	Release No.	Date	Fed. Reg. Vol. and Page
* * *	*	*	*
Commission Guidance Regarding the Definition of the Terms ''Spouse'' and ''Marriage'' Following the Supreme Court's Decision in *United States* v. *Windsor*.	33–9850	June 19, 2015	80 FR [Insert FR Page Number]

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

■ 2. Part 241 is amended by adding Release No. 34–75250 to the list of interpretive releases as follows:

Subject	Release No.	Date	Fed. Reg. Vol. and Page
* * *	*	*	*
Commission Guidance Regarding the Definition of the Terms ''Spouse'' and ''Marriage'' Following the Supreme Court's Decision in *United States* v. *Windsor*.	34–75250	June 19, 2015	80 FR [Insert FR Page Number]

[1] 133 S. Ct. 2675 (2013).
[2] 1 U.S.C. 7.
[3] 133 S. Ct. at 2690.
[4] *Id.* at 2694, 2696.
[5] *Id.* at 2696.

PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

■ 3. Part 271 is amended by adding Release No. IC–31684 to the list of interpretive releases as follows:

Subject	Release No.	Date	Fed. Reg. Vol. and Page
* * *	*	*	*
Commission Guidance Regarding the Definition of the Terms "Spouse" and "Marriage" Following the Supreme Court's Decision in *United States* v. *Windsor*.	IC–31684	June 19, 2015	80 FR [Insert FR Page Number]

PART 276—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT ADVISERS ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

■ 4. Part 276 is amended by adding Release No. IA–4122 to the list of interpretive releases as follows:

Subject	Release No.	Date	Fed. Reg. Vol. and Page
* * *	*	*	*
Commission Guidance Regarding the Definition of the Terms "Spouse" and "Marriage" Following the Supreme Court's Decision in *United States* v. *Windsor*.	IA–4122	June 19, 2015	80 FR [Insert FR Page Number]

Dated: June 19, 2015.

By the Commission.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–15506 Filed 6–30–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release Nos. 33–9741C; 34–74578C; 39–2501C; File No. S7–11–13]

RIN 3235–AL39

Amendments for Small and Additional Issues Exemptions Under the Securities Act (Regulation A); Correction

AGENCY: Securities and Exchange Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations (SEC Rel. No. 33–9741), which were published in the **Federal Register** of Monday, April 20, 2015 (80 FR 21806). The regulations related to Amendments for Small and Additional Issues Exemptions under the Securities Act (Regulation A).

DATES: This correction is effective July 1, 2015.

FOR FURTHER INFORMATION CONTACT: Linda Cullen, Office of the Secretary at (202) 551–5400.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections were revisions to Item 101(a) of Regulation S–T (§ 232.101(a) of the chapter) on the effective date of the Amendments for Small and Additional Issues Exemptions under the Securities Act (Regulation A) to reflect the mandatory electronic filing of all issuer initial filing and ongoing reporting requirements under Regulation A (§§ 230.251–230.262 of the chapter).

Need for Correction

As published, the final regulations contain errors which need to be corrected.

List of Subjects in 17 CFR Part 232

Reporting and recordkeeping requirements, Securities.

Accordingly, 17 CFR part 232 is corrected by making the following correcting amendments:

■ 1. The authority citation for part 232 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s(a), 77z–3, 77sss(a), 78c(b), 78*l,* 78m, 78n, 78o(d), 78w(a), 78*ll,* 80a–6(c), 80a–8, 80a–29, 80a–30, 80a–37, 7201 *et seq.;* and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 2. Section 232.101 is amended by:

■ a. Revising paragraphs (a)(1)(xvi) and (xvii); and

■ b. Adding paragraph (a)(1)(xviii).

The revisions and addition read as follows:

§ 232.101 Mandated electronic submissions and exceptions.

(a) * * *

(1) * * *

(xvi) Form ABS–15G (as defined in § 249.1400 of this chapter);

(xvii) Documents filed with the Commission pursuant to section 13(n) of the Exchange Act (15 U.S.C. 78m(n)) and the rules and regulations

thereunder, including Form SDR (17 CFR 249.1500) and reports filed pursuant to Rules 13n–11(d) and (f) (17 CFR 240.13n–11(d) and (f)) under the Exchange Act; and

(xviii) Filings made pursuant to Regulation A (§§ 230.251 through 230.262 of this chapter).

* * * * *

Dated: June 25, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–16045 Filed 6–30–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 275

[Release No. IA–4129; File No. S7–18–09]

RIN 3235–AK39

Political Contributions by Certain Investment Advisers: Ban on Third-Party Solicitation; Notice of Compliance Date

AGENCY: Securities and Exchange Commission.

ACTION: Notice of compliance date.

SUMMARY: The Securities and Exchange Commission (''Commission'' or ''SEC'') previously set and extended the compliance date for the ban on third-party solicitation until nine months after the compliance date of a final rule adopted by the Commission by which municipal advisors must register under the Securities Exchange Act of 1934 (''final municipal advisor registration rule'') and indicated that notice with respect thereto would be provided in the **Federal Register**. This notice of compliance date is being published to provide the notice of the compliance date.

DATES: The compliance date for the ban on third-party solicitation under 17 CFR 275.206(4)–5 [rule 206(4)–5] is July 31, 2015.

FOR FURTHER INFORMATION CONTACT: Sirimal R. Mukerjee, Senior Counsel, or Sarah A. Buescher, Branch Chief, at (202) 551–6787 or *IArules@sec.gov,* Investment Adviser Regulation Office, Division of Investment Management, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–8549.

SUPPLEMENTARY INFORMATION: The Commission adopted rule 206(4)–5 [17 CFR 275.206(4)–5] (''Pay to Play Rule'') under the Investment Advisers Act of 1940 [15 U.S.C. 80b] to prohibit an investment adviser from providing advisory services for compensation to a government client for two years after the adviser or certain of its executives or employees (''covered associates'') make a contribution to certain elected officials or candidates.[1] Rule 206(4)–5 also prohibits an adviser and its covered associates from providing or agreeing to provide, directly or indirectly, payment to any third-party for a solicitation of advisory business from any government entity on behalf of such adviser, unless such third-party is a ''regulated person'' (''third-party solicitor ban'').[2] Rule 206(4)–5 defines a ''regulated person'' as an SEC-registered investment adviser,[3] a registered broker or dealer subject to pay to play restrictions adopted by a registered national securities association,[4] or a registered municipal advisor subject to pay to play restrictions adopted by the Municipal Securities Rulemaking Board (''MSRB'').[5] In addition, the Commission must find, by order, that these pay to play rules: (i) Impose substantially equivalent or more stringent restrictions on broker-dealers or municipal advisors than the Pay to Play Rule imposes on investment advisers; and (ii) are consistent with the objectives of the Pay to Play Rule.[6]

Rule 206(4)–5 became effective on September 13, 2010 and the compliance date for the third-party solicitor ban was set to September 13, 2011.[7] When the Commission added municipal advisors to the definition of regulated person, the Commission also extended the third-party solicitor ban's compliance date to June 13, 2012.[8] In the absence of a final municipal advisor registration rule, the Commission extended the third-party solicitor ban's compliance date from June 13, 2012 to nine months after the compliance date of the final rule,[9] which is July 31, 2015.[10]

This notice of compliance date is technical in nature and serves solely to fulfill the Commission's commitment to provide the notice for the compliance date it previously set.[11]

Dated: June 25, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–16048 Filed 6–30–15; 8:45 am]

BILLING CODE 8011–01–P

[1] *Political Contributions by Certain Investment Advisers,* Investment Advisers Act Rel. No. 3043 (July 1, 2010) [75 FR 41018 (July 14, 2010)] (''Pay to Play Release'').

[2] *See id.* at Section II.B.2.(b). *See also* 17 CFR 275.206(4)–5(a)(2)(i)(A).

[3] *See* 17 CFR 275.206(4)–5(f)(9)(i).

[4] *See* 17 CFR 275.206(4)–5(f)(9)(ii). While rule 206(4)–5 applies to any registered national securities association, the Financial Industry Regulatory Authority (''FINRA'') is currently the only registered national securities association under section 19(a) of the Securities Exchange Act of 1934 [15 U.S.C. 78s(b)]. As such, for convenience, we will refer directly to FINRA in this notice of compliance date when describing the exception for certain broker-dealers from the third-party solicitor ban.

[5] *See* 17 CFR 275.206(4)–5(f)(9)(iii). On June 22, 2011, the Commission amended the Pay to Play Rule to add municipal advisors to the definition of ''regulated persons.'' *See Rules Implementing Amendments to the Investment Advisers Act of 1940,* Investment Advisers Act Rel. No. 3221 (June 22, 2011) [76 FR 42950 (July 19, 2011)] (''Municipal Advisor Addition Release''). The Commission adopted final rules with respect to the registration of municipal advisors on September 20, 2013. *See Registration of Municipal Advisors,* Exchange Act Release No. 70462 (Sept. 20, 2013) [78 FR 67468 (Nov. 12, 2013)] (''Municipal Advisor Registration Release'').

[6] *See* 17 CFR 275.206(4)–5(f)(9).

[7] *See* Pay to Play Release at section III.

[8] *See* Municipal Advisor Addition Release at section II.D.1.

[9] *See Political Contributions by Certain Investment Advisers: Ban on Third-Party Solicitation; Extension of Compliance Date,* Investment Advisers Act Rel. No. 3418 (June 8, 2012) [77 FR 35263 (June 13, 2012)] (''Extension Release'').

[10] The final date on which a municipal advisor must file a complete application for registration was October 31, 2014. *See* Municipal Advisor Registration Release at section V.

[11] *See* the Extension Release.

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 83

[156A2100DD/AAKC001030/A0A501010.999900 253G]

Requests for Administrative Acknowledgment of Federal Indian Tribes

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Policy guidance.

SUMMARY: This policy guidance establishes the Department's intent to make determinations to acknowledge Federal Indian tribes within the contiguous 48 states only in accordance with the regulations established for that purpose at 25 CFR part 83. This notice directs any unrecognized group requesting that the Department acknowledge it as an Indian tribe, through reaffirmation or any other alternative basis, to petition under 25 CFR part 83 unless an alternate process is established by rulemaking following the effective date of this policy guidance.

DATES: This policy guidance is effective July 1, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative

Action—Indian Affairs, (202) 273–4680; *elizabeth.appel@bia.gov.*

SUPPLEMENTARY INFORMATION:

Prior to the establishment of the regulatory process for establishing that an American Indian group exists as an Indian tribe in 1978 (''the Part 83 process''), the Department used an informal process for the Federal acknowledgment of Indian tribes. The Part 83 regulations formalized the process by which the Department reviewed requests and the criteria required of groups to obtain Federal acknowledgment. The Department has resolved over 50 petitions using the Part 83 process.

However, even after the promulgation of the Part 83 regulations in 1978, there have been a range of requests by unrecognized groups to use other administrative processes to obtain Federal acknowledgment. The Department has utilized those processes in limited circumstances. For example, the Department has ''reaffirmed'' some tribes and reorganized some half-blood communities as tribes under the Indian Reorganization Act (IRA).

Over the past couple of years, the Department has undertaken a comprehensive review and evaluation of the process and criteria by which it federally acknowledges Indian tribes under 25 CFR part 83. As part of that review of the proposed revisions to Part 83, we also received comments related to the other administrative processes that have occasionally been used by the Department for acknowledgment. For example, the Eastern Band of Cherokee Indians and Stand Up for California requested that the Department utilize only the Part 83 process to acknowledge tribes.

We recognize the concerns expressed in comments about the use of administrative approaches for acknowledgment other than Part 83. Having worked hard to make the Part 83 process more transparent, timely and efficient, while maintaining Part 83's fairness, rigor, and integrity, the Department has decided that, in light of these reforms to improve the Part 83 process, that process should be the only method utilized by the Department to acknowledge an Indian tribe in the contiguous 48 states.[1] The Department has determined that it will no longer accept requests for acknowledgement outside the Part 83 process. Rather, the Department intends to rely on the newly reformed Part 83 process as the sole administrative avenue for acknowledgment as a tribe.

Of course, the basis for the policy shift being announced today is the Department's reform and improvement of the Part 83 process. The recently revised Part 83 regulations promote fairness, integrity, efficiency and flexibility. No group should be denied access to other mechanisms if the only administrative avenue available to them is widely considered ''broken.'' Thus, this policy guidance is contingent on the Department's ability to implement Part 83, as reformed. If in the future the newly reformed Part 83 process is not in effect and being implemented, this policy guidance is deemed rescinded.

To conclude, any group within the contiguous 48 states seeking Federal acknowledgment as an Indian tribe administratively must petition under 25 CFR part 83 from this date forward. The decision to use only the recently reformed Part 83 process from this point forward does not affect the validity of any determination made prior to the institution of this policy guidance; while the Department exercised its discretionary authority to use those methods of acknowledgment in the past, it no longer will.

Dated: June 26, 2015.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2015–16194 Filed 6–30–15; 8:45 am]

BILLING CODE 4337–15–P

[1] With regard to Alaska, under 473a, Congress has specifically provided: ''that groups of Indians in Alaska not recognized prior to May 1, 1936, as bands or tribes, but having a common bond of occupation, or association, or residence within a well-defined neighborhood, community, or rural district, may organize to adopt constitutions and bylaws and to receive charters of incorporation and Federal loans under sections 470, 476, and 477 of this title.''

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 18

RIN 1290–AA26

Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges; Corrections

AGENCY: Office of the Secretary, Labor.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations which were published in the **Federal Register** of May 19, 2015 (80 FR 28768). Those regulations relate to rules of practice and procedure for administrative hearings before the Office of Administrative Law Judges.

DATES: Effective on July 1, 2015.

FOR FURTHER INFORMATION CONTACT: Todd Smyth at the U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street NW., Suite 400-North, Washington, DC 20001–8002; telephone (202) 693–7300.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections became effective on June 18, 2015. The regulations constitute the rules of practice and procedure for administrative hearings before the Office of Administrative Law Judges.

Need for Correction

As published, the final regulations contain four internal cross-reference errors, and a typographical error in the title of 29 CFR 18.33(e).

List of Subjects in 29 CFR Part 18

Administrative practice and procedure, Labor.

Accordingly, 29 CFR part 18 is corrected by making the following correcting amendments:

PART 18—RULES OF PRACTICE AND PROCEDURE FOR ADMINISTRATIVE HEARINGS BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGES

■ 1. The authority citation for part 18 continues to read as follows:

Authority: 5 U.S.C. 301; 5 U.S.C. 551–553; 5 U.S.C. 571 note; E.O. 12778; 57 FR 7292.

■ 2. Revise paragraph (c) of § 18.32 to read as follows:

§ 18.32 Computing and extending time.

* * * * *

(c) *Additional time after certain kinds of service.* When a party may or must act within a specified time after service and service is made under § 18.30(a)(2)(ii)(C) or (D), 3 days are added after the period would otherwise expire under paragraph (a) of this section.

■ 3. Revise paragraph (e) of § 18.33 to read as follows:

§ 18.33 Motions and other papers.

* * * * *

(e) *Motions made at hearing.* A motion made at a hearing may be stated orally unless the judge determines that a written motion or response would best serve the ends of justice.

* * * * *

■ 4. Revise paragraph (d)(1) and the introductory text of paragraph (d)(3) of § 18.51 to read as follows:

§ 18.51 Discovery scope and limits.

* * * * *

(d) *Hearing preparation: Experts*—(1) *Deposition of an expert who may testify.* A party may depose any person who has been identified as an expert whose opinions may be presented at trial. If § 18.50(c)(2)(ii) requires a report from the expert the deposition may be conducted only after the report is provided, unless the parties stipulate otherwise.

* * * * *

(3) *Hearing-preparation protection for communications between a party's representative and expert witnesses.* Paragraphs (c)(1) and (2) under this section protect communications between the party's representative and any witness required to provide a report under § 18.50(c)(2)(ii), regardless of the form of the communications, except to the extent that the communications:

* * * * *

■ 5. Revise paragraph (b) of § 18.53 to read as follows:

§ 18.53 Supplementing disclosures and responses.

* * * * *

(b) *Expert witness.* For an expert whose report must be disclosed under § 18.50(c)(2)(ii), the party's duty to supplement extends both to information included in the report and to information given during the expert's deposition. Any additions or changes to this information must be disclosed by the time the party's prehearing disclosures under § 18.50(c)(3) are due.

Dated: June 17, 2015.

Stephen R. Henley,

Acting Chief Administrative Law Judge.

[FR Doc. 2015–16239 Filed 6–30–15; 8:45 am]

BILLING CODE 4510–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0450]

RIN 1625–AA11

Regulated Navigation Area; 4th of July, Biscayne Bay, Miami, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a regulated navigation area on Biscayne Bay in Miami, Florida, for multiple 4th of July fireworks displays throughout the Miami area. This regulation is necessary to protect the public from hazards associated with boating traffic expected during 4th of July firework displays throughout the Miami area. To ensure the public's safety, all vessels within the regulated navigation area are: Required to transit the regulated navigation area at no more than 15 knots; subject to control by the Coast Guard members with law enforcement authority; and required to follow the instructions of all law enforcement officials in the area.

DATES: This rule is effective from July 4 until July 5, 2015 and will be enforced from 7 p.m. on July 4 until 2 a.m. on July 5, 2015.

ADDRESSES: Documents indicated in this preamble are part of docket USCG–2015–0450. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer John Jennings, Sector Miami Prevention Department, Coast Guard; telephone (305) 535–4317, email *john.k.jennings@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of proposed rulemaking
RNA Regulated Navigation Area

I. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM with respect to this temporary rule because information was recently received regarding the location of fireworks displays throughout the Miami area. As a result, it was impracticable to issue this rule with opportunity to comment because the Coast Guard did not receive notice of Fourth of July firework displays in time to publish a NPRM.

Historically, there is increased vessel traffic on the waters of Biscayne Bay during Fourth of July fireworks displays in the Miami area. Vessel congestion, especially where vessels cross navigational channels to return to their home marinas at high rates of speed has resulted in accidents that caused severe injury and death. This RNA is necessary to better protect the public on this congested waterway. Under these circumstances, it would be contrary to the public interest in maintaining safety in Biscayne Bay to delay the effective date of the temporary final rule.

For the same reason discussed above, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register.**

II. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

The purpose of the rule is to ensure the safe transit of vessels and to protect persons, vessels, and the marine environment within the regulated navigation area during 4th of July festivities.

III. Discussion of the Temporary Final Rule

This temporary final rule will designate a regulated navigation area encompassing all waters within one nautical mile of the center of the Intracoastal Waterway to the east and 2½ nautical miles to the west from Black Point extending 10 nautical miles north to the Rickenbacker Causeway Bridge; then encompassing all navigable waters of the Intracoastal Waterway between the Rickenbacker Causeway Bridge north to the Julia Tuttle Causeway Bridge, Miami, Florida. The regulated navigation area will be enforced from 7 p.m. July 4, 2015, until 2 a.m. July 5, 2015.

All vessels within the regulated navigation area are: (1) Required to transit the area at no more than 15 knots; (2) subject to control by the Coast Guard; and (3) required to follow the

instructions of all law enforcement officials in the area.

The regulated navigation area is necessary to ensure the safety of the public during a time of heightened vessel traffic in the aforementioned areas. Each year numerous vessels congregate in the waters of Biscayne Bay during launching of the 4th of July fireworks displays. The close proximity and increased crossing situations of numerous vessels within the regulated navigation area during 4th of July poses a hazardous condition.

The regulated navigation area will result in vessels transiting at a reduced speed, thereby significantly reducing the threat of vessel collisions. Requiring vessels within the regulated navigation area to transit at no more than 15 knots will also enable law enforcement officials to identify, respond to, query, and stop operators who may pose a hazard to other vessels in the area. Nothing in this regulation alleviates vessel operators from their duty to comply with all other federal, state, and local laws in the area.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

The economic impact of this rule is not significant for the following reasons: (1) the regulated navigation area will be enforced for only seven hours; (2) the regulated navigation area does not prohibit vessels from transiting the area; (3) vessels will still be able operate in surrounding waters that are not encompassed within the regulated navigation area without being subject to all the restrictions imposed by the regulated navigation area; and (4) advance notification of the regulated navigation area will be made to the local maritime community via Local Notice to Mariners and Broadcast Notice to Mariners.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the regulated navigation area from 7 p.m. July 4, 2015 until 2 a.m. July 5, 2015. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

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

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

D. Collection of Information

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

E. Federalism

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

F. Protest Activities

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

G. Unfunded Mandates Reform Act

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

H. Taking of Private Property

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

I. Civil Justice Reform

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

J. Protection of Children

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

K. Indian Tribal Governments

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

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

L. Energy Effects

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

M. Technical Standards

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

N. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a regulated navigation area to ensure the safe transit of vessels and to protect persons, vessels, and the marine environment within the regulated navigation area for the 4th of July which will be enforced for seven hours. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 165.779 to read as follows:

§ 165.779 Regulated Navigation Area; 4th of July, Biscayne Bay, Miami, FL.

(a) *Regulated area.* The regulated navigation area encompasses all waters of Biscayne Bay between the Julia Tuttle Causeway Bridge and Black Point contained within an imaginary line connecting the following points: beginning at Point 1 in position 25°48′38″ N., 80°10′40″ W.; thence east to Point 2 in position 25°48′38″ N., 80°10′30″ W.; thence southwest to Point 3 in position 25°46′41″ N., 80°10′54″ W.; thence southeast to Point 4 in position 25°46′17″ N., 80°10′43″ W.; thence southwest to Point 5 in position 25°45′05″ N., 80°10′50″ W.; thence southeast to Point 6 in position 25°44′47″ N., 80°10′44″ W.; thence southeast to Point 7 in position 25°43′29″ N., 80°09′37″ W.; thence southwest to Point 8 in position 25°42′39″ N., 80°10′35″ W.; thence southwest to Point 9 in position 25°31′11″ N., 80°13′06″ W.; thence northwest to Point 10 in position 25°31′31″ N., 80°17′48″ W.; thence northeast to Point 11 in position 25°43′25″ N., 80°13′17″ W.; thence northeast to Point 12 in position 25°43′59″ N., 80°12′04″ W.; thence northeast to Point 13 in position 25°44′46″ N., 80°11′23″ W.; thence northeast to Point 14 in position 25°46′10″ N., 80°10′59″ W.; thence northwest to Point 15 in position 25°46′20″ N., 80°11′04″ W.; thence northeast to Point 16 in position 25°46′44″ N., 80°10′59″ W.; thence northwest to Point 17 in position 25°47′15″ N., 80°11′06″ W.; thence northeast to Point 18 in position 25°47′24″ N., 80°11′00″ W.; thence north to Point 19 in position 25°47′36″ N., 80°11′00″ W.; thence back to origin. All coordinates are North American Datum 1983.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the regulated area.

(c) *Regulations.* (1) All vessels within the regulated area are required to transit at no more than 15 knots, are subject to control by the Coast Guard, and must follow the instructions of designated representatives.

(2) At least 48 hours prior to the enforcement period, the Coast Guard will provide notice of the regulated area via Local Notice to Mariners and Broadcast Notice to Mariners. The Coast Guard will also provide notice of the regulated area by on-scene designated representatives.

(d) *Enforcement period.* This rule will be enforced from 7 p.m. on July 4, 2015 until 2 a.m. on July 5, 2015.

Dated: June 22, 2015.

Scott A. Buschman,

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

[FR Doc. 2015–16261 Filed 6–30–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0436]

RIN 1625–AA00

Safety Zone; Three Rivers Regatta/Three River Regatta and Fireworks, Ohio River, Mile 0.5 to Mile 0.5 on the Allegheny River and Mile 0.5 on the Monongahela River; Pittsburgh, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone from mile 0.5 Ohio River up-bound to mile 0.5 on the Allegheny River and mile 0.5 on the Monongahela River, extending the entire width of the rivers. This action is necessary to ensure public safety due to the inherent hazards associated with launching fireworks from a barge and the explosive nature of the fireworks display. During the enforcement period, entry into, transiting, or anchoring in the safety zone is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels, unless specifically authorized by the Captain of the Port (COTP) Pittsburgh or a designated representative.

DATES: This rule is effective and will be enforced with actual notice on July 3, 2015 from 12:00 p.m. to 10:00 p.m., on July 4, 2015 from 12:00 p.m. to 10:00 p.m. and on July 5, 2015 from 12:00 p.m. to 10:00 p.m.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2015–0436. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the

Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Ariana Mohnke, Marine Safety Unit Pittsburgh, U.S. Coast Guard, at telephone (412) 221–0807, email *Ariana.L.Mohnke@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

On June 11, 2015, we published a final rule entitled ''Annual fireworks displays and other events in the Eighth Coast Guard District requiring safety zones'' in the **Federal Register** (79 FR 222398). In that rulemaking, the Coast Guard established a permanent safety zone for the annual ''Three Rivers Regatta/Three River Regatta and Fireworks'', listed in Table no. 1 to 33 CFR 165.801 at Line no. 43. On June 15, 2015, we published a notice of proposed rulemaking (NPRM) entitled ''Three Rivers Regatta/Three River Regatta and Fireworks'' in the **Federal Register**. We received no comments on the proposed rule. No public meeting was requested, and none was held.

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not using the NPRM process with respect to this rule because it is unnecessary and contrary to public interest.

On May 20, 2015, the sponsor notified the Coast Guard that it intended to hold the event on July 3–5, 2015 at a location from mile 0.5 Ohio River up-bound to mile 0.5 on the Allegheny River and mile 0.5 on the Monongahela River, extending the entire width of the rivers. According to Table no. 1 to 33 CFR 165.801, the event is to be held during two days the week of July 4th and is to be located at: Ohio River, Mile 0.0–0.5, Allegheny River, Mile 0.0–0.5, and Monongahela River, Mile 0.0–0.5. After full review of the event information and location, the Coast Guard determined that the published annual event differs from the intended dates and location for the event being held this year. A safety zone is necessary. Therefore, to mitigate the potential danger to spectators and participants, the Coast Guard is establishing a temporary safety zone. Any delay or cancellation of the event in order to allow for a notice and comment period is contrary to the public interest in not having the event occur on the dates and in the location proposed by the sponsor and advertised to the public and could potentially interfere with contractual obligations. Completing the full NPRM process would be impracticable. Delaying this rule by completing the full NPRM process would unnecessarily delay the safety zone and be contrary to public interest because the safety zone is needed to protect transiting vessels, spectators, and the personnel involved in the display from the hazards associated with fireworks displays taking place over the waterway.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be unnecessary as this event is a recurring event and mariners familiar with the waterway are aware that the regatta and celebrations related to Independence Day activities occur yearly on this waterway. This year the event will occur over the course of three days, as opposed to the published time period of two days, as per the **Federal Register**. In addition, the event will take place very near to the published location, approximately 0.1 miles distant from the published location in the **Federal Register**. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during the event and immediate action is necessary to prevent possible loss of life or property. Also a delay or cancellation of the event in order to allow for publication in the **Federal Register** is contrary to the public's interest in having this event occur as scheduled. Broadcast Notices to Mariners (BNM) and information sharing with the waterway users will update mariners of the restrictions, requirements, and enforcement times during this temporary situation.

B. Basis and Purpose

This regulation is necessary to ensure the safety of vessels, spectators and participants from hazards associated with and resulting from the 2015 Three Rivers Regatta/Three River Regatta and Fireworks events. Based on the inherent hazards associated with a fireworks show and an on-water regatta event, the COTP Pittsburgh has determined that a fireworks display and a marine regatta pose a significant risk to watercraft, participant safety, spectator safety, public safety and property. The combination of increased numbers of recreational vessels and potential debris falling on passing or anchored spectator vessels has the potential to result in serious injuries or fatalities. This regulation temporarily establishes a zone to restrict vessel movement through and around the location of the regatta and the fireworks display in order to reduce the risks associated with these events.

The legal basis and authorities for this rule are found in 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish and define regulatory safety zones.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone for the 2015 Three Rivers Regatta/Three River Regatta and Fireworks from mile 0.5 Ohio River up-bound to mile 0.5 on the Allegheny River and mile 0.5 on the Monongahela River, extending the entire width of the rivers. This temporary safety zone will be enforced with actual notice from 12:00 p.m. to 10:00 p.m. on July 3–5, 2015, daily. Additionally, prior to the fireworks displays, there will be boat races and therefore, for the safety of those involved in the boat races as well as the general public attempting to transit through this location, a safety zone will be enforced. The public will be informed of the enforcement periods by local notice to mariners. Should there be any subsequent changes or shortening of enforcement periods, the public will be notified via broadcast notice to mariners.

This rule establishing a temporary safety zone is necessary to ensure the safety of spectators and vessels from hazards associated with the event.

Deviation from this temporary safety zone is prohibited unless specifically authorized by the COTP Pittsburgh, or a designated representative. Deviation requests will be considered and reviewed on a case-by-case basis.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking.

Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). This rule is limited in scope and will be in effect for a limited time period. The temporary safety zone will be in effect for ten hours on each of three consecutive days. The Coast Guard expects minimum adverse impact to mariners from the zone's activation as the event has been advertised to the public. Also, mariners may request authorization from the COTP Pittsburgh or the designated representative to transit the zone. Notifications to the marine community will be made through local notice to mariners and broadcast notice to mariners. The impacts on routine navigation are expected to be minimal.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit from mile 0.5 Ohio River up-bound to mile 0.5 on the Allegheny River and mile 0.5 on the Monongahela River, extending the entire width of the rivers from 12:00 p.m. to 10:00 p.m. on July 3, 2015 and July 4, 2015 and July 5, 2015. This safety zone will not have a significant economic impact on a substantial number of small entities because this rule is limited in scope, will only be in effect for a limited time period, and notifications to the marine community will be made to those that could be operating in the area during the event. Additionally, waterway users can use the portions of the channel not affected by the safety zone. Deviation from the rule may be requested and will be considered on a case-by-case basis by the COTP or a designated representative.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule establishes a temporary safety zone from mile 0.5 Ohio River up-bound to mile 0.5 on the Allegheny River and mile 0.5 on the Monongahela River, extending the entire width of the rivers. This rule is categorically excluded from further review under paragraph 34(g) of figure 2–1 of the Commandant Instruction an environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 2. A new temporary § 165.T08–0436 is added to read as follows:

§ 165.T08–0436 Safety Zone; Three Rivers Regatta/Three River Regatta and Fireworks, Ohio River mile 0.5 to mile 0.5 on the Allegheny River and mile 0.5 on the Monongahela River; Pittsburgh, PA.

(a) *Location.* The following area is a safety zone: Ohio River mile 0.5 to mile 0.5 on the Allegheny River and mile 0.5 on the Monongahela River.

(b) *Effective date.* This rule is effective, and will be enforced through actual notice, from July 3, 2015 through July 5, 2015 from 12:00 p.m. through 10:00 p.m., daily.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the COTP Pittsburgh or a designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the COTP Pittsburgh or a designated representative. The COTP Pittsburgh representative may be contacted at 412–221–0807.

(3) All persons and vessels shall comply with the instructions of the COTP Pittsburgh or their designated representative. Designated COTP representatives include United States Coast Guard commissioned, warrant, and petty officers.

(d) *Information broadcasts.* The COTP Pittsburgh or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

Dated: June 15, 2015.

L.N. Weaver,

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

[FR Doc. 2015–16251 Filed 6–30–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0529]

RIN 1625–AA00

Safety Zones; Fourth of July Fireworks Displays, Murrells Inlet and North Myrtle Beach, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two temporary safety zones during Fourth of July Fireworks Displays on certain navigable waterways in Murrells Inlet and North Myrtle Beach, South Carolina. These safety zones are necessary to protect the public from hazards associated with launching fireworks over navigable waters of the United States. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within any of the safety zones unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: This rule is effective on July 4, 2015 and will be enforced from 9:30 p.m. until 9:50 p.m.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2015–0529. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with thie rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the U.S. Department of Transportation, West Building, 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 FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or email CWO Christopher L. Ruleman, Sector Charleston Office of Waterways Management, U.S. Coast Guard; telephone (843) 740–3184, email *christopher.l.ruleman@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

NPRM Notice of proposed rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.''

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive necessary information regarding the fireworks displays until June 5, 2015. As a result, the notice and opportunity procedures were impracticable because the Coast Guard did not have sufficient time to publish an NPRM and to receive public comments prior to the fireworks displays. Any delay in the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to minimize

potential danger to the public during the fireworks displays.

For the same reason discussed above, under 5 U.S.C. 553(d)(3) the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1. The purpose of the rule is to protect the public from the hazards associated with launching fireworks over navigable waters of the United States.

C. Discussion of Rule

Two fireworks displays are planned for Fourth of July celebrations in the vicinity of Myrtle Beach in the Captain of the Port Charleston Zone. The fireworks will be launched from piers. The fireworks will be aimed to explode over navigable waters of the United States. The Coast Guard is establishing two temporary safety zones for these Fourth of July fireworks displays.

1. *Murrells Inlet, South Carolina.* All waters within a 1,000 yard radius around Veterans Pier, from which the fireworks will be launched, located on the Atlantic Intracoastal Waterway. This safety zone will be enforced from 9:30 p.m. until 9:50 p.m. on July 4, 2015.

2. *North Myrtle Beach, South Carolina.* All waters within a 500 yard radius around Cherry Grove Pier, from which the fireworks will be launched, located on the Atlantic Ocean. This safety zone will be enforced from 9:30 p.m. until 9:50 p.m. on July 4, 2015.

Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within either safety zone unless authorized by the Captain of the Port Charleston or a designated representative. Persons and vessels desiring to enter, transit through, anchor in, or remain within either safety zone may contact the Captain of the Port Charleston via telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within either safety zone is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative. The Coast Guard will provide notice of the safety zones by Broadcast Notice to Mariners, Marine Safety Information Bulletins, and on-scene designated representatives.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those orders. The economic impact of this rule is not significant for the following reasons: (1) The safety zone will only be enforced for a total of twenty minutes; (2) although persons and vessels may not enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Charleston or a designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the safety zone if authorized by the Captain of the Port Charleston or a designated representative; and (4) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Based on its short duration, limited geographic area, and for the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). Based on our analysis, we concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves safety zones during Fourth of July Fireworks displays near Murrells Inlet and North Myrtle Beach, South Carolina. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 165.T07–0529 to read as follows:

§ 165.T07–0529 Safety Zone; Fourth of July Fireworks Displays, in vicinity of Myrtle Beach, Myrtle Beach, SC.

(a) *Regulated Area.* The following regulated areas are safety zones.

(1) *Murrells Inlet, South Carolina.* All waters within a 500 yard radius around Veterans Pier, from which the fireworks will be launched, located on the Atlantic Intracoastal Waterway.

(2) *North Myrtle Beach, South Carolina.* All waters within a 500 yard radius around Cherry Grove Pier, from which the fireworks will be launched, located on the Atlantic Ocean.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at 843–740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Effective period.* This rule will be effective on July 4, 2015 and enforced from 9:30 p.m. until 9:50 p.m.

Dated: June 17, 2015.

G.L. Tomasulo,

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

[FR Doc. 2015–15936 Filed 6–30–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2014–0865; FRL–9929–51]

Cuprous Oxide; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends the tolerance exemption for copper in/on meat, milk, poultry, eggs, fish, shellfish, and irrigated crops when it results from the use of cuprous oxide embedded in polymer emitter heads used in irrigation systems for root incursion prevention. This regulation eliminates the need to establish a maximum permissible level for residues of copper resulting from this use of cuprous oxide.

DATES: This regulation is effective July 1, 2015. Objections and requests for hearings must be received on or before August 31, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID)

number EPA–HQ–OPP–2014–0865, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. 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 OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

Jennifer McLain, Antimicrobials Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 308–0293; email address: *mclain.jennifer@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under Federal Food, Drug and Cosmetic Act (FFDCA) section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0865 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before August 31, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0865, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Background and Statutory Findings

In the **Federal Register** of April 22, 2015 (80 FR 22466) (FRL–9925–79), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 4F8324) by Cupron, Inc., 800 East Leigh St., Richmond, VA 23219. The petition requested that 40 CFR 180.1021 be amended by establishing an exemption from the requirement of a tolerance for residues of copper in/on meat, milk, poultry, eggs, fish, shellfish, and irrigated crops by including the use of cuprous oxide (also referred to as copper oxide) embedded in polymer emitter heads used in irrigation systems for agricultural crops or residential food commodities for algicidal or root incursion prevention. That document referenced a summary of the petition prepared by Cupron, Inc., which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by cuprous oxide are discussed in this unit.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of

the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by cuprous oxide, as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed adverse effect-level (LOAEL) from the toxicity studies, are discussed in the final rule published in the **Federal Register** of August 11, 2006 (71 FR 46106) (FRL–8085–3). Copper is ubiquitous in nature and is a necessary nutritional element for both animals (including humans) and plants. Copper is found naturally in the food we eat including fruits, vegetables, meats, and seafood. It is found in the water we drink, the air we breathe and in our bodies themselves. Some of the environmental copper is due to direct modification of the environment by humans such as mining and smelting of the natural ore. It is one of the elements found essential to life. The copper ion is present in the adult human body with nearly two-thirds of the body copper content located in the skeleton and muscle. The liver is the primary organ for the maintenance of plasma copper concentrations.

The 2006 Reregistration Eligibility Decision for Copper compounds reviewed and summarized all toxicity studies submitted for copper and has determined that the toxicological database is sufficient to assess the hazard from pesticides containing copper. Copper generally has moderate to low acute toxicity based on acute oral, dermal, and inhalation studies in animals. All effects resulting from acute exposure to copper containing pesticides are due to acute body responses to minimize excessive absorption or exposure to copper. Current available data in animals do not show any evidence of upper limit toxicity level that warrant determining acute toxicity end points.

Based on available data summarized in the ''2006 Reregistration Eligibility Decision for Coppers'', there is no evidence of any dietary, oral, and dermal or inhalation adverse effects warranting quantitative assessment of sub-chronic or chronic risk. Available short-term feeding studies with rats and mice indicate decreased food and water intake with increasing oral concentrations of copper. Irritation of the stomach was seen at higher copper concentrations. Longer-term feeding studies indicate decreased feed intake with reductions in body weight gains, and increased copper concentration of the liver. Available reproductive and developmental studies by the oral route of exposure generally indicate that the main concern in animals for reproductive and teratogenic effects of copper has usually been associated with the deficiency rather than the excess of copper.

Oral ingestion of excessive amounts of the copper ion from pesticidal uses including the proposed use is unlikely. Copper compounds are irritating to the gastric mucosa. Ingestion of large amounts of copper results in prompt emesis. This protective reflex reduces the amount of copper ion available for absorption into the human body. Additionally, at high levels humans are also sensitive to the taste of copper. Because of this organoleptic property, oral ingestion would also serve to limit high doses. Only a small percentage of ingested copper is absorbed, and most of the absorbed copper is excreted. The human body appears to have efficient mechanisms in place to regulate total body copper. The copper ion occurs naturally in food and the metabolism of copper is well understood.

B. Toxicological Points of Departure/ Levels of Concern

No endpoints of toxicological concern were identified for risk assessment purposes for copper oxide. Cuprous oxide readily hydrolyzes into the copper cation and oxygen anion. Copper is a required essential nutritional element for both plants and animals. Indeed, current available data and literature studies indicate that there is a greater risk from the deficiency of copper intake than from excess intake. Copper also occurs naturally in a number of food items including fruits, meats, seafood, and vegetables. In humans, as part of the utilization of copper as an essential nutrient, there is an effective homeostatic mechanism that is involved in the dietary intake of copper and that protects humans from excess body copper. Given that copper is ubiquitous, is an essential nutrient, and is routinely consumed as part of the daily diet, exposure to copper as a result of the use of copper oxide as a pesticide chemical would not be of toxicological concern.

IV. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

Copper is ubiquitous in nature and is necessary nutritional element for both animals (including humans) and plants. It is one of several elements found essential to life. The human body must have copper to stay healthy. In fact, for a variety of biochemical processes in the body to operate normally, copper must be part of our daily diet. Copper is needed for certain critical enzymes to function in the body. Actually, too little copper in the body can actually lead to disease.

1. *Food.* The main source of copper for infants, children, and adults, regardless of age, is the diet. Copper is typically present in mineral rich foods like vegetables (potato, legumes (beans and peas), nuts (peanuts and pecans), grains (wheat and rye), fruits (peaches and raisins), and chocolate in levels that range from 0.3 to 3.9 parts per million (ppm). A single day's diet may contain 10 milligram (mg) or more of copper. It is not likely that the approval of this petition would significantly increase exposure over that of existing levels of copper. In any event, given the lack of toxicity of copper, EPA does not expect any increased exposure resulting from approval of this petition to be unsafe.

2. *Drinking water exposure.* Copper is a natural element found in the earth's crust. As a result, most of the world's surface water and ground water that is used for drinking purposes contains copper. The actual amount varies from region to region, depending on how much is present in the earth, but in almost all cases the amount of copper in water is extremely low. Naturally occurring copper in drinking water is safe for human consumption, even in rare instances where it is at levels high enough to impart a metallic taste to the water. Residues of copper in drinking water are regulated under the Safe Drinking Water Act. A Maximum Contaminant Level Goal of 1.3 ppm has been set by the Agency for copper. According to the National Research Council's Committee on Copper in Drinking Water, this level is ''set at a concentration at which no known or expected adverse health effects occur and for which there is an adequate margin of safety.'' The Agency believes that this level of protection would not cause any potential health problems, *i.e.* stomach and intestinal distress, liver, and kidney damage and anemia. It is not likely that the approval of this petition would significantly increase exposure over that of the existing levels of copper. In any event, given the lack of toxicity

of copper, EPA does not expect any increased exposure resulting from approval of this petition to be unsafe.

B. Other Non-Occupational Exposure

Copper compounds have many uses on crops (food as well as non-food) and ornamentals as a fungicide.

1. *Dermal exposure.* Given the prevalence of copper in the environment, no significant dermal exposure increase above current levels would be expected from this non-occupational use of cuprous oxide. In any event, given the lack of toxicity of copper, EPA does not expect any increased exposure resulting from approval of this petition to be unsafe.

2. *Inhalation exposure.* Air concentrations of copper are relatively low. A study based on several thousand samples assembled by EPA's Environmental Monitoring Systems Laboratory showed copper levels ranging from 0.003 to 7.32 micrograms per cubic meter. Other studies indicated that air levels of copper are much lower. The Agency does not expect the air concentrations of copper to be significantly affected by this use of cuprous oxide. In any event, given the lack of toxicity of copper, EPA does not expect any increased exposure resulting from approval of this petition to be unsafe.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found cuprous oxide to share a common mechanism of toxicity with any other substances, and cuprous oxide does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that cuprous oxide does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

VI. Determination of Safety for U.S. Population, Infants and Children

Cuprous oxide is considered Generally Recognized as Safe (GRAS) by the Food and Drug Administration (FDA). EPA has also exempted various copper compounds from the requirement of a tolerance when used as herbicide and algicide (40 CFR 180.1021), including cuprous oxide when contained in antifouling coatings on submerged concrete or other (irrigation) structures (40 CFR 180.1021(a)(4)). Copper compounds including cuprous oxide are also exempt from the requirements of a tolerance when applied to growing crops when used as a plant fungicide in accordance with good agricultural practices (40 CFR 180.1021(b)).

1. *U.S. population.* Copper is a component of the human diet and an essential element. In addition, no acute or chronic dietary endpoints were selected because no endpoints of toxicological concern have been identified for risk assessment purposes. Use of cuprous oxide is not expected to increase the amount of copper in the diet as a result of its use on growing crops and post-harvest use.

2. *Infants and children.* Copper is also component of the diet of infants and children as is also an essential element of their diet. Since no endpoints have been identified, EPA has not conducted a quantitative risk assessment for cuprous oxide. The Agency has also determined that the special Food Quality Protection Act safety factor (FQPA SF) to protect infants and children was not needed since there are no toxicity endpoints or uncertainty surrounding exposure.

Based on the information in this preamble, EPA concludes that there is a reasonable certainty of no harm from aggregate exposure to residues. Accordingly, EPA finds that exempting residues of cuprous oxide from the requirement of a tolerance will be safe.

VII. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. Revisions to Petitioned-For Tolerances

The Agency is establishing an exemption for cuprous oxide that differs slightly from the exemption that was requested. First, the Agency has removed the phrase ''for agricultural crops or residential food commodities'' because the current structure of section 180.1021(a) makes that language duplicative and potentially confusing. With today's exemption, residues of copper on any irrigated crop that result from uses of cuprous oxide in polymer emitter heads for irrigation are exempt from the requirement of a tolerance; it is not necessary to further clarify where the irrigation heads are intended to be used. Also, the term algaecidal was deleted from the proposed tolerance exemption expression because the product is not intended to act as an algaecide.

VIII. Conclusion

Based on the information contained in the document, EPA concludes that there is no reasonable certainty of harm from aggregate exposure to residues of cuprous oxide. Accordingly, EPA finds that the exemption for residues of copper in or on meat, milk, poultry, egg, fish, shellfish, and irrigated crops from use of cuprous oxide embedded in polymer emitter heads used in irrigation systems for root incursion prevention will be safe. Therefore, an exemption is established for residues of copper oxide embedded in polymer emitter heads used in irrigation systems for root incursion prevention.

IX. Statutory and Executive Order Reviews

This action establishes an exemption from the requirement of a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule,

the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

X. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements, Cuprous oxide.

Dated: June 18, 2015.

Jennifer L. McClain,

Acting Director, Antimicrobials Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Add paragraph (a)(5) to § 180.1021 to read as follows:

§ 180.1021 Copper; exemption from the requirement of a tolerance.

(a) * * *

(5) Copper oxide embedded in polymer emitter heads used in irrigation systems for root incursion prevention.

* * * * *

[FR Doc. 2015–16224 Filed 6–30–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 13–49; FCC 15–61]

Permit Unlicensed National Information Infrastructure (U–NII) Devices in the 5 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule; request for waiver.

SUMMARY: In this document, the Commission has waived requirements of certain rules that the National Information Infrastructure (U–NII) devices must comply with. This action is in response to a request by a group of interested parties to extend this compliance deadline as part of a larger review of the transition provision adopted for the U–NII–3 band. In order to facilitate the new technical requirements, without unduly impairing the availability or cost of U–NII devices or imposing undue burdens on manufacturers or the public the Commission adopted transition provisions which are outlined in the Commission's rules. Doing so will give the Commission adequate time to consider the entire record, including the Joint Petitioners, as part of the reconsideration proceeding.

DATES: *Effective date:* This rule is effective July 1, 2015. *Applicability date:* Applicable June 1, 2015, the requirements in § 15.37(h) are waived until December 2, 2015.

FOR FURTHER INFORMATION CONTACT: Aole Wilkins, Office of Engineering and Technology, (202) 418–2406, email: *Aole.Wilkins@fcc.gov,* TTY (202) 418–2989.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order,* ET Docket No. 13–49; FCC 15–61, adopted June 1, 2015, and released June 1, 2015. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW., Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov.*

Summary of Order

1. By this Order, the Commission waives until December 2, 2015 the requirement in § 15.37(h) of the Commission's rules that certain National Information Infrastructure (U–NII) devices must comply with its § 15.407 rules to be certified on and after June 2, 2015. This action is taken in response to a request by a group of interested parties (Joint Petitioners) to extend this compliance deadline as part of a larger review of the transition provisions the Commission recently adopted for the U–NII–3 band.This action is being taken without prejudice relative to the merits of the Joint Petitioners' filings in the docket.

2. On April 1, 2014, the Commission released a *First Report and Order* in the above-captioned proceeding. This *First R&O* increased the utility of the 5 GHz band where U–NII devices operate, and modified certain U–NII rules and testing procedures to ensure that U–NII devices do not cause harmful interference to authorized users of the band. The *First R&O, inter alia,* extended the upper edge of the 5.725–5.825 GHz U–NII–3 band to 5.85 GHz and consolidated the provisions applicable to digitally modulated devices from § 15.247 of the rules with the U–NII–3 rules in § 15.407 so that all the digitally modulated devices operating in the U–NII–3 band will operate under the same set of rules and be subject to the new device security requirement. Notably, the consolidated rules adopted require the more stringent out-of-band emissions limit formerly applicable only to U–NII–3 devices in order to protect Terminal Doppler Weather Radar (TDWR) facilities from inference.

3. To facilitate the transition to the new technical requirements, without unduly impairing the availability or cost of U–NII devices or imposing undue burdens on manufacturers, or the public, the Commission adopted transition provisions which are outlined in § 15.37(h). These transition provisions require that the marketing, sale and importation into the United States of digitally modulated and hybrid devices designed to operate in the U–NII–3 band and certified under the old § 15.247 rules must cease by June 2, 2016. As an intermediate measure, they

provide that after June 2, 2015, digital modulation devices and the digital modulation portion of hybrid devices designed to operate in the U–NII–3 band must meet the new § 15.407 U–NII–3 rules to be FCC certified. This waiver order exclusively addresses the June 2, 2015 certification requirement.

4. Petitions for reconsideration of the *First R&O* are still pending. While the petitioners have generally alleged that the current state of the technology inhibits the design of affordable products that could comply with the more stringent out-of-band emission limits for the U–NII–3 band, the alternatives they suggested have been wide-ranging and many of the parties could not agree on a single solution that would meet the needs of the varying industry segments. Significant information was, and continues to be, submitted into the record. In particular, on March 23, 2015, the Joint Petitioners filed a self-styled ''Consensus Proposal.'' This detailed filing included technical rules that would significantly modify the out-of- band emission limits adopted for the U–NII–3 Band in the *First R&O.* Shortly thereafter, the Joint Petitioners requested that the Commission waive § 15.37(h) of the rules.

5. In light of the recent activity in the docket, The Commission conclude that there is good cause to grant a waiver of the June 2, 2015 U–NII device certification date. Doing so will give the Commission adequate time to consider the entire record—including the Joint Petitioners' ''Consensus Proposal''—as part of the reconsideration proceeding, and it will continue to certify U–NII–3 band devices meeting the requirements of the old § 15.427 until December 2, 2015. A brief extension of the intermediate transition deadline will not frustrate the ultimate U–NII–3 transition adopted in the *First R&O,* including the Commission's determinations regarding the marketing, importation, and sale of digitally modulated and hybrid devices. Grant of the waiver, however, will permit manufacturers to better plan their research and design activities to comply with the outcome of any further action we may take on reconsideration.

6. Pursuant to the authority in § 1.3 of the Commission's rules, 47 CFR 1.3, and sections 302, 303(e), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 302, 303(e) and 303(r), IT *is ordered* that the § 15.37(h) of the Commission's rules, 47 CFR 15.37(h) *is waived* to the extent discussed above until December 2, 2015.

7. The effective date of the Order is June 1, 2015, the date upon which this Order was released by the Commission.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2015–14806 Filed 6–30–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 17

[WT Docket No. 10–88; FCC 14–117]

Amendments To Modernize and Clarify the Commission's Rules Concerning Construction, Marking and Lighting of Antenna Structures

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, certain information collection requirements associated with the Commission's *Report and Order* regarding Amendments to Modernize and Clarify the Commission's rules concerning construction, marking and lighting of antenna structures. This document is being published pursuant to the Report and Order, which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of the revised information collection requirements.

DATES: Amendments to 47 CFR 17.4, 17.48 and 17.49, published at 79 FR 56968, September 24, 2014, are effective on July 1, 2015.

FOR FURTHER INFORMATION CONTACT: Cathy Williams by email at *Cathy.Williams@fcc.gov* and telephone at (202) 418–2918.

SUPPLEMENTARY INFORMATION: This document announces that, on May 13, 2015, OMB approved certain information collection requirements contained in the Commission's Report and Order, FCC 14–117, published in 79 FR 56968, September 24, 2014. The OMB Control Number is 3060–0645. The Commission publishes this notice as an announcement of the effective date of these information collection requirements.

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on May 13, 2015, for the revised information collection requirements contained in the Commission's rules at 47 CFR 17.4, 17.48 and 17.49. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0645.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0645.

OMB Approval Date: May 13, 2015.

OMB Expiration Date: May 31, 2018.

Title: Sections 17.4, 17.48 and 17.49, Antenna Structure Registration Requirements.

Form Number: N/A.

Respondents: Business or other for-profit entities, not-for-profit institutions and state, local or tribal government.

Number of Respondents and Responses: 20,000 respondents; 475,134 responses.

Estimated Time per Response: .1–.25 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in Sections 4 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 303.

Total Annual Burden: 50,198 hours.

Total Annual Cost: $64,380.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Impact Assessment: This collection of information does not affect individuals or households; thus, there are no impacts under the Privacy Act. However, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission requested OMB approval for a revision of this information collection in order to

obtain the full three year approval pursuant to FCC 14–117. These revised information collection requirements, which implement and enforce the updated antenna structure notice, registration, reporting, and recordkeeping requirements of part 17 of the Commission's rules, help improve efficiency, reduce regulatory burdens, and enhance compliance with antenna structure painting and lighting requirements, while continuing to ensure the safety of pilots and aircraft passengers nationwide. The revised information collection requirements are as follows:

Section 17.4 provides that the owner of any proposed or existing antenna structure that requires notice of proposed construction to the Federal Aviation Administration (FAA) due to physical obstruction must register the structure with the Commission. Section 17.4(f) previously required antenna structure owners ''to immediately provide a copy'' of the antenna structure registration to each tenant. This rule has been revised so that it now requires that antenna structure owners either provide a copy or a link to the FCC antenna structure Web site, and that this notification may be done electronically or via paper mail.

Section 17.4(g) previously required antenna structure owners to display the Antenna Structure Registration Number a conspicuous place that is readily visible near the base of the antenna. This rule has been revised to require that the Antenna Structure Number be displayed so that it is conspicuously visible and legible from the publicly accessible area nearest the base of the antenna structure along the publicly accessible roadway or path. It has also been revised to provide that where an antenna structure is surrounded by a perimeter fence, or where the point of access includes an access gate, the Antenna Structure Registration Number should be posted on the perimeter fence or access gate. Where multiple antenna structures having separate Antenna Structure Registration Numbers are located within a single fenced area, the revised rule provides that the Antenna Structure Registration Numbers must be posted both on the perimeter fence or access gate and near the base of each antenna structure. If the base of the antenna structure has more than one point of access, the revised rule requires that the Antenna Structure Registration Number be posted so that it is visible at the publicly accessible area nearest each such point of access. The registration number is issued to identify antenna structure owners in order to enforce the Congressionally-mandated provisions related to the owners.

Sections 17.48 and 17.49 contain reporting and recordkeeping requirements. Section 17.48(a) required that antenna structure owners promptly report outages of top steady burning lights or flashing antenna structure lights to the FAA. Upon receipt of the outage notification, the FAA issues a Notice to Airmen (NOTAM), which notifies aircraft of the outage. However, the FAA cancels all such notices within 15 days. Previously, the Commission's rules did not require antenna structure owners to provide any notification to the FAA regarding the status of repairs other than the initial outage report and the resumption of normal operation. Thus, if the repairs to an antenna structure's lights required more than 15 days, the FAA may not have had any record of the outage from that 15th day to the resumption of normal operation.

This rule has been revised to require antenna structure owners to provide the FAA with regular updates on the status of their repairs of lighting outages so that the FAA can maintain notifications to aircraft throughout the entire period of time the antenna structure remains unlit. Consistent with the current FAA requirements, if a lighting outage cannot be repaired within the FAA's original NOTAM period, the revised rule requires the antenna structure owner to notify the FAA of that fact. In addition, the revised rule provides that the antenna structure owner must provide any needed updates to its estimated return-to-service date to the FAA. The revised rule also requires antenna structure owners to continue to provide these updates to the FAA every NOTAM period until its lights are repaired.

Section 17.49 previously required antenna structure owners to maintain a record of observed or otherwise known extinguishments or improper functioning of structure lights, but did not specify the time period for which such records must be maintained. This rule has been revised to require antenna structure owners to maintain a record of observed or otherwise known extinguishments or improper functioning of structure lights for two years and provide the records to the Commission upon request.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2015–16100 Filed 6–30–15; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 390

[Docket No. FMCSA–2012–0103]

RIN 2126–AB44

Lease and Interchange of Vehicles; Motor Carriers of Passengers

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Extension of deadline for filing petitions for reconsideration.

SUMMARY: FMCSA announces an extension of the deadline for submitting petitions for reconsideration of its May 27, 2015, final rule concerning the lease and interchange of commercial motor vehicles (CMVs) by motor carriers of passengers. The final rule provides regulations governing the lease and interchange of passenger-carrying CMVs to identify the motor carrier operating a passenger-carrying CMV that is responsible for compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) and ensure that a lessor surrenders control of the CMV for the full term of the lease or temporary exchange of CMVs and drivers. The American Bus Association (ABA) and United Motorcoach Association (UMA) filed a joint request for an extension of the June 26, 2015, deadline for the submission of petitions for reconsideration of the final rule. The Agency grants the request and extends the deadline for submission of petitions for reconsideration from June 26 until August 25, 2015.

DATES: Petitions for reconsideration must be filed in accordance with 49 CFR 389.35 by close of business on August 25, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Loretta Bitner, (202) 385–2428, *loretta.bitner@dot.gov,* Office of Enforcement and Compliance. FMCSA office hours are from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

On May 27, 2015 (80 FR 30164), FMCSA published a final rule concerning the lease and interchange of passenger-carrying CMVs to identify the motor carrier operating a passenger-carrying CMV that is responsible for compliance with the FMCSRs and ensure that a lessor surrenders control of the CMV for the full term of the lease or temporary exchange of CMVs and

drivers. The Agency indicated that the final rule is necessary to ensure that unsafe passenger carriers cannot evade FMCSA oversight and enforcement by entering into a questionable lease arrangement to operate under the authority of another carrier that exercises no actual control over those operations. This rule will enable the FMCSA, the National Transportation Safety Board (NTSB), and our Federal and State partners to identify motor carriers transporting passengers in interstate commerce and correctly assign responsibility to these entities for regulatory violations during inspections, compliance investigations, and crash investigations. It also provides the general public with the means to identify the responsible motor carrier at the time transportation services are provided.

The effective date of the final rule is July 27, 2015, and the compliance date is January 1, 2017, for motor carriers of passengers operating CMVs under a lease or interchange agreement.

ABA and UMA Request

On June 18, the ABA and UMA submitted a joint request for a 60-day extension of the deadline for petitions for reconsideration of the final rule. The associations stated:

> ''In the wake of publication of the Final Rule, our members have raised a number of significant questions regarding the practical and operational applications of the rule's requirements necessary for the successful implementation of the rule.
>
> The diversity or our [members'] operations, some of which are addressed directly by this rule and some of which are indirectly addressed, we believe, has led to unintended consequences or possibly inaccurate interpretations. Therefore, before we consider filing a petition for reconsideration, we initially would like to work with the Agency and seek clarification.''

The associations indicated that they are currently in the process of coordinating meetings with FMCSA to provide clarification of the various provisions in the final rule but those meetings are not likely to be completed before the June 26, 2015, deadline for petitions for reconsideration.

FMCSA Decision

FMCSA has considered the ABA and UMA request and believes that granting an extension of the deadline is appropriate. The extension will enable the associations to work with their members to better understand the final rule, seek clarification or guidance from FMCSA if necessary, and determine subsequently whether there are indeed substantive issues to be addressed through a petition for reconsideration. The Agency extends the deadline for submission for an additional 60 days to August 25, 2015.

Issued on: June 24, 2015.

T.F. Scott Darling, III,

Chief Counsel.

[FR Doc. 2015–16111 Filed 6–26–15; 4:15 pm]

BILLING CODE 4910–EX–P

Proposed Rules

Federal Register
Vol. 80, No. 126
Wednesday, July 1, 2015

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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1211

[Document No. AMS–FV–11–0074; PR–A2 and PR–B2]

RIN 0581–AD24

Hardwood Lumber and Hardwood Plywood Promotion, Research and Information Order; Extension of Comment Period on Supplemental Notices

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of comment period.

SUMMARY: Notice is hereby given that the comment period on a supplemental notice to amend the 2013 proposed rule for a Hardwood Lumber and Hardwood Plywood Promotion, Research and Information Order (Order) is extended. Under the proposed Order, assessments would be collected from hardwood lumber and plywood manufacturers and would be used to fund programs to promote hardwood lumber and plywood. The comment period is also extended for the supplemental notice to amend the 2013 proposed rule on procedures for conducting a referendum to determine whether issuance of a proposed Order is favored by manufacturers of hardwood lumber and hardwood plywood.

DATES: Comments must be received by September 7, 2015.

ADDRESSES: Interested persons are invited to submit written comments on the Internet at *http://www.regulations.gov* or to the Promotion and Economics Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Room 1406–S, Stop 0244, Washington, DC 20250–0244; facsimile: (202) 205–2800. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection, including the name and address if provided, in the above office during regular business hours or can be viewed at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Specialist, Promotion and Economics Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Room 1406–S, Stop 0244, Washington, DC 20250–0244; telephone: (301) 334–2891; or facsimile: (202) 205–2800; or email: *Patricia.Petrella@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: The proposed rules on the Order and the referendum procedures were published in the **Federal Register** on November 13, 2013 (78 FR 68298 and 78 FR 67979, respectively). Those rules proposed the establishment of an industry-funded promotion, research and information program for hardwood lumber and hardwood plywood and referendum procedures. Those proposals provided for a 60-day comment period which ended on January 13, 2014. On January 16, 2014, a notice was published in the **Federal Register** that reopened and extended the comment period on the proposed Order until February 18, 2014 (79 FR 2805). A total of 939 comments were received during both comment periods. As a result of the extensive comments received, USDA published supplemental notices of proposed rulemaking on the proposed Order and the referendum procedures in the **Federal Register** on June 9, 2015 (80 FR 32493 and 80 FR 32488, respectively) to amend the 2013 proposed rules.

USDA received a request to extend the comment period to allow additional time for interested persons to review the proposals and submit comments. USDA is therefore extending the comment period an additional 60 days until September 7, 2015 to provide interested persons more time to review these rules, perform a complete analysis, and submit written comments.

Authority: This notice is issued pursuant to the Commodity Promotion, Research and Information Act of 1996 (1996 Act) (7 U.S.C. 7411–7425).

Dated: June 26, 2015.

Rex A. Barnes,

Associate Administrator.

[FR Doc. 2015–16184 Filed 6–30–15; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1100, 1140, and 1143

[Docket No. FDA–2015–N–1514]

RIN 0910–AH24

Nicotine Exposure Warnings and Child-Resistant Packaging for Liquid Nicotine, Nicotine-Containing E-Liquid(s), and Other Tobacco Products; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing this advance notice of proposed rulemaking (ANPRM) to obtain information related to the regulation of ''tobacco products'' subject to the Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act), and restrictions regarding the sale and distribution of such tobacco products. Specifically, this ANPRM is seeking comments, data, research results, or other information that may inform regulatory actions FDA might take with respect to nicotine exposure warnings and child-resistant packaging for liquid nicotine and nicotine-containing e-liquid(s) that are made or derived from tobacco and intended for human consumption, and potentially for other tobacco products including, but not limited to, novel tobacco products such as dissolvables, lotions, gels, and drinks. In April 2014, FDA published a proposed rule seeking to deem products meeting the statutory definition of ''tobacco product,'' except accessories to proposed deemed tobacco products, to be subject to the FD&C Act, as amended by the Tobacco Control Act. Specifically, the proposed rule seeks to extend the Agency's ''tobacco product'' authorities to those products that meet the statutory definition of ''tobacco product,'' prohibiting the sale of ''covered tobacco products'' to individuals under the age of 18, and requiring the display of health warnings on certain tobacco product packages and in advertisements. The deeming

rulemaking does not address the issues raised in this ANPRM.

DATES: Submit either electronic or written comments by August 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–2015–N–1514 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(s), 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: Bryant M. Godfrey, Center for Tobacco Products, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 1–877–CTP–1373, *bryant.godfrey@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Tobacco Control Act was enacted on June 22, 2009, amending the FD&C Act and providing FDA with the authority to regulate tobacco products (Pub. L. 111–31). Specifically, section 101(b) of the Tobacco Control Act amends the FD&C Act by adding a new chapter that provides FDA with authority over tobacco products. Section 901 of the FD&C Act (21 U.S.C. 387a), as amended by the Tobacco Control Act, states that the new chapter in the FD&C Act (chapter IX—Tobacco Products) (21 U.S.C. 387 through 387u) applies to all cigarettes, cigarette tobacco, roll-your-own tobacco, smokeless tobacco, and any other tobacco products that the Secretary of Health and Human Services by regulation deems to be subject to this chapter. Accordingly, in the **Federal Register** of April 25, 2014 (79 FR 23142), FDA published a proposed rule seeking to deem all products meeting the statutory definition of ''tobacco product'' in section 201(rr) of the FD&C Act (21 U.S.C. 321(rr)), except accessories to those products, to be subject to chapter IX of the FD&C Act.

FDA has evaluated data and science (including all of the evidence submitted to the docket of the proposed ''deeming'' rule cited below) related to the risks, especially to infants and children, from accidental exposure to nicotine, including exposure to liquid nicotine and nicotine-containing e-liquid(s), which are primarily used with electronic nicotine delivery systems (ENDS), such as electronic cigarettes. Recent increases in calls and visits to both poison control centers (see, *e.g.,* CDC's Morbidity and Mortality Weekly Report, available at *http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6313a4.htm)* and emergency rooms in the United States involving liquid nicotine poisonings and exposures has increased the public health concerns of these exposure risks. As a result of FDA's evaluation and these recent trends, FDA is considering whether, based on the acute toxicity of nicotine (up to and including nicotine poisoning), it would be appropriate for the protection of the public health to warn the public about the dangers of nicotine exposure, especially due to inadvertent nicotine exposure in infants and children, and/or require that some tobacco products be sold in child-resistant packaging. Comments submitted in response to FDA's proposed rule seeking to deem all tobacco products to be subject to the FD&C Act support such actions, and many request that FDA take prompt action to mitigate nicotine exposure risks (see Docket No. FDA–2014–N–0189, *http://www.regulations.gov*).

As previously discussed, the FD&C Act provides FDA with authority to regulate tobacco products. Sections 906(d)(1) and 910(c)(1)(B) of the FD&C Act provide FDA the authority to, by regulation or in a marketing authorization order, require restrictions on the sale and distribution of a tobacco product. The restrictions on the sale and distribution of a tobacco product may include restrictions on the access to, and the advertising and promotion of, the tobacco product, if FDA determines such restrictions would be appropriate for the protection of the public health. The FD&C Act also provides FDA with authority to adopt a tobacco product standard under section 907 of the FD&C Act if the Secretary finds that it is appropriate for the protection of the public health.

In making such a finding under either section 906(d)(1) or section 907 of the FD&C Act, the Secretary must consider: (1) The risks and benefits to the population as a whole, including users and nonusers of tobacco products; (2) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and (3) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

FDA intends to use the information submitted in response to this ANPRM to further inform its thinking about options for issuing potential regulations that would require nicotine exposure warnings and/or child-resistant packaging for some tobacco products, as articulated in this document. For the purposes of the questions in this ANPRM:

• ''Liquid nicotine and nicotine-containing e-liquid(s) (liquid nicotine combined with colorings, flavorings, and/or potentially other ingredients)'' are generally referred to as liquid nicotine.

• ''Liquid nicotine'' (as used throughout this document) refers to liquid nicotine that is made or derived from tobacco and intended for human consumption.

• ''Novel tobacco products'' (as used throughout this document) refers to products such as dissolvables, lotions, gels, and drinks.

II. Requests for Comments and Information

FDA is seeking comments, data, research results, and other information related to the following questions. Please explain your responses and provide any evidence or other information supporting your responses to the following questions:

A. Nicotine Exposure Warnings

1. Should FDA consider requiring nicotine exposure warning(s) text on liquid nicotine? If so, why?

2. Should FDA consider requiring nicotine exposure warning(s) text on tobacco products other than liquid nicotine, including, but not limited to, novel tobacco products? If so, which products and why?

3. On what basis (*e.g.,* physical characteristics or appearance of the product or packaging, product risks, form of marketing, route of exposure, type of packaging) should FDA determine which products should be

required to carry the warning(s)? What data or information would be helpful to demonstrate the need for a warning or warnings?

4. If FDA were to require nicotine exposure warning(s) text for liquid nicotine, what issues should the warning(s) address and what wording should be used? Please consider: (a) Whether the warning(s) should be broad, or directed at specific dangers; (b) whether the warning(s) should specifically address oral, ocular, and dermal exposure dangers; (c) whether the warning(s) should focus exclusively on the risks to children and youth, or include the risks to vulnerable populations, such as pregnant women, adults with medical conditions, and pets; (d) whether the warning(s) should contain instructions to avoid the dangers altogether, such as ''keep out of the reach of children''; (e) whether there are other dangers of liquid nicotine exposure that should be covered by the warning(s); and (f) whether information about what to do in the case of an accidental exposure to liquid nicotine should be included (*e.g.,* when to seek medical attention, when to contact a Poison Control Center). Please submit data or evidence to support your position.

5. With preceding question 4 in mind, should there be multiple textual warnings that randomly display to convey different dangers, or should there be a single, consistent textual warning that covers all of the different dangers? Please submit data or evidence to support your position.

6. If FDA were to require nicotine exposure warning(s) text for tobacco products other than liquid nicotine, including, but not limited to, novel tobacco products, what issues should the warning(s) address and what wording should be used? Please consider: (a) Whether the warning(s) should be broad, or directed at specific dangers; (b) whether the warning(s) should specifically address oral, ocular, and dermal exposure dangers; (c) whether the warning(s) should focus exclusively on the risks to children and youth, or include the risks to vulnerable populations, such as pregnant women, adults with medical conditions, and pets; (d) whether the warning(s) should contain instructions to avoid the dangers altogether, such as ''keep out of the reach of children''; (e) whether there are other dangers of nicotine exposure that should be covered by the warning(s); and (f) whether information about what to do in the case of an accidental exposure to liquid nicotine should be included (*e.g.,* when to seek medical attention, when to contact a Poison Control Center). Please submit data or evidence to support your position.

7. With preceding question 6 in mind, please respond to the following questions: Should there be multiple textual warnings that randomly display to convey different dangers, or should there be a single, consistent textual warning that covers all of the different dangers? Should different types of tobacco products carry different warnings? If so, which type(s) of tobacco products should carry what warning(s) and what is the reasoning for different warnings for different types of tobacco products? Please submit data or evidence to support your position.

8. If FDA were to require nicotine exposure warning(s) text for liquid nicotine, should FDA consider requiring color(s) or graphic elements, such as symbols, as part of the warning(s)? If so, what color or graphic elements should FDA consider?

(a) Are there data on graphic elements and/or colors that would be most effective in communicating the dangers associated with nicotine exposure? If so, please provide these data.

(b) Would a graphic element alone (as opposed to text alone or any combination of text, color, or graphic elements) be sufficient to effectively communicate the dangers associated with nicotine exposure? Please provide data or evidence to support your position.

(c) How could the warning(s) text and graphic image(s) add to or detract from each other?

9. If FDA were to require nicotine exposure warning(s) text for tobacco products other than liquid nicotine, including, but not limited to, novel tobacco products, should FDA consider requiring color(s) or graphic elements as part of the warning(s)? If so, what color or graphic elements should FDA consider?

(a) Are there data on graphics and/or colors that would be most effective in communicating the dangers associated with nicotine exposure? If so, please provide these data.

(b) Would a graphic image alone be sufficient to effectively communicate the dangers associated with nicotine exposure? Please provide data or evidence to support your position.

(c) How could the warning(s) text and graphic image(s) add to or detract from each other?

(d) Should different tobacco products carry different color or graphic elements? If so, what criteria should FDA use to determine which type of tobacco products should carry what color or graphic elements?

10. If FDA were to require a nicotine exposure warning(s) (text and any applicable color or graphic element) for liquid nicotine, should FDA adopt a different nicotine exposure warning(s) requirement based on the packaging/containers (*e.g.,* a brief/abbreviated warning(s) for liquid nicotine in small packaging/containers, omit the warning(s) if the tobacco product is in a child-resistant package)? If so, how should the warning(s) differ? Please submit data or evidence to support your position.

11. With respect to tobacco products other than liquid nicotine, including, but not limited to, novel tobacco products, if FDA were to require a nicotine exposure warning(s) (text and any applicable color or graphic element), should FDA adopt a different nicotine exposure warning(s) requirement based on the packaging/containers (*e.g.,* a brief/abbreviated warning(s) for tobacco products in small packaging, omit the warning(s) if the tobacco product is in a child-resistant package)? If so, how should the warning(s) differ? Please submit data or evidence to support your position.

12. Are you aware of data or information that would support any required font sizes, formatting, and display considerations for nicotine exposure warnings (textual and/or graphic)? If so, please provide that evidence.

13. Should FDA require the inclusion of the American Association of Poison Control Centers' telephone number on the container labeling and/or packaging of liquid nicotine and tobacco products other than liquid nicotine? Why or why not?

14. Are there any nicotine exposure warnings (textual and/or graphic) for liquid nicotine required by authorities at the local, State, or Federal (*i.e.,* other agencies) level, or by foreign governments that you particularly would like to highlight? If so, which ones and why? Are there any data regarding the effectiveness or utility of these warnings? If so, please provide these data.

15. Are there any nicotine exposure warnings (textual and/or graphic) for tobacco products other than liquid nicotine required by authorities at the local, State, or Federal (*i.e.,* other agencies) level, or by foreign governments that you particularly would like to highlight? If so, which ones and why? Are there any data regarding the effectiveness or utility of these warnings? If so, please provide these data.

16. Are you aware of any existing evidence regarding whether warnings

(text and any applicable color or graphic element) are effective for mitigating the risks of nicotine exposure? If so, please provide that evidence.

B. Child-Resistant Packaging

1. Should FDA require child-resistant packaging for liquid nicotine? If so, why?

2. Should FDA require child-resistant packaging for liquid nicotine if the liquid nicotine product is not intended to be opened by the consumer (*e.g.,* liquid nicotine in permanently sealed, prefilled, and/or disposable cartridges)? Please provide the reason for your response.

3. Should FDA consider requiring child-resistant packaging for tobacco products other than liquid nicotine, including, but not limited to, novel tobacco products? If so, which ones and why?

4. If FDA were to require child-resistant packaging for liquid nicotine (including for those products that are not intended to be opened by the consumer), what type of exposure risks (*e.g.,* oral, ocular, dermal) should FDA seek to mitigate with the requirement?

5. If FDA were to require child-resistant packaging for tobacco products other than liquid nicotine, including, but not limited to, novel tobacco products, what risks (*e.g.,* oral, ocular, dermal) should FDA seek to mitigate with the requirement?

6. If FDA were to require child-resistant packaging for liquid nicotine, how should the requirement be articulated? Please consider: (a) Whether the requirement should be based on mandated physical characteristics of the packaging (*e.g.,* must have a squeeze-to-turn lid, flow restrictor); (b) whether the requirement should be performance based (*e.g.,* unable to be opened by 80 percent or more of 5-year-olds who try to open the package, and more than 90 percent of adults on average between the ages of 50–70 can successfully open the package); or (c) whether the requirement should be based on a combination of (a) and (b), or is there some other basis for the requirement that FDA should consider? Is your proposal technically feasible? Please submit data or evidence to support your position.

7. If FDA were to require child-resistant packaging for tobacco products other than liquid nicotine, including, but not limited to, novel tobacco products, how should the requirement be articulated? Please consider: (a) Whether the requirement should be based on mandated physical characteristics of the packaging (*e.g.,* must have a squeeze-to-turn lid, child-resistant cap, blister packaging); (b) whether the requirement should be performance based (*e.g.,* unable to be opened by 80 percent or more of 5-year-olds who try to open the package, and more than 90 percent of adults on average between the ages of 50–70 can successfully open the package); or (c) whether the requirement should be based on a combination of (a) and (b), or is there some other basis for the requirement that FDA should consider? Is your proposal technically feasible? Please submit data or evidence to support your position.

8. Are there other factors FDA should consider to further prevent or discourage people (especially infants and children) from inadvertently consuming or being exposed to liquid nicotine? If so, please explain. Examples of other factors may include: attractiveness of the product or packaging (*e.g.,* appealing images, fragrance, flavors), resemblance of packaging to food and drink items (*e.g.,* candy, fruit), color of the product (*e.g.,* resemblance to beverages such as juice), resemblance of packaging to that of medications (*e.g.,* eye drops).

9. If FDA were to require child-resistant packaging, what should FDA consider and what actions should FDA take to mitigate the risk that users of products with child-resistant packaging will defeat the purpose of the packaging by leaving the packaging open, by disabling the protection mechanism, or by moving the product to a different container?

C. Other Actions and Considerations

1. With respect to liquid nicotine, should FDA require both nicotine exposure warnings (text and/or any applicable color or graphic element) and child-resistant packaging, or should only one and not the other be required? Please explain your reasoning and provide data or evidence to support your position.

2. With respect to tobacco products other than liquid nicotine, including, but not limited to, novel tobacco products, should FDA require both nicotine exposure warnings (text and/or any applicable color or graphic element) and child-resistant packaging, or should only one and not the other be required? Please explain your reasoning and provide data or evidence to support your position.

3. With respect to liquid nicotine and the dangers of nicotine poisoning, should FDA consider requiring any additional warnings beyond a nicotine exposure warning (text and/or any applicable color or graphic element)? If so, please describe the warning(s) (textual and/or graphic) and provide evidence or data to support your recommendation.

4. With respect to tobacco products other than liquid nicotine, including, but not limited to, novel tobacco products, and the dangers of nicotine poisoning, should FDA consider requiring any additional warnings beyond a nicotine exposure warning (text and/or any applicable color or graphic element)? If so, for which products? Also, please describe the warning(s) (textual and/or graphic) and provide evidence or data to support your recommendation.

5. Should FDA consider any additional measures to mitigate nicotine exposure risks for people (especially infants and children) beyond nicotine exposure warnings (text and any applicable color or graphic element) and child-resistant packaging? If so, what measures should FDA consider and why? Please provide evidence or data to support your recommendation.

III. Comments

A. General Information About Submitting 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.

B. Public Availability of Comments

Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.* As a matter of Agency practice, FDA generally does not post comments submitted by individuals in their individual capacity on *http://www.regulations.gov.* This is determined by information indicating that the submission is written by an individual, for example, the comment is identified with the category ''Individual Consumer'' under the field entitled ''Category (Required)'', on the ''Your Information'' page on *http://www.regulations.gov;* for this ANPRM, however, FDA will not be following this general practice. Instead, FDA will post on *http://www.regulations.gov* comments to this docket that have been submitted by individuals in their individual capacity. If you wish to submit any information under a claim of confidentiality, please refer to 21 CFR 10.20.

C. Information Identifying the Person Submitting the Comment

Please note that your name, contact information, and other information identifying you will be posted on *http://www.regulations.gov* if you include that information in the body of your comments. For electronic comments submitted to *http://www.regulations.gov,* FDA will post the body of your comment on *http://www.regulations.gov* along with your State/province and country (if provided), the name of your representative (if any), and the category identifying you (*e.g.,* individual, consumer, academic, industry). For written submissions submitted to the Division of Dockets Management, FDA will post the body of your comments on *http://www.regulations.gov, but you can* put your name and/or contact information on a separate cover sheet and not in the body of your comments.

Dated: June 26, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–16151 Filed 6–30–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 315, 353, and 360

[Docket No.: FISCAL–2015–0002]

RIN 1530–AA11

Regulations Governing United States Savings Bonds

AGENCY: Bureau of the Fiscal Service, Fiscal Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States Department of the Treasury, Bureau of the Fiscal Service, is proposing regulations governing United States savings bonds to address certain state escheat claims.

DATES: Comment due date: August 17, 2015.

ADDRESSES: The Bureau of the Fiscal Service invites comments on this proposed rule. Comments may be submitted through one of the following methods:

Electronic Submission of Comments: Interested persons may submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables the Department to make them available to the public. Comments submitted electronically through the *http://www.regulations.gov* Web site can be viewed by other commenters and interested members of the public.

Mail: Send to Department of the Treasury, Bureau of the Fiscal Service, Attn: Theodore Simms, 401 14th Street, SW., Washington, DC 20227–0001. In general, Treasury will post all comments to *http://www.regulations.gov* without change, including any business or personal information provided, such as names, addresses, email addresses, or telephone numbers. Treasury will also make such comments available for public inspection and copying. You can make an appointment to inspect comments by telephoning (202) 504–3710. All comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Theodore C. Simms II, Senior Attorney, 202–504–3710 or *Theodore.Simms@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Department of the Treasury has issued savings bonds since 1935 to raise funds for the operation of the Federal government, and to encourage savings by small investors. From the beginning of the savings bond program, savings bonds have been registered securities. Treasury has authorized several forms of registration, including registration to individuals, co-owners, fiduciaries, institutions, and beneficiaries. See 31 CFR 315.7, 353.7, and 360.6. Savings bonds generally are not transferrable and are payable only to the registered owner, except as described in Treasury regulations. See 31 CFR 315.15, 353.15, and 360.15. Detailed regulations describe when payment will be made to a person or entity that is not the registered owner.

Ownership of a savings bond is determined by Treasury's savings bond regulations. Federal and state courts, including the United States Supreme Court, have upheld these ownership rights against challenges by parties asserting claims under state law. *See, e.g., Free* v. *Bland,* 369 U.S. 663 (1962). The rights of registered owners and others under Treasury regulations persist even for bonds that matured years ago, because Treasury does not require owners to redeem their paper savings bonds by a certain date.

In some cases, Treasury regulations determine who is entitled to payment based on state law. Treasury may look to state probate law, for example, to determine who is entitled to payment for savings bonds in a decedent's estate. See 31 CFR 315.71, 353.71, and 360.71. Treasury may also recognize certain state judicial proceedings that require payment to creditors, divorced spouses, and other claimants specifically listed in the regulations. See 31 CFR part 315, subpart E; Part 353, subpart E; part 360, subpart E. The touchstone for these claims, however, is Treasury's savings bond regulations.

Since at least 1952, Treasury has acknowledged circumstances when it will recognize a state's claim of title to savings bonds based on a judgment of escheat. ''Escheat'' describes a state's claim to property that has no owner. Many state probate laws allow a state to escheat the property of a person who dies without a will and without heirs. Treasury regulations do not specifically mention escheat, but they do provide that Treasury will pay a person entitled to the estate of a deceased savings bond owner in specified circumstances. When these circumstances are met, Treasury will pay a state that has title to savings bonds in the estate of a deceased owner. Like all claimants, the state must present the bonds to Treasury or otherwise meet Treasury's requirements for payment.

In recent years, states have submitted escheat claims to Treasury for savings bonds based on state unclaimed property laws, when there is no evidence that the savings bond owner has died. The first claims came from states whose escheat laws purported to give them custody, but not title, to certain unredeemed savings bonds. In 2012, the United States Court of Appeals for the Third Circuit upheld Treasury's position that states are not entitled to payment for savings bonds held only in their custody, because such claims interfere with the rights of registered owners and others under Treasury regulations. *New Jersey* v. *U.S. Dept. of Treasury,* 684 F.3d 382 (3rd Cir. 2012).

More recently, the State of Kansas submitted an escheat claim based upon a state court judgment that purported to convey title over certain unredeemed savings bonds. Kansas sought to redeem savings bonds in its possession, which had been turned over to the state as unclaimed property, and to redeem a much larger class of savings bonds that it did not possess. In this class are matured, unredeemed savings bonds

that were registered to an owner with an address in Kansas, generally more than thirty years ago. Kansas cannot identify who owns these bonds, where the owners currently reside, or whether the owners intend to redeem their bonds in the future. The physical bonds themselves may be in their owners' possession. Kansas asserted that Treasury was bound to accept its claim because the state court judgment was a valid judicial proceeding, citing 31 CFR 315.20.

The savings bond regulations do not require Treasury to recognize the Kansas escheat judgment. However, Treasury does acknowledge that a savings bond can be abandoned, with no one entitled to payment under Treasury regulations. Treasury agreed to redeem the savings bonds that Kansas possessed using Treasury's waiver authority under 31 CFR 315.90, after reviewing evidence showing that the bonds had been abandoned, and determining that redemption would not impair any existing rights or subject the United States to any substantial expense or liability. In addition to other facts presented by the state, Kansas's possession of the bonds was evidence of abandonment, as well as a guarantee that no one else could submit the bonds for payment.

Treasury did not redeem the broad class of savings bonds that Kansas did not possess. Because Treasury regulations do not require a savings bond owner to redeem bonds by a certain date, a bond is not abandoned merely because it has not been redeemed. Treasury's standard procedures for redeeming savings bonds allow the registered owner to present a matured bond for payment at any time, irrespective of state law. Recognizing Kansas's escheat claim to bonds that it does not possess, and cannot establish are abandoned, would impair the rights of registered owners and others under Treasury regulations, and expose Treasury to claims for double payment.

Kansas sued Treasury in the United States Court of Federal Claims, seeking payment for all matured, unredeemed savings bonds with registration addresses in Kansas that were issued between 1935 and 1974, as well as other relief. At issue in the ongoing litigation is whether Treasury's savings bond regulations at 31 CFR 315.20 require Treasury to recognize the Kansas escheat judgment. Although the regulations do not require Treasury to recognize a state escheat judgment for unclaimed property, especially a judgment that interferes with existing rights, Treasury is proposing to amend 31 CFR 315.20 and other sections to address issues that arise from state escheat claims.

II. This Proposed Rule

Treasury proposes to amend its savings bond regulations to explicitly address state escheat claims to unclaimed savings bonds. The amendments would be published at part 315, subparts E and O; part 353, subparts E and O; and part 360, subparts E and M.

One group of amendments further defines the scope of the judicial proceedings covered by subpart E in parts 315, 353, and 360. The proposed amendments explicitly provide that escheat proceedings will not be recognized under subpart E.

A second group of amendments establishes a new procedure for states to submit escheat claims under their unclaimed property statutes for Treasury's consideration. The proposed regulations provide Treasury with discretion to recognize an escheat judgment that purports to vest a state with title to a definitive savings bond that has reached the final extended maturity date and is in the state's possession, when the state presents evidence satisfactory to Treasury that the bond has been abandoned by all persons entitled to payment under Treasury regulations. Escheat judgments that purport to vest a state with title to bonds that the state does not possess will not be recognized.

The proposed regulations would require a state to demonstrate, at a minimum, that it made reasonable efforts to provide actual and constructive notice of the escheat proceeding to all persons listed on the face of the bond and all persons who may have an interest in the bond. The state must also demonstrate that those persons had an opportunity to be heard before the escheat judgment was entered. The steps normally required in a state escheat proceeding may be adequate to establish abandonment, but Treasury is not bound by these proceedings. Because state escheat rules may vary and state escheat proceedings are often uncontested, Treasury reserves the right to require additional evidence of abandonment. Under the proposed regulations, if a state seeks to redeem bonds in its possession to which it has obtained title via escheat, the proceeding must have provided notice and an opportunity to be heard to those who the state claims have abandoned their right to payment. Treasury may also require a bond of indemnity, with or without surety, in any case for the protection of the United States' interests. See 31 CFR 315.91, 353.91, and 360.91.

The proposed regulations make explicit that Treasury will not recognize escheat judgments that convey custody, but not title, to a state. This principle is well established in Federal case law and has been incorporated into the proposed regulation.

Treasury proposes to recognize escheat judgments regarding bonds in a state's possession as a discretionary matter, because the breadth of state escheat laws is not within Treasury's control. In exercising discretion, Treasury will consider whether a state's escheat claim impairs any existing rights under Treasury regulations and will assess the risk to Treasury of duplicative payment claims. Requiring states to possess the bonds that they seek to redeem protects these interests, and enables Treasury to locate records of the bonds for which the state seeks payment.

The proposed regulations on escheat claims to unclaimed property do not apply when a state claims title to a definitive savings bond as the heir to a deceased owner. Treasury has long recognized circumstances in which a state may obtain title to a savings bond by escheat when the bond owner has died. These escheat claims will be considered under existing savings bond regulations that pertain to the estates of deceased owners, co-owners, and beneficiaries. See 31 CFR part 315, subpart L; part 353, subpart L; and part 360, subpart L.

III. Procedural Requirements

A. Administrative Procedure Act (APA).

Because this proposed rule relates to United States securities, which are contracts between Treasury and the owner of the security, this rulemaking falls within the contract exception to the APA at 5 U.S.C. 553(a)(2). Treasury, however, is voluntarily seeking public comment to assist the agency in giving full consideration to the matters discussed in the proposed rule.

B. Congressional Review Act (CRA).

This proposed rule is not a major rule pursuant to the CRA, 5 U.S.C. 801 *et seq.* It is not expected to lead to any of the results listed in 5 U.S.C. 804(2). This proposed rule may take immediate effect after we submit a copy of it to Congress and the Comptroller General.

C. Paperwork Reduction Act (PRA).

There is no new collection of information contained in this proposed rule that would be subject to the PRA, 44 U.S.C. 3501 *et seq.* Under the PRA,

an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

D. Regulatory Flexibility Act.

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* does not apply to this rulemaking because, pursuant to 5 U.S.C. 553(a)(2), issuance does not require notice and opportunity for public comment. Nonetheless, this proposed rule will not have a significant economic impact on a substantial number of small entities. This rulemaking primarily affects states and is not expected to have a direct impact on any small entities. The proposed rule formally states Treasury's existing interpretation of the savings bond regulations as they apply to escheat claims, and proposes a new procedure through which states can submit claims to Treasury. Treasury is voluntarily seeking public comment in order to give thorough consideration to a range of views on state escheat claims before issuing the final rule.

E. Executive Order 12866.

This rule is not a significant regulatory action pursuant to Executive Order 12866.

List of Subjects in 31 CFR Part 315

Government securities, Savings bonds.

List of Subjects in 31 CFR Part 353

Government securities, Savings bonds.

List of Subjects in 31 CFR Part 360

Government securities, Savings bonds.

Accordingly, for the reasons set out in the preamble, the Department of the Treasury proposes to amend 31 CFR part 315 subparts E and O; part 353 subparts E and O; and part 360 subparts E and M to read as follows:

PART 315—REGULATIONS GOVERNING U.S. SAVINGS BONDS, SERIES A, B, C, D, E, F, G, H, J, AND K, AND U.S. SAVINGS NOTES

■ 1. The authority citation for part 315 continues to read as follows:

Authority: 31 U.S.C. 3105 and 5 U.S.C. 301.

■ 2. Amend § 315.20 by revising paragraph (b) to read as follows:

§ 315.20 General

* * * * *

(b) The Department of the Treasury will recognize a claim against an owner of a savings bond and conflicting claims of ownership of, or interest in, a bond between coowners or between the registered owner and the beneficiary, if established by valid, judicial proceedings specifically listed in this subpart. Escheat proceedings will not be recognized under this subpart. Section 315.23 specifies the evidence required to establish the validity of the judicial proceedings.

* * * * *

■ 3. Redesignate subpart O as subpart P and add a new subpart O to read as follows:

Subpart O—Escheat and Unclaimed Property Claims by States

Sec.

315.88 Payment to a State claiming title to abandoned bonds.

§ 315.88 Payment to a State claiming title to abandoned bonds.

(a) *General.* The Department of the Treasury may, in its discretion, recognize an escheat judgment that purports to vest a State with title to a definitive savings bond that has reached the final extended maturity date and is in the State's possession, when the State presents evidence satisfactory to Treasury that the bond has been abandoned by all persons entitled to payment under Treasury regulations. A State claiming title to a definitive savings bond as the heir to a deceased owner must comply with the requirements of subpart L, and not this section. Treasury will not recognize an escheat judgment that purports to vest a State with title to a bond that has not reached its final extended maturity date. Treasury also will not recognize an escheat judgment that purports to vest a State with title to a bond that the State does not possess, or a judgment that purports to grant the State custody of a bond, but not title.

(b) *Due Process.* At a minimum, a State requesting payment under this section must demonstrate to Treasury's satisfaction that it made reasonable efforts to provide actual and constructive notice of the escheat proceeding to all persons listed on the face of the bond and all persons who may have an interest in the bond, and that those persons had an opportunity to be heard before the escheat judgment was entered.

(c) *Fulfillment of Obligation.* Payment to a State claiming title under this section fulfills the United States' obligations to the same extent as if payment had been made to the registered owner.

PART 353—REGULATIONS GOVERNING DEFINITIVE UNITED STATES SAVINGS BONDS, SERIES EE AND HH

■ 1. The authority for this part continues to read:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3105, 3125.

■ 2. Amend § 353.20 by revising paragraph (b) to read as follows:

§ 353.20 General .

* * * * *

(b) The Department of the Treasury will recognize a claim against an owner of a savings bond and conflicting claims of ownership of, or interest in, a bond between coowners or between the registered owner and the beneficiary, if established by valid, judicial proceedings specifically listed in this subpart. Escheat proceedings will not be recognized under this subpart. Section 353.23 specifies the evidence required to establish the validity of the judicial proceedings.

* * * * *

■ 3. Redesignate subpart O as subpart P and add a new subpart O to read as follows:

Subpart O—Escheat and Unclaimed Property Claims by States

Sec.

353.88 Payment to a State claiming title to abandoned bonds.

§ 353.88 Payment to a State claiming title to abandoned bonds.

(a) *General.* The Department of the Treasury may, in its discretion, recognize an escheat judgment that purports to vest a State with title to a definitive savings bond that has reached final maturity and is in the State's possession, when the State presents evidence satisfactory to Treasury that the bond has been abandoned by all persons entitled to payment under Treasury regulations. A State claiming title to a definitive savings bond as the heir to a deceased owner must comply with the requirements of subpart L, and not this section. Treasury will not recognize an escheat judgment that purports to vest a State with title to a bond that has not reached its final maturity. Treasury also will not recognize escheat judgments that purport to vest a State with title to a bond that the State does not possess, or judgments that purport to grant the State custody of a bond, but not title.

(b) *Due Process.* At a minimum, a State requesting payment under this section must demonstrate to Treasury's satisfaction that it made reasonable

efforts to provide actual and constructive notice of the escheat proceeding to all persons listed on the face of the bond and all persons who may have an interest in the bond, and that those persons had an opportunity to be heard before the escheat judgment was entered.

(c) *Fulfillment of Obligation.* Payment to a State claiming title under this section fulfills the United States' obligations to the same extent as if payment had been made to the registered owner.

PART 360—REGULATIONS GOVERNING DEFINITIVE UNITED STATES SAVINGS BONDS, SERIES I

■ 1. The authority for this part continues to read:

Authority: 5 U.S.C. 301; 31 U.S.C. 3105 and 3125.

■ 2. Amend § 360.20 by revising paragraph (b) to read as follows:

§ 360.20 General

* * * * *

(b) The Department of the Treasury will recognize a claim against an owner of a savings bond and conflicting claims of ownership of, or interest in, a bond between coowners or between the registered owner and the beneficiary, if established by valid, judicial proceedings specifically listed in this subpart. Escheat proceedings will not be recognized under this subpart. Section 360.23 specifies the evidence required to establish the validity of the judicial proceedings.

* * * * *

■ 3. Redesignate subpart M as subpart N and add a new subpart M to read as follows:

Subpart M—Escheat and Unclaimed Property Claims by States

Sec.
360.77 Payment to a State claiming title to abandoned bonds.

§ 360.77 Payment to a State claiming title to abandoned bonds.

(a) *General.* The Department of the Treasury may, in its discretion, recognize an escheat judgment that purports to vest a State with title to a definitive savings bond that has stopped earning interest and is in the State's possession, when the State presents evidence satisfactory to Treasury that the bond has been abandoned by all persons entitled to payment under Treasury regulations. A State claiming title to a definitive savings bond as the heir to a deceased owner must comply with the requirements of subpart L of this part, and not this section. Treasury will not recognize an escheat judgment that purports to vest a State with title to a bond that is still earning interest. Treasury also will not recognize escheat judgments that purport to vest a State with title to a bond that the State does not possess, or judgments that purport to grant the State custody of a bond, but not title.

(b) *Due Process.* At a minimum, a State requesting payment under this section must demonstrate to Treasury's satisfaction that it made reasonable efforts to provide actual and constructive notice of the escheat proceeding to all persons listed on the face of the bond and all persons who may have an interest in the bond, and that those persons had an opportunity to be heard before the escheat judgment was entered.

(c) *Fulfillment of Obligation.* Payment to a State claiming title under this section fulfills the United States' obligations to the same extent as if payment had been made to the registered owner.

Dated: June 26, 2015.

David A. Lebryk,

Fiscal Assistant Secretary.

[FR Doc. 2015–16278 Filed 6–30–15; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–0332]

RIN 1625–AA00

Safety zone; Allegheny River Between Mile 0.0 and 1.4; Pittsburgh, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone on the Allegheny River mile 0.0 to mile 1.4 from 5:45 a.m. to 8:45 a.m. on August 8, 2015 and August 9, 2015. This safety zone is needed to protect persons participating in the Pittsburgh Triathlon. Entry into this zone will be prohibited to all vessels, mariners, and persons unless specifically authorized by the Captain of the Port (COTP), Pittsburgh or a designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before July 16, 2015.

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

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

(2) *Fax:* 202–493–2251.

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

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST1 Jennifer Haggins, Marine Safety Unit Pittsburgh Waterways Management Division, U.S. Coast Guard; telephone (412) 221–0807, email *Jennifer.L.Haggins@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking
SAR Search and Rescue

A. Public Participation and Request for Comments

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

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov*, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If

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

To submit your comment online, go to *http://www.regulations.gov*, type the docket number [USCG–2015–0332] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

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

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number (USCG–2015–0332) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

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

4. Public Meeting

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

B. Regulatory History and Information

The Coast Guard has a long history working with local, state, and federal agencies in areas to improve emergency response, to prepare for events that call for swift action, and to protect our nation. The Coast Guard is proposing to establish this safety zone on the waters of the Allegheny River for the Pittsburgh Triathlon. The marine event is scheduled to take place from 5:45 a.m. to 8:45 a.m. on August 8, 2015 and August 9, 2015. This proposed rule is necessary to protect the safety of the participants, spectators, commercial traffic, and the general public on the navigable waters of the United States during the event.

C. Basis and Purpose

The legal basis and authorities for this proposed rule are found in 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1; 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define safety zones. The purpose of this proposed safety zone is to protect the participants of the Pittsburgh Triathlon during the swim portion of the event from the hazards of other vessels in the water.

D. Discussion of Proposed Rule

This proposed rule is necessary to establish a safety zone that will encompass all waters of the Allegheny River in Pittsburgh, Pennsylvania. The proposed safety zone regulations would be enforced from approximately 5:45 a.m. to 8:45 a.m. for approximately 3 hours on August 8, 2015 and August 9, 2015. As proposed, the safety zone would be a complete closure on the Allegheny River from mile 0.0 to mile 1.4 from 5:45 a.m. to 8:45 a.m. on August 8, 2015 and August 9, 2015. All persons and vessels, except those persons and vessels participating in the triathlon and those vessels enforcing the areas, would be prohibited from entering, transiting through, anchoring in, or remaining within the proposed safety zone area.

Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the enforcement areas by contacting the Captain of the Port Pittsburgh by telephone at (412) 221–0807, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the enforcement areas is granted by the Captain of the Port Pittsburgh or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Pittsburgh or a designated representative.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The temporary safety zone listed in this proposed rule will restrict vessel traffic from entering, transiting, or anchoring within a portion of the Allegheny River. The effect of this proposed regulation will not be significant for several reasons: (1) The amount of time the Allegheny River will be closed (2) the impacts on routine navigation are expected to be minimal because notifications to the marine community will be made through local notice to mariners (LNM) and broadcast notice to mariners (BNM). Therefore, these notifications will allow the public to plan operations around the proposed safety zone and its enforcement times.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the Allegheny River from mile 0.0 to mile 1.4 effective from 5:45 a.m. to 8:45

a.m. on August 8, 2015 and August 9, 2015. This proposed safety zone will not have a significant economic impact on a substantial number of small entities because this proposed rule will impede navigational traffic for a short period of time. Traffic in this area is almost entirely limited to recreational vessels and commercial towing vessels. Notifications to the marine community will be made through BNMs and electronic mail. Notices of changes to the proposed safety zone and scheduled effective times and enforcement periods will also be made. Deviation from the proposed restrictions may be requested from the COTP or designated representative and will be considered on a case-by-case basis.

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

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves establishing a temporary safety zone. The safety zone will be on the Allegheny River mile 0.0 to mile 1.4 from 5:45 a.m. to 8:45 a.m. on August 8, 2015 and August 9, 2015. This action is necessary to protect persons and property during the Pittsburgh Triathlon. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T08–0332 is added to subpart F, under the

undesignated center heading Eighth Coast Guard District, to read as follows:

§ 165.T08–0332 Safety Zone; Allegheny River between mile 0.0 and 1.4; Pittsburgh, PA.

(a) *Locations.* The following area is a temporary safety zone: All waters on the Allegheny River mile 0.0 to mile 1.4.

(b) *Effective date and time.* The safety zone listed in section (a) is effective from 5:45 a.m. to 8:45 a.m. on August 8, 2015 and August 9, 2015.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this area is prohibited unless authorized by the Captain of the Port (COTP) Pittsburgh or a designated representative.

(2) Spectator vessels may safely transit outside the safety zones at a minimum safe speed, but may not anchor, block, loiter, or impede participants or official patrol vessels.

(3) Vessels requiring entry into or passage through the safety zones must request permission from the COTP Pittsburgh or a designated representative. They may be contacted by telephone at (412) 412–0807.

(4) All vessels shall comply with the instructions of the COTP Pittsburgh and designated personnel. Designated personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(d) *Informational Broadcasts:* The Captain of the Port, Pittsburgh or a designated representative will inform the public through broadcast notices to mariners (BNM) of the effective period for the safety zone and of any changes in the effective period, enforcement times, or size of the safety zones.

Dated: June 10, 2015.

L. N. Weaver,

Commander, U.S. Coast Guard, Captain of the Port Pittsburgh.

[FR Doc. 2015–16258 Filed 6–30–15; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 957

Rules of Practice in Proceedings Relative to Debarment From Contracting

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This document requests comments regarding a revision of the rules for proceedings in which the Judicial Officer Department conducts fact-finding relative to debarments. The revised rules of procedure would completely replace and supersede the prior rules.

DATES: Comments must be received on or before July 31, 2015.

ADDRESSES: Judicial Officer Department, United States Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078.

FOR FURTHER INFORMATION CONTACT: Associate Judicial Officer Gary E. Shapiro, (703) 812–1910.

SUPPLEMENTARY INFORMATION: The rules governing the Judicial Officer's role regarding Postal Service debarments are set forth in 39 CFR part 957. The proposed rules would completely replace the former rules of this part.

In 2007, the Postal Service changed its procurement regulations regarding suspension and debarment from contracting. See 72 FR 58252 (October 15, 2007). Whereas prior to that change, the Judicial Officer conducted hearings and rendered final agency decisions regarding suspension and debarment from contracting, the revised procurement regulations at 39 CFR 601.113 eliminated any role of the Judicial Officer from suspensions, and reserved final agency action regarding debarments to the Vice President, Supply Management. The remaining role of the Judicial Officer relative to debarment from contracting is set forth in paragraphs (g)(2) and (h)(2) of § 601.113. Those paragraphs provide that the Vice President, Supply Management, may request the Judicial Officer to conduct fact-finding hearings to resolve questions of material facts involving a debarment, and will consider those findings when deciding the matter. Under paragraph (h)(2) of § 601.113, fact-finding hearings will be governed by rules of procedure promulgated by the Judicial Officer. These rules of procedure satisfy that requirement.

List of Subjects in 39 CFR Part 957

Administrative practice and procedure, Government contracts.

Accordingly, for the reasons stated, the Postal Service proposes to revise 39 CFR part 957 to read as follows:

PART 957—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO DEBARMENT FROM CONTRACTING

Sec.
957.1 Authority for rules.
957.2 Scope of rules.
957.3 Definitions.
957.4 Authority of the Hearing Officer.
957.5 Case initiation.
957.6 Filing documents for the record.
957.7 Failure to appear at the hearing.
957.8 Hearings.
957.9 Appearances.
957.10 Conduct of the hearing.
957.11 Witness fees.
957.12 Transcript.
957.13 Proposed findings of fact.
957.14 Findings of fact.
957.15 Computation of time.
957.16 Official record.
957.17 Public information.
957.18 Ex parte communications.

Authority: 39 U.S.C. 204, 401.

§ 957.1 Authority for rules.

The rules in this part are issued by the Judicial Officer of the Postal Service pursuant to authority delegated by the Postmaster General (39 U.S.C. 204, 401).

§ 957.2 Scope of rules.

The rules in this part apply to proceedings initiated pursuant to paragraphs (g)(2) or (h)(2) of § 601.113 of this chapter.

§ 957.3 Definitions.

(a) *Vice President* means the Vice President, Supply Management, or the Vice President's representative for the purpose of carrying out the provisions of § 601.113 of this chapter.

(b) *General Counsel* includes the Postal Service's General Counsel and any designated representative within the Office of the General Counsel.

(c) *Judicial Officer* includes the Postal Service's Judicial Officer, Associate Judicial Officer, and Acting Judicial Officer.

(d) *Debarment* has the meaning given by paragraph (b)(2) of § 601.113 of this chapter.

(e) *Respondent* means any individual, firm or other entity which has been served a written notice of proposed debarment pursuant to paragraph (h), or which previously has been debarred, as provided in paragraph (g)(2) of § 601.113 of this chapter.

(f) *Hearing Officer* means the judge assigned to the case by the Judicial Officer. The Hearing Officer may be the Judicial Officer, Associate Judicial Officer, Administrative Law Judge or an Administrative Judge who is a member of the Postal Service Board of Contract Appeals.

(g) *Recorder* means the Recorder of the Judicial Officer Department of the United States Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078. The Recorder's telephone number is (703) 812–1900, fax number is (703) 812–1901, and the Judicial Officer's Web site is *http://www.about.usps.com/who-we-are/judicial/welcome.htm.*

§ 957.4 Authority of the Hearing Officer.

The Hearing Officer's authority includes, but is not limited to, the following:

(a) Ruling on all motions or requests by the parties.

(b) Issuing notices, orders or memoranda to the parties concerning the hearing proceedings.

(c) Conducting conferences with the parties. The Hearing Officer will prepare a Memorandum of Conference, which will be transmitted to both parties and which serves as the official record of that conference.

(d) Determining whether an oral hearing will be conducted, and setting the place, date, and time for such a hearing.

(e) Administering oaths or affirmations to witnesses.

(f) Conducting the proceedings and the hearing in a manner to maintain discipline and decorum while ensuring that relevant, reliable and probative evidence is elicited, but irrelevant, immaterial or repetitious evidence is excluded. The Hearing Officer in his or her discretion may examine witnesses to ensure that a satisfactory record is developed.

(g) Establishing the record. The weight to be attached to evidence will rest within the discretion of the Hearing Officer. Except as the Hearing Officer may otherwise order, no proof shall be received in evidence after completion of a hearing. The Hearing Officer may require either party, with appropriate notice to the other party, to submit additional evidence on any relevant matter.

(h) Granting reasonable time extensions or other relief for good cause shown, in the Hearing Officer's sole discretion.

(i) Issuing findings of fact. The Hearing Officer will issue findings of fact to the Vice President within 30 days from the close of the record, to the extent practicable.

§ 957.5 Case initiation.

(a) Upon receipt of a request or referral from the Vice President, the Recorder will docket a case under this Part. Following docketing, the Judicial Officer will assign a Hearing Officer. The Hearing Officer will establish the schedule for the proceeding, perform all judicial duties under this Part and render Findings of Fact. Whenever practicable, a hearing should be conducted within 30 days of the date of docketing.

(b) The request or referral from the Vice President shall include the notice of proposed debarment and the information or argument submitted by the Respondent pursuant to paragraphs (g) or (h) of § 601.113 of this chapter.

§ 957.6 Filing documents for the record.

The parties shall file documents, permitted by the rules in this part or required by the Hearing Officer, in the Judicial Officer Department's electronic filing system. The Web site for electronic filing is *https://uspsjoe.justware.com/justiceweb.* Documents submitted using that system are considered filed as of the date and time (Eastern Time) reflected in the system. Orders issued by the Hearing Officer shall be considered received by the parties on the date posted to the electronic filing system.

§ 957.7 Failure to appear at the hearing.

If a party fails to appear at the hearing, the Hearing Officer may proceed with the hearing, receive evidence and issue findings of fact without requirement of further notice to the absent party.

§ 957.8 Hearings.

Hearings ordinarily will be conducted in the Judicial Officer Department courtroom at 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078. However, the Hearing Officer, in his or her discretion, may order the hearing to be conducted at another location, or by another means such as by video.

§ 957.9 Appearances.

(a) An individual Respondent may appear in his or her own behalf, a corporation may appear by an officer thereof, a partnership or joint venture may appear by a member thereof, or any of these may appear by a licensed attorney.

(b) After a request for a hearing has been filed pursuant to the rules in this part, the General Counsel shall designate a licensed attorney as counsel assigned to handle the case.

(c) All counsel, or a self-represented Respondent, shall register in the electronic filing system, and request to be added to the case. Counsel also promptly shall file notices of appearance.

(d) An attorney for any party who has filed a notice of appearance and who wishes to withdraw must file a motion requesting withdrawal, explaining the reasons supporting the motion, and identifying the name, email address, mailing address, telephone number, and fax number of the person who will assume responsibility for representation of the party in question.

§ 957.10 Conduct of the hearing.

The Hearing Officer may approve or disapprove witnesses in his or her discretion. All testimony will be taken under oath or affirmation, and subject to cross-examination. The Hearing Officer may exclude evidence to avoid unfair prejudice, confusion of the issues, undue delay, waste of time, or presentation of irrelevant, immaterial or cumulative evidence. Although the Hearing Officer will consider the Federal Rules of Evidence for guidance regarding admissibility of evidence and other evidentiary issues, he or she is not bound by those rules. The weight to be attached to evidence presented in any particular form will be within the discretion of the Hearing Officer, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be accepted as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Hearing Officer may in any case require evidence in addition to that offered by the parties. A party requiring the use of a foreign language interpreter allowing testimony to be taken in English for itself or witnesses it proffers is responsible for making all necessary arrangements and paying all costs and expenses associated with the use of an interpreter.

§ 957.11 Witness fees.

Each party is responsible for the fees and costs for its own witnesses.

§ 957.12 Transcript.

Testimony and argument at hearings shall be reported verbatim, unless the Hearing Officer otherwise orders. Transcripts of the proceedings will be made available or provided to the parties.

§ 957.13 Proposed findings of fact.

(a) The Hearing Officer may direct the parties to submit proposed findings of fact and supporting explanations within 15 days after the delivery of the official transcript to the Recorder who shall notify both parties of the date of its receipt. The filing date for proposed findings shall be the same for both parties.

(b) Proposed findings of fact shall be set forth in numbered paragraphs and shall state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits supporting the proposed findings.

§ 957.14 Findings of fact.

The Hearing Officer shall issue written findings of fact, and transmit them to the Vice President. Copies will be sent to the parties.

§ 957.15 Computation of time.

A designated period of time under the rules in this part excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or legal holiday, in which event the period runs until the close of business on the next business day.

§ 957.16 Official record.

The transcript of testimony together with all pleadings, orders, exhibits, briefs, and other documents filed in the proceeding shall constitute the official record of the proceeding.

§ 957.17 Public information.

The Postal Service shall maintain for public inspection copies of all findings of fact issued under this Part, and make them available through the Postal Service Web site. The Recorder maintains the complete official record of every proceeding.

§ 957.18 Ex parte communications.

The provisions of 5 U.S.C. 551(14), 556(d), and 557(d) prohibiting ex parte communications are made applicable to proceedings under these rules of practice.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2015–16143 Filed 6–30–15; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

39 CFR Parts 961, 966

Rules of Practice Before the Judicial Officer

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the rules of practice prescribed by the Judicial Officer relative to debt collection proceedings against current and former postal employees. These amendments are necessary to implement a new electronic filing system.

DATES: Comments must be received on or before July 31, 2015.

ADDRESSES: Postal Service Judicial Officer Department, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078.

FOR FURTHER INFORMATION CONTACT: Associate Judicial Officer Gary E. Shapiro, (703) 812–1910.

SUPPLEMENTARY INFORMATION:

A. Background

The Judicial Officer Department recently implemented an electronic filing system. Changes to the rules of practice concerning debt collection proceedings against current and former postal employees (39 CFR parts 961 and 966, respectively) are necessary to accommodate the new system, and to establish rules relative to that system. No other changes to the rules are proposed.

B. Explanation of Changes

Amendments to 39 CFR Part 961

In § 961.4, concerning filing a petition:

- Paragraph (a) is amended to identify the internet address for the electronic filing system.
- Paragraph (b) is amended to indicate that a sample petition is available through the electronic filing system.

In § 961.6, concerning the filing, docketing and serving of documents, paragraph (a) is amended to indicate when documents submitted by parties are considered received, and to indicate when service of documents on the opposing party is required for purposes of the electronic filing system.

Amendments to 39 CFR Part 966

In § 966.4, concerning filing a petition:

- Paragraph (c) is amended to identify the internet address for the electronic filing system.
- Paragraph (d) is amended to indicate that a sample petition is available through the electronic filing system.

In § 966.6, concerning the filing, docketing and serving of documents, paragraph (a) is amended to indicate when documents submitted by parties are considered received, and to indicate when service of documents on the opposing party is required for purposes of the electronic filing system.

List of Subjects

39 CFR Part 961

Claims, Government employees, Wages.

39 CFR Part 966

Administrative practice and procedure, Claims, Government employees, Wages.

Accordingly, for the reasons stated, the Postal Service proposes to amend 39 CFR parts 961 and 966 as follows:

PART 961—RULES OF PRACTICE IN PROCEEDINGS UNDER SECTION 5 OF THE DEBT COLLECTION ACT

■ 1. The authority citation for 39 CFR part 961 continues to read as follows:

Authority: 39 U.S.C. 204, 401; 5 U.S.C. 5514.

■ 2. In § 961.4, revise the first sentence of paragraph (a), and add a sentence at the beginning of paragraph (b) to read as follows:

§ 961.4 Employee petition for a hearing.

(a) If an employee desires a hearing, prescribed by section 5 of the Debt Collection Act, to challenge the Postal Service's determination of the existence or amount of a debt, or to challenge the involuntary repayment terms proposed by the Postal Service, the employee must file a written petition electronically at *https://uspsjoe.justware.com/justiceweb,* or by mail at Recorder, Judicial Officer Department, United States Postal Service, 2101 Wilson Blvd., Suite 600, Arlington, VA 22201–3078, on or before the fifteenth (15th) calendar day following the receipt of the Postal Service's ''Notice of Involuntary Administrative Salary Offsets Under the Debt Collection Act.'' * * *

(b) A sample petition is available through the Judicial Officer Electronic Filing Web site (*https://uspsjoe.justware.com/justiceweb*).* * * * * * * * *

■ 3. Revise paragraph (a) of § 961.6 to read as follows:

§ 961.6 Filing, docketing and serving documents; computation of time; representation of parties.

(a) *Filing.* After a petition is filed, all documents relating to the Debt Collection Act hearing proceedings must be filed using the electronic filing system unless the Hearing Official permits otherwise. Documents submitted using the electronic filing system are considered filed as of the date/time (Eastern Time) reflected in the system. Documents mailed to the Recorder are considered filed on the date mailed as evidenced by a United States Postal Service postmark. Filings by any other means are considered filed upon receipt by the Recorder of a complete copy of the filing during normal business hours (Normal Recorder office business hours are between 8:45 a.m. and 4:45 p.m., Eastern Time). If both parties are participating via the electronic filing system, separate service upon the opposing party is not required. Otherwise, documents shall be served personally or by mail on the opposing

party, noting on the document filed, or on the transmitting letter, that a copy has been so furnished.

* * * * *

PART 966—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO ADMINISTRATIVE OFFSETS INITIATED AGAINST FORMER EMPLOYEES OF THE POSTAL SERVICE

■ 4. The authority citation for 39 CFR part 966 continues to read as follows:

Authority: 31 U.S.C. 3716; 39 U.S.C. 204, 401, 2601.

■ 5. In § 966.4, revise paragraph (c), and add a sentence at the beginning of paragraph (d) to read as follows:

§ 966.4 Petition for a hearing and supplement to petition.

* * * * *

(c) Within thirty (30) calendar days after the date of receipt of the Accounting Service Center's decision upon reconsideration, after the expiration of sixty (60) calendar days after a request for reconsideration where a reconsideration determination is not made, or following an administrative offset taken without prior notice and opportunity for reconsideration pursuant to paragraph (b)(1) of this section, the former employee must file a written petition electronically at *https://uspsjoe.justware.com/justiceweb,* or by mail at Recorder, Judicial Officer Department, United States Postal Service, 2101 Wilson Blvd., Suite 600, Arlington, VA 22201–3078.

(d) A sample petition is available through the Judicial Officer Electronic Filing Web site (*https://uspsjoe.justware.com/justiceweb*).* * *

* * * * *

■ 6. Revise paragraph (a) of § 966.6 to read as follows:

§ 966.6 Filing, docketing and serving documents; computation of time; representation of parties.

(a) *Filing.* After a petition is filed, all documents required under this part must be filed using the electronic filing system unless the Hearing Official permits otherwise. Documents submitted using the electronic filing system are considered filed as of the date/time (Eastern Time) reflected in the system. Documents mailed to the Recorder are considered filed on the date mailed as evidenced by a United States Postal Service postmark. Filings by any other means are considered filed upon receipt by the Recorder of a complete copy of the filing during normal business hours (Normal Recorder office business hours are between 8:45 a.m. and 4:45 p.m., Eastern Time). If both parties are participating via the electronic filing system, separate service upon the opposing party is not required. Otherwise, documents shall be served personally or by mail on the opposing party, noting on the document filed, or on the transmitting letter, that a copy has been so furnished.

* * * * *

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2015–16141 Filed 6–30–15; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[4500030115]

Endangered and Threatened Wildlife and Plants; 90-Day Findings on 31 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 various petitions to list 30 species and one petition that describes itself as a petition to reclassify one species under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that eight petitions do not present substantial scientific or commercial information indicating that the petitioned actions may be warranted, we find that one petition does not present substantial information that the petitioned entity may be a listable entity under the Act, and we find that one petition does not present substantial information that the petitioned entity may be a listable entity under the Act and does not present substantial scientific or commercial information indicating that the petitioned action may be warranted, and we are not initiating status reviews in response to these petitions. We refer to these as ''not-substantial petition findings.'' Based on our review, we find that 21 petitions present substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, with the publication of this document, we are initiating a review of the status of each of these species 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 species. 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 on or before August 31, 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: Not-substantial petition findings: The not-substantial petition findings announced in this document are available on *http://www.regulations.gov* under the appropriate docket number (see Table 1, below). Supporting information in preparing these findings is available for public inspection, by appointment, during normal business hours by contacting the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**.

TABLE 1—NOT-SUBSTANTIAL PETITION FINDINGS

Species	Docket No.	Docket link
Blue Ridge gray-cheeked salamander.	FWS–R4–ES–2015–0042 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R4-ES-2015-0042*
Caddo Mountain salamander	FWS–R4–ES–2015–0043 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R4-ES-2015-0043*
California giant salamander	FWS–R8–ES–2015–0044 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R8-ES-2015-0044*
Colorado checkered whiptail	FWS–R6–ES–2015–0048 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R6-ES-2015-0048*
Distinct population segment of North American wild horse.	FWS–R8–ES–2015–0049 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R8-ES-2015-0049*

TABLE 1—NOT-SUBSTANTIAL PETITION FINDINGS—Continued

Species	Docket No.	Docket link
Gray wolf, excluding Mexican wolf, in the conterminous U.S..	FWS–HQ–ES–2015–0072	*http://www.regulations.gov/#!docketDetail;D=FWS-HQ-ES-2015-0072*
Olympic torrent salamander	FWS–R1–ES–2015–0056 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R1-ES-2015-0056*
Pigeon Mountain salamander.	FWS–R4–ES–2015–0058 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R4-ES-2015-0058*
Weller's salamander	FWS–R4–ES–2015–0065 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R4-ES-2015-0065*
Wingtail crayfish	FWS–R4–ES–2015–0067 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R4-ES-2015-0067*

Status reviews: You may submit information on species for which a status review is being initiated (see Table 2, below) by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov*. In the Search box, enter the appropriate docket number (see Table 2, below). Then click the Search button. 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, 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).

TABLE 2—SUBSTANTIAL PETITION FINDINGS

Species	Docket number	Docket link
Alligator snapping turtle	FWS–R4–ES–2015–0038 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R4-ES-2015-0038*
Apalachicola kingsnake	FWS–R4–ES–2015–0039 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R4-ES-2015-0039*
Arizona toad	FWS–R2–ES–2015–0040 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R2-ES-2015-0040*
Blanding's turtle	FWS–R3–ES–2015–0041 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R3-ES-2015-0041*
Cascade Caverns salamander.	FWS–R2–ES–2015–0045 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R2-ES-2015-0045*
Cascades frog	FWS–R1–ES–2015–0046 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R1-ES-2015-0046*
Cedar Key mole skink	FWS–R4–ES–2015–0047 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R4-ES-2015-0047*
Foothill yellow-legged frog ...	FWS–R8–ES–2015–0050 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R8-ES-2015-0050*
Gopher frog	FWS–R4–ES–2015–0051 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R4-ES-2015-0051*
Green salamander	FWS–R4–ES–2015–0052 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R4-ES-2015-0052*
Illinois chorus frog	FWS–R3–ES–2015–0053 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R3-ES-2015-0053*
Kern Canyon slender salamander.	FWS–R8–ES–2015–0054 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R8-ES-2015-0054*
Key ringneck snake	FWS–R4–ES–2015–0055 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R4-ES-2015-0055*
Oregon slender salamander	FWS–R1–ES–2015–0057 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R1-ES-2015-0057*
Relictual slender salamander	FWS–R8–ES–2015–0059 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R8-ES-2015-0059*
Rim Rock crowned snake	FWS–R4–ES–2015–0060 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R4-ES-2015-0060*
Rio Grande cooter	FWS–R2–ES–2015–0061 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R2-ES-2015-0061*
Silvery phacelia	FWS–R1–ES–2015–0062 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R1-ES-2015-0062*
Southern hog-nosed snake ..	FWS–R4–ES–2015–0063 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R4-ES-2015-0063*
Spotted turtle	FWS–R5–ES–2015–0064 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R5-ES-2015-0064*
Western spadefoot toad	FWS–R8–ES–2015–0066 ..	*http://www.regulations.gov/#!docketDetail;D=FWS-R8-ES-2015-0066*

FOR FURTHER INFORMATION CONTACT:

Species	Contact information
Alligator snapping turtle.	Andreas Moshogianis; (404) 679–7119
Apalachicola kingsnake.	Andreas Moshogianis; (404) 679–7119
Arizona toad	Michelle Shaughnessy; (505) 248–6920
Blanding's turtle	Laura Ragan; (612) 713–5350
Blue Ridge gray-cheeked salamander.	Susan Cameron; (828) 258–3939, ext. 224
Caddo Mountain salamander.	Andreas Moshogianis; (404) 679–7119
California giant salamander.	Dan Russell; (916) 414–6647
Cascade Caverns salamander.	Michelle Shaughnessy; (505) 248–6920
Cascades frog	Paul Henson; (503) 231–6179
Cedar Key mole skink.	Andreas Moshogianis; (404) 679–7119
Colorado checkered whiptail.	Leslie Ellwood; (303) 236–4747
Distinct population segment of North American wild horse.	Doug Krofta; (703) 358–2527
Foothill yellow-legged frog.	Dan Russell; (916) 414–6647
Gopher frog	Andreas Moshogianis; (404) 679–7119
Gray wolf, excluding Mexican wolf, in the conterminous U.S.	Don Morgan; (703) 358–2444

Species	Contact information
Green salamander	Andreas Moshogianis; (404) 679–7119
Illinois chorus frog	Laura Ragan; (612) 713–5350
Kern Canyon slender salamander.	Dan Russell; (916) 414–6647
Key ringneck snake.	Andreas Moshogianis; (404) 679–7119
Olympic torrent salamander.	Eric Rickerson; (360) 753–9440
Oregon slender salamander.	Paul Henson; (503) 231–6179
Pigeon Mountain salamander.	Andreas Moshogianis; (404) 679–7119
Relictual slender salamander.	Dan Russell; (916) 414–6647
Rim Rock crowned snake.	Andreas Moshogianis; (404) 679–7119
Rio Grande cooter	Michelle Shaughnessy; (505) 248–6920
Silvery phacelia	Paul Henson; (503) 231–6179
Southern hog-nosed snake.	Andreas Moshogianis; (404) 679–7119
Spotted turtle	Wende Mahaney; (207) 866–3344
Weller's salamander.	Susan Cameron; (828) 258–3939, ext. 224
Western spadefoot toad.	Dan Russell; (916) 414–6647
Wingtail crayfish ...	Patty Kelly; (850) 769–0552, x 228

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 alligator snapping turtle, Apalachicola kingsnake, Arizona toad, Blanding's turtle, Cascade Caverns salamander, Cascades frog, Cedar Key mole skink, foothill yellow-legged frog, gopher frog, green salamander, Illinois chorus frog, Kern Canyon slender salamander, Key ringneck snake, Oregon slender salamander, relictual slender salamander, Rim Rock crowned snake, Rio Grande cooter, silvery phacelia, southern hog-nosed snake, spotted turtle, and western spadefoot toad from governmental agencies, Native American Tribes, the scientific community, industry, and any other interested parties. We seek information on:

(1) The species' 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 species, 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)(1) 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 (Factor A);

(b) Overutilization for commercial, recreational, scientific, or educational purposes (Factor B);

(c) Disease or predation (Factor C);

(d) The inadequacy of existing regulatory mechanisms (Factor D); or

(e) Other natural or manmade factors affecting its continued existence (Factor E).

(3) The potential effects of climate change on the species and its habitat.

(4) If, after the status review, we determine that listing is warranted, we will propose critical habitat (see definition in section 3(5)(A) of the Act) under section 4 of the Act for those species that fall within the jurisdiction of the United States, to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, we also specifically request data and information for the 21 species for which we are conducting status reviews on:

(a) What may constitute ''physical or biological features essential to the conservation of the species,'' within the geographical range occupied by the species;

(b) Where these features are currently found;

(c) Whether any of these features may require special management considerations or protection;

(d) Specific areas outside the geographical area occupied by the species that are ''essential for the conservation of the species''; and

(e) What, if any, critical habitat you think we should propose for designation if the species 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 or analysis, 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. 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 we will subsequently summarize in our 12-month finding.

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 (see (2) under Request For Information, above).

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 an ''endangered species'' or a ''threatened species,'' 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 species'' or ''threatened species'' under the Act.

Evaluation of a Petition To List the Alligator Snapping Turtle as an Endangered or 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–R4–ES–2015–0038 under the Supporting Documents section.

Species and Range

Alligator snapping turtle (*Macrochelys temminckii;* previously *Macroclemys temminckii*); Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas.

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from The Center for Biological Diversity, requesting that 53 species of reptiles and amphibians, including the alligator snapping turtle, be listed as endangered or threatened and critical habitat be designated 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 alligator snapping turtle (*Macrochelys temminckii;* previously *Macroclemys temminckii*) based on Factors A, B, C and D. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the alligator snapping turtle, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Apalachicola Kingsake as an Endangered or 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–R4–ES–2015–0039 under the Supporting Documents section.

Species and Range

Apalachicola kingsnake (*Lampropeltis getula meansi*); Florida

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from The Center for Biological Diversity, requesting that 53 species of reptiles and amphibians, including the Apalachicola kingsnake, be listed as endangered or threatened and critical habitat be designated 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 Apalachicola kingsnake (*Lampropeltis getula meansi*) based on Factor A. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the Apalachicola kingsnake, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Arizona Toad as an Endangered or 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–R2–ES–2015–0040 under the Supporting Documents section.

Species and Range

Arizona toad (*Anaxyrus microscaphus*); Arizona, California, Nevada, New Mexico, and Utah

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity requesting that 53 species of reptiles and amphibians, including the Arizona toad, be listed as endangered or threatened and critical habitat be designated 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 Arizona toad (*Anaxyrus microscaphus*) based on Factor E. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the Arizona toad, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Blanding's Turtle as an Endangered or 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–2015–0041 under the Supporting Documents section.

Species and Range

Blanding's turtle (*Emydoidea blandingii*); Illinois, Iowa, Indiana, New Hampshire, New York, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Ohio, Pennsylvania, South Dakota, and Wisconsin, United States; Ontario, Quebec, and Nova Scotia, Canada.

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity requesting that 53 species of reptiles and amphibians, including the Blanding's turtle, be listed as endangered or threatened and critical habitat be designated 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 Blanding's turtle (*Emydoidea blandingii*) based on Factors A, B, C, D, and E. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the Blanding's turtle, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Blue Ridge Gray-Cheeked Salamander as an Endangered or 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–R4–ES–2015–0042 under the Supporting Documents section.

Species and Range

Blue Ridge gray-cheeked salamander (*Plethodon amplus*); North Carolina

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity, requesting that 53 species of amphibians and reptiles, including the Blue Ridge gray-cheeked salamander, be listed as endangered or threatened and critical habitat be designated 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 does not provide substantial information indicating that listing the species may be warranted. We are not initiating a status review of this species in response to the petition. Our justification for this finding can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2015–0042 under the ''Supporting Documents'' section. However, we ask that the public submit to us any new information that becomes available concerning the status of, or threats to, the Blue Ridge gray-cheeked salamander salamander or its habitat at any time (see **FOR FURTHER INFORMATION CONTACT**).

Evaluation of a Petition To List the Caddo Mountain Salamander as an Endangered or 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–R4–ES–2015–0043 under the Supporting Documents section.

Species and Range

Caddo Mountain salamander (*Plethodon caddoensis*); Arkansas

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity, requesting that 53 species of amphibians and reptiles, including the Caddo Mountain salamander, be listed as endangered or threatened and critical habitat be designated 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 does not provide substantial scientific or commercial information indicating that the petitioned action may be warranted. We are not initiating a status review of this species in response to the petition. Our justification for this finding can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2015–0043 under the ''Supporting Documents'' section. However, we ask that the public submit to us any new information that becomes available concerning the status of, or threats to, the Caddo Mountain salamander or its habitat at any time (see **FOR FURTHER INFORMATION CONTACT**).

Evaluation of a Petition To List the California Giant Salamander as an Endangered or 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–R8–ES–2015–0044 under the Supporting Documents section.

Species and Range

California giant salamander (*Dicamptodon ensatus*); California

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity requesting that 53 species of reptiles and amphibians, including the California giant salamander, be listed as endangered or threatened and critical habitat be designated 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 does not provide substantial scientific or commercial information indicating that the petitioned action may be warranted. We are not initiating a status review of this species in response to the petition. Our justification for this finding can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2015–0044 under the ''Supporting Documents'' section. However, we ask that the public submit to us any new information that becomes available concerning the status of, or threats to, the California giant salamander or its habitat at any time (see **FOR FURTHER INFORMATION CONTACT**).

Evaluation of a Petition To List the Cascade Caverns Salamander as an Endangered or 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–R2–ES–2015–0045 under the Supporting Documents section.

Species and Range

Cascade Caverns salamander (*Eurycea latitans*); Texas

Petition History

On July 11, 2012, we received a petition dated July 11, 2012 from the Center for Biological Diversity, requesting that 53 species of reptiles and amphibians, including the Cascade Caverns salamander, be listed as endangered or threatened and critical habitat be designated 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 Cascade Caverns salamander (*Eurycea latitans*) based on Factor A. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the Cascade Caverns salamander, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Cascades Frog as an Endangered or 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–R1–ES–2015–0046 under the Supporting Documents section.

Species and Range

Cascades frog (*Rana cascadae*); California, Oregon, and Washington

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity requesting that 53 species of reptiles and amphibians, including the Cascades frog, be listed as endangered or threatened and critical habitat be designated 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 Cascades frog (*Rana cascadae*) based on Factors A, C, and E. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the Cascades frog, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Cedar Key Mole Skink as an Endangered or 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–R4–ES–2015–0047 under the Supporting Documents section.

Species and Range

Cedar Key mole skink (*Plestiodon egregius insularis*); Florida

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity requesting that 53 species of reptiles and amphibians, including the Cedar Key mole skink, be listed as endangered or threatened and critical habitat be designated 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 Cedar Key mole skink (*Plestiodon egregius insularis*) based on Factors A, B, and E. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the Cedar Key mole skink, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Colorado Checkered Whiptail as an Endangered or 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–R6–ES–2015–0048 under the Supporting Documents section.

Species and Range

Colorado checkered whiptail (*Aspidoscelis neotesselata*); Colorado

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity, requesting that 53 species of amphibians and reptiles, including the Colorado checkered whiptail, be listed as endangered or threatened and critical habitat be designated 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 does not provide substantial scientific or commercial information indicating that the petitioned action may be warranted. We are not initiating a status review of this species in response to the petition. Our justification for this finding can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R6–ES–2015–0048 under the ''Supporting Documents'' section. However, we ask that the public submit to us any new information that becomes available concerning the status of, or threats to, the Colorado checkered whiptail or its habitat at any time (see **FOR FURTHER INFORMATION CONTACT**).

Evaluation of a Petition To List the Distinct Population Segment of North American Wild Horse as an Endangered or 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–R8–ES–2015–0049 under the Supporting Documents section.

Species and Range

North American wild horse (population of the species *Equus caballus*); U.S. Federal public lands

Petition History

On June 17, 2014, we received a petition, dated June 10, 2014, from Friends of Animals and The Cloud Foundation, requesting that the distinct population segment (DPS) of North American wild horses on all U.S. federal public lands be listed as an endangered or threatened species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner(s), as required by 50 CFR 424.14(a). In an October 3, 2014, letter to the petitioner, we responded that we reviewed the information presented in the petition and did not find that the petition warranted an emergency listing. This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition does not provide substantial information indicating the petitioned entity may qualify as a DPS and, therefore, a listable entity under section 3(16) of the Act. The petition does not present substantial information supporting the characterization of North American wild horses on all U.S. Federal public lands as a DPS, because the discreteness criteria were not met. Therefore, this population is not a valid listable entity under section 3(16) of the Act, and we are not initiating a status review in response to the petition. Our justification for this finding can be found as an appendix at http://*www.regulations.gov* under Docket No. FWS–R8–ES–2015–0049 under the ''Supporting Documents'' section. However, we ask that the public submit to us any new information that becomes available concerning the status of, or threats to, the North American wild horse or its habitat at any time (see **FOR FURTHER INFORMATION CONTACT**).

Evaluation of a Petition To List the Foothill Yellow-Legged Frog as an Endangered or 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–R8–ES–2015–0050 under the Supporting Documents section.

Species and Range

Foothill yellow-legged frog (*Rana boylii*); Oregon and California

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity requesting that 53 species of reptiles and amphibians, including the foothill yellow-legged frog, be listed as endangered or threatened and critical habitat be designated 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 foothill yellow-legged frog (*Rana boylii*) based on Factors A and E. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the foothill yellow-legged frog, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Gopher Frog as an Endangered or 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–R4–ES–2015–0051 under the Supporting Documents section.

Species and Range

Gopher frog (*Lithobates capito*); Alabama, Florida, Tennessee, Georgia, South Carolina, and North Carolina

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity requesting that 53 species of reptiles and amphibians, including the gopher frog, be listed as endangered or threatened and critical habitat be designated 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 gopher frog (*Lithobates capito*) based on Factors A, C, D, and E. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the gopher frog, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To Reclassify the Gray Wolf, Excluding Mexican Wolf, in the Conterminous U.S. 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–HQ–ES–2015–0072 under the Supporting Documents section.

Species and Range

Gray wolf, excluding the Mexican wolf (population of the species *Canis lupus*); conterminous United States.

Petition History

On January 27, 2015, we received a petition dated January 27, 2015, from the Humane Society of the United States (HSUS) and twenty-two undersigned petitioners (The Center for Biological Diversity, The Fund for Animals, Born Free USA, Friends of Animals and Their Environment, Help Our Wolves Live, The Detroit Zoological Society, Midwest Environmental Advocates, Predator Defense, National Wolfwatcher Coalition, Northwoods Alliance, Wisconsin Federated Humane Societies, Minnesota Humane Society, Howling for Wolves, Detroit Audubon Society, Sault Sainte Marie Tribe of Chippewa Indians, Wildlife Public Trust and Coexistence, Minnesota Voters for Animal Protection, Friends of the Wisconsin Wolf, Wolves of Douglas County Wisconsin, Justice for Wolves, and Wildwoods (Minnesota)), requesting that the gray wolf, excluding the Mexican wolf subspecies, be reclassified as threatened throughout the conterminous United States (U.S.) 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). On March 10, 2015, we received electronic copies of the published references cited in the January, 27, 2015 petition from HSUS. In a March 27, 2015, letter to HSUS, we responded that we reviewed the information presented in the petition and did not find that the petition warranted an emergency listing. This finding addresses the petition.

Finding

Based on our review of the petition, we find the petition does not provide substantial scientific or commercial information indicating the petitioned entity may qualify as a DPS and, therefore, a listable entity under section 3(16) of the Act. Although any further evaluation of the petition was unnecessary because this is a sound basis for a not-substantial finding, due to the level of controversy surrounding the legal status of gray wolf under the Act and the high interest in this petition specifically we further evaluated the petition by analyzing the five listing factors under section 4(a)(1). Based on our review of the petition, sources cited in the petition, and our files we find the petition does not provide substantial scientific or commercial information indicating that gray wolves, excluding Mexican wolves, in the coterminous U.S. may be likely to become an endangered species within the foreseeable future (a threatened species) due to any one of the five listing factors. We come to the same conclusion when we consider whether collective information presented in the petition represents substantial information. The petitioner's information with respect to unoccupied suitable habitat is based on a misinterpretation of the Act. Moreover, despite making allegations with respect to disease, and small population size, the petitioners provided no information to support their claim. Inadequate existing regulatory mechanisms are not an independent source of threat, but relate to amelioration of threats under the other factors. Therefore, the petition only provides information with respect to possible overutilization from recreational hunting and trapping, and the information is not substantial. Thus the petition provides no information to combine with the information regarding possible overutilization from recreational hunting and trapping. In any case, even if the petition had presented information with respect to other sources of mortality, the existing state plans regulating take of wolves only allow take above certain population thresholds, such that if the other causes of mortality increased above certain levels, hunting and trapping would be reduced to prevent the population from dipping below those thresholds. So those plans have a built-in response to possible concerns relating to cumulative impacts. Accordingly, we are not initiating a status review in response to this petition.

Our justification for this finding can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–HQ–ES–2015–0072 under the ''Supporting Documents'' section. However, we ask that the public submit to us any new information that becomes available concerning the status of, or threats to, the gray wolf or its habitat at any time (see **FOR FURTHER INFORMATION CONTACT**).

Evaluation of a Petition To List the Green Salamander as an Endangered or 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–R4–ES–2015–0052 under the Supporting Documents section.

Species and Range

Green salamander (*Aneides aeneus*); Alabama, Georgia, Indiana, Maryland, Mississippi, Ohio, Pennsylvania, North Carolina, and South Carolina.

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity, requesting that 53 species of amphibians and reptiles, including the green salamander, be listed as endangered or threatened and critical habitat be designated 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 green salamander (*Aneides aeneus*) based on Factors A, B, C, D, and E. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the green salamander, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Illinois Chorus Frog as an Endangered or 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–2015–0053 under the Supporting Documents section.

Species and Range

Illinois chorus frog (*Pseudacris illinoensis* or *Pseudacris streckeri illinoensis*); Illinois, Missouri, and Arkansas

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity requesting that 53 species of reptiles and amphibians, including the Illinois chorus frog, be listed as endangered or threatened and critical habitat be designated 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 Illinois chorus frog (*Pseudacris illinoensis* or *Pseudacris streckeri illinoensis*) based on Factors A and E. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the Illinois chorus frog, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Kern Canyon Slender Salamander as an Endangered or 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–R8–ES–2015–0054 under the Supporting Documents section.

Species and Range

Kern Canyon slender salamander (*Batrachoseps simatus*); California

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity, requesting that 53 species of amphibians and reptiles, including the Kern Canyon slender salamander, be listed as endangered or threatened and critical habitat be designated 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 Kern Canyon slender salamander (*Batrachoseps simatus*) based on Factors A, D, and E. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the Kern Canyon slender salamander, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Key Ringneck Snake as an Endangered or 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–R4–ES–2015–0055 under the Supporting Documents section.

Species and Range

Key ringneck snake (*Diadophis punctatus acricus*); Florida

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity, requesting that 53 species of amphibians and reptiles, including the Key ringneck snake, be listed as endangered or threatened and critical habitat be designated 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 Key ringneck snake (*Diadophis punctatus acricus)* based on Factors A and E. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the Key ringneck snake, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Olympic Torrent Salamander as an Endangered or 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–R1–ES–2015–0056 under the Supporting Documents section.

Species and Range

Olympic torrent salamander (*Rhyacotriton olympicus*); Washington

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity requesting that 53 species of reptiles and amphibians, including the Olympic torrent salamander, be listed as endangered or threatened and critical habitat be designated 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 does not provide substantial scientific or commercial information indicating that the petitioned action may be warranted. We are not initiating a status review of this species in response to the petition. Our justification for this finding can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R1–ES–2015–0056 under the ''Supporting Documents'' section. However, we ask that the public submit to us any new information that becomes available concerning the status of, or threats to, the Olympic torrent salamander or its habitat at any time (see **FOR FURTHER INFORMATION CONTACT**).

Evaluation of a Petition To List the Oregon Slender Salamander as an Endangered or 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–R1–ES–2015–0057 under the Supporting Documents section.

Species and Range

Oregon slender salamander (*Batrachoseps wrighti;* previously *B. wrightorum*); Oregon

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity requesting that 53 species of reptiles and amphibians, including the Oregon slender salamander, be listed as endangered or threatened and critical habitat be designated 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 Oregon slender salamander (*Batrachoseps wrighti*) based on Factors A and E. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the Oregon slender salamander, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Pigeon Mountain Salamander as an Endangered or 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–R4–ES–2015–0058 under the Supporting Documents section.

Species and Range

Pigeon Mountain salamander (*Plethodon petraeus*); Georgia

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity, requesting that 53 species of amphibians and reptiles, including the Pigeon Mountain salamander, be listed as endangered or threatened and critical habitat be designated 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 does not provide substantial scientific or commercial information indicating that the petitioned action may be warranted. We are not initiating a status review of this species in response to the petition. Our justification for this finding can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2015–0058 under the ''Supporting Documents'' section. However, we ask that the public submit to us any new information that becomes available concerning the status of, or threats to, the Pigeon Mountain salamander or its habitat at any time (see **FOR FURTHER INFORMATION CONTACT**).

Evaluation of a Petition To List the Relictual Slender Salamander as an Endangered or 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–R8–ES–2015–0059 under the Supporting Documents section.

Species and Range

Relictual slender salamander (*Batrachoseps relictus*); California

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity, requesting that 53 species of amphibians and reptiles, including the relictual slender salamander, be listed as endangered or threatened and critical habitat be designated 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 relictual slender salamander (*Batrachoseps relictus*) based on Factors A, D, and E. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the relictual slender salamander, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Rim Rock Crowned Snake as an Endangered or 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–R4–ES–2015–0060 under the Supporting Documents section.

Species and Range

Rim Rock crowned snake (*Tantilla oolitica*); Florida

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from The Center for Biological Diversity, requesting that 53 species of reptiles and amphibians, including the Rim Rock crowned snake, be listed as endangered or threatened and critical habitat be designated 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 Rim Rock crowned snake (*Tantilla oolitica*) based on Factors A and E. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the Rim Rock crowned snake, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Rio Grande Cooter as an Endangered or 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–R2–ES–2015–0061 under the Supporting Documents section.

Species and Range

Rio Grande cooter or Western River cooter (*Pseudemys gorzugi*); Texas and New Mexico, United States; Coahuila, Neuvo Leon, and Tamaulipas, Mexico

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from The Center for Biological Diversity, requesting that 53 species of reptiles and amphibians, including the Rio Grande cooter, be listed as endangered or threatened and critical habitat be designated 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 Rio Grande cooter (*Pseudemys gorzugi)* based on Factors A, B, and D. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the Rio Grande cooter, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List Silvery Phacelia as an Endangered or 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–R1–ES–2015–0062 under the Supporting Documents section.

Species and Range

Silvery phacelia (*Phacelia argentea*); Oregon and California

Petition History

On March 7, 2014, we received a petition dated March 7, 2014, from The Center for Biological Diversity, Oregon Wild, Friends of Del Norte, Oregon Coast Alliance, The Native Plant Society of Oregon, The California Native Plant Society, The Environmental Protection Information Center, and Klamath-Siskiyou Wildlands Center (the petitioners), requesting that silvery phacelia be listed as an endangered or threatened species and, if applicable, critical habitat be designated for this 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 silvery phacelia (*Phacelia argentea*) based on Factors A and D. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the silvery phacelia, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Southern Hog-Nosed Snake as an Endangered or 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–R4–ES–2015–0063 under the Supporting Documents section.

Species and Range

Southern hog-nosed snake (*Heterodon simus*); North Carolina, South Carolina, Georgia, and Florida

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from The Center for Biological Diversity, requesting that 53 species of reptiles and amphibians, including the southern hog-nosed snake, be listed as endangered or threatened and critical habitat be designated 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 southern hog-nosed snake (*Heterodon simus*) based on Factors A and E. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the southern hog-nosed snake, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Spotted Turtle as an Endangered or 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–R5–ES–2015–0064 under the Supporting Documents section.

Species and Range

Spotted turtle (*Clemmys guttata*); Connecticut, Delaware, Florida, Georgia, Illinois, Maine, Maryland, Massachusetts, Michigan, Pennsylvania, New Hampshire, New York, North Carolina, Ohio, South Carolina, Vermont, Virginia, and West Virginia

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity requesting that 53 species of reptiles and amphibians, including the spotted turtle, be listed as endangered or threatened and critical habitat be designated 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 spotted turtle (*Clemmys guttata*) based on Factors A, B, D, and E. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the spotted turtle, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Weller's Salamander as an Endangered or 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–R4–ES–2015–0065 under the Supporting Documents section.

Species and Range

Weller's salamander (*Plethodon welleri,* 1931); North Carolina, Tennessee, and Virginia

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity, requesting that 53 species of amphibians and reptiles, including the Weller's salamander, be listed as endangered or threatened and critical habitat be designated 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 does not provide substantial scientific or commercial information indicating that the petitioned action may be warranted. We are not initiating a status review of this species in response to the petition. Our justification for this finding can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2015–0065 under the ''Supporting Documents'' section. However, we ask that the public submit to us any new information that becomes available concerning the status of, or threats to, the Weller's salamander or its habitat at any time (see **FOR FURTHER INFORMATION CONTACT**).

Evaluation of a Petition To List the Western Spadefoot Toad as an Endangered or 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–R8–ES–2015–0066 under the Supporting Documents section.

Species and Range

Western spadefoot toad (*Spea hammondii* or *Scaphiopus hammondii*); California, United States; Northwestern Baja California, Mexico

Petition History

On July 11, 2012, we received a petition dated July 11, 2012, from the Center for Biological Diversity requesting that 53 species of reptiles and amphibians, including the western spadefoot toad, be listed as endangered or threatened and critical habitat be designated 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 western spadefoot toad (*Spea hammondii* or *Scaphiopus hammondii*) based on Factors A and E. However, during our status review we will thoroughly evaluate all potential threats to the species.

Thus, for the western spadefoot toad, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (see Request for Information, above).

Evaluation of a Petition To List the Wingtail Crayfish as an Endangered or 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–R4–ES–2015–0067 under the Supporting Documents section.

Species and Range

Wingtail crayfish (*Procambarus (Leconticambarus) latipleurum*); Florida

Petition History

On January 6, 2014, we received a petition dated January 6, 2014, from the Center for Biological Diversity, requesting that the wingtail crayfish be listed as an endangered or threatened 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).

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition does not provide substantial scientific or commercial information indicating that the petitioned action may be warranted. We are not initiating a status review of this species in response to the petition. Our justification for this finding can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2015–0067 under the ''Supporting Documents'' section. However, we ask that the public submit to us any new information that becomes available concerning the status of, or threats to, the wingtail crayfish or its habitat at any time (see **FOR FURTHER INFORMATION CONTACT**).

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 Blue Ridge gray-cheeked salamander, Caddo Mountain salamander, California giant salamander, Colorado checkered whiptail, the distinct population segment of North American wild horse, gray wolf, excluding Mexican wolf, in the conterminous U.S., Olympic torrent salamander, Pigeon Mountain salamander, Weller's salamander, and wingtail crayfish do not present substantial scientific or commercial information indicating that the requested actions may be warranted. Therefore, we are not initiating status reviews for these species.

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 alligator snapping turtle, Apalachicola kingsnake, Arizona toad, Blanding's turtle, Cascade Caverns salamander, Cascades frog, Cedar Key mole skink, foothill yellow-legged frog, gopher frog, green salamander, Illinois chorus frog, Kern Canyon slender salamander, Key ringneck snake, Oregon slender salamander, relictual slender salamander, Rim Rock crowned snake, Rio Grande cooter, silvery phacelia, southern hog-nosed snake, spotted turtle, and western spadefoot toad 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, as to whether or not the Service believes listing is warranted.

It is important to note that the ''substantial information'' standard for a 90-day finding as to whether the petitioned action may be warranted differs from the Act's ''best scientific and commercial data'' standard that applies to the Service's determination in a 12-month finding as to whether a petitioned action is in fact warranted. A 90-day finding is not based on a status review. 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 document 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: June 22, 2015.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2015–16001 Filed 6–30–15; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 80, No. 126

Wednesday, July 1, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the West Sacramento, CA; Frankfort, IN; and Richmond, VA Areas; Request for Comments on the Official Agencies Servicing These Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end on September 30, 2015. We are asking persons or governmental agencies interested in providing official services in the areas presently served by these agencies to submit an application for designation. In addition, we are asking for comments on the quality of services provided by the following designated agencies: California Agri Inspection Co., Ltd. (California-Agri), Frankfort Grain Inspection, Inc. (Frankfort), and Virginia Department of Agriculture and Consumer Services (Virginia).

DATES: Applications and comments must be received by July 31, 2015.

ADDRESSES: Submit applications and comments concerning this Notice using any of the following methods:

- *Applying for Designation on the Internet:* Use FGISonline (*https://fgis.gipsa.usda.gov/default_home_FGIS.aspx*) and then click on the Delegations/Designations and Export Registrations (DDR) link. You will need to obtain an FGISonline customer number and USDA eAuthentication username and password prior to applying.
- *Submit Comments Using the Internet:* Go to Regulations.gov (*http://www.regulations.gov*). Instructions for submitting and reading comments are detailed on the site.
- *Mail, Courier or Hand Delivery:* Eric J. Jabs, Deputy Director, USDA, GIPSA, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153.
- *Fax:* Eric J. Jabs, 816–872–1257.
- *Email: Eric.J.Jabs@usda.gov.*

Read Applications and Comments: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

FOR FURTHER INFORMATION CONTACT: Eric J. Jabs, 816–659–8408 or *Eric.J.Jabs@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 79(f) of the United States Grain Standards Act (USGSA) authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79 (f)). Under section 79(g) of the USGSA, designations of official agencies are effective for three years unless terminated by the Secretary, but may be renewed according to the criteria and procedures prescribed in section 79(f) of the USGSA.

Areas Open for Designation

California-Agri

Pursuant to Section 79(f)(2) of the USGSA, the following geographic area, in the State of California, is assigned to this official agency.

In California

Bounded on the North by the northern California State line east to the eastern California State line.

Bounded on the East by the eastern California State line south to the southern San Bernardino County line.

Bounded on the South by the southern San Bernardino and Orange County lines west to the western California State line.

Bounded on the West by the western California State line north to the northern California State line.

California Agri's assigned geographic area does not include the export port locations inside California Agri's area, which are serviced by GIPSA.

Frankfort

Pursuant to Section 79(f)(2) of the USGSA, the following geographic area, in the State of Indiana, is assigned to this official agency.

In Indiana

Bounded on the North by the northern Fulton County line.

Bounded on the East by the eastern Fulton County line south to State Route 19; State Route 19 south to State Route 114; State Route 114 southeast to the eastern Fulton and Miami County lines; the northern Grant County line east to County Highway 900E; County Highway 900E south to State Route 18; State Route 18 east to the Grant County line; the eastern and southern Grant County lines; the eastern Tipton County line; the eastern Hamilton County line south to State Route 32.

Bounded on the South by State Route 32 west to the Boone County line; the eastern and southern Boone County lines; the southern Montgomery County line.

Bounded on the West by the western and northern Montgomery County lines; the western Clinton County line; the western Carroll County line north to State Route 25; State Route 25 northeast to Cass County; the western Cass and Fulton County lines.

The following grain elevators are not part of this geographic area assignment and are assigned to: Titus Grain Inspection, Inc.: The Andersons, Delphi, Carroll County; Frick Services, Inc., Leiters Ford, Fulton County; and Cargill, Inc., Linden, Montgomery County, Indiana.

Virginia

Pursuant to Section 79(f)(2) of the USGSA, the following geographic area, in the State of Virginia.

In Virginia

The entire State of Virginia.

Opportunity for Designation

Interested persons or governmental agencies may apply for designation to provide official services in the geographic areas specified above under the provisions of section 79(f) of the USGSA and 7 CFR 800.196. Designation in the specified geographic areas is for the period beginning January 1, 2016 and ending December 31, 2018. To apply for designation or for more information, contact Eric J. Jabs at the address listed above or visit GIPSA's Web site at *http://www.gipsa.usda.gov.*

Request for Comments

We are publishing this Notice to provide interested persons the

opportunity to comment on the quality of services provided by the California-Agri, Frankfort, and Virginia official agencies. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data supporting or objecting to the designation of the applicants. Submit all comments to Eric J. Jabs at the above address or at *http://www.regulations.gov.*

We consider applications, comments, and other available information when determining which applicants will be designated.

Authority: 7 U.S.C. 71–87k.

Larry Mitchell,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2015–16163 Filed 6–30–15; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the Pocatello, ID; Evansville, IN; Salt Lake City, UT; and Columbia, SC Areas; Request for Comments on the Official Agencies Servicing These Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA), USDA.

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end on September 30, 2015. We are asking persons or governmental agencies interested in providing official services in the areas presently served by these agencies to submit an application for designation. In addition, we are asking for comments on the quality of services provided by the following designated agencies: Idaho Grain Inspection Service (Idaho); Ohio Valley Grain Inspection, Inc. (Ohio Valley); Utah Department of Agriculture and Food (Utah); and South Carolina Department of Agriculture (South Carolina).

DATES: Applications and comments must be received by July 31, 2015.

ADDRESSES: Submit applications and comments concerning this Notice using any of the following methods:

- Applying for Designation on the Internet: Use FGISonline (*https://fgis.gipsa.usda.gov/default_home_FGIS.aspx*) and then click on the Delegations/Designations and Export Registrations (DDR) link. You will need to obtain
- An FGISonline customer number and USDA eAuthentication username and password prior to applying.
- Submit Comments Using the Internet: Go to Regulations.gov (*http://www.regulations.gov*). Instructions for submitting and reading comments are detailed on the site.
- Mail, Courier or Hand Delivery: Eric J. Jabs, Deputy Director, USDA, GIPSA, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153
- Fax: Eric J. Jabs, 816–872–1257
- Email: *Eric.J.Jabs@usda.gov*

Read Applications and Comments: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

FOR FURTHER INFORMATION CONTACT: Eric J. Jabs, 816–659–8408 or *Eric.J.Jabs@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 79(f) of the United States Grain Standards Act (USGSA) authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79 (f)). Under section 79(g) of the USGSA, designations of official agencies are effective for three years unless terminated by the Secretary, but may be renewed according to the criteria and procedures prescribed in section 79(f) of the USGSA.

Areas Open for Designation

Idaho

Pursuant to Section 79(f)(2) of the USGSA, the following geographic area, in the State of Idaho, is assigned to this official agency.

In Idaho

The southern half of the State of Idaho up to the northern boundaries of Adams, Valley, and Lemhi Counties.

Ohio Valley

Pursuant to Section 79(f)(2) of the USGSA, the following geographic area, in the States of Indiana, Kentucky, and Tennessee, is assigned to this official agency.

In Indiana

Daviess, Dubois, Gibson, Knox (except the area west of U.S. Route 41 (150) from Sullivan County south to U.S. Route 50), Pike, Posey, Vanderburgh, and Warrick Counties.

In Kentucky

Caldwell, Christian, Crittenden, Henderson, Hopkins (west of State Route 109 south of the Western Kentucky Parkway), Logan, Todd, Union, and Webster (west of Alternate U.S. Route 41 and State Route 814) Counties.

In Tennessee

Cheatham, Davidson, and Robertson Counties.

Utah

Pursuant to Section 79(f)(2) of the USGSA, the following geographic area, in the State of Utah, is assigned to this official agency.

In Utah

The entire State of Utah.

South Carolina

Pursuant to Section 79(f)(2) of the USGSA, the following geographic area, in the State of South Carolina, is assigned to this official agency.

In South Carolina

The entire State of South Carolina.

Opportunity for Designation

Interested persons or governmental agencies may apply for designation to provide official services in the geographic areas specified above under the provisions of section 79(f) of the USGSA and 7 CFR 800.196. Designation in the specified geographic areas for Idaho, Ohio Valley, and Utah is for the period beginning October 1, 2015, and ending September 30, 2018. Designation in the specified geographic area for South Carolina is for the period beginning October 1, 2015, and ending September 30, 2017. To apply for designation or for more information, contact Eric J. Jabs at the address listed above or visit GIPSA's Web site at *http://www.gipsa.usda.gov.*

Request for Comments

We are publishing this Notice to provide interested persons the opportunity to comment on the quality of services provided by the Idaho, Ohio Valley, and Utah official agencies. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data supporting or objecting to the designation of the applicants. Submit all comments to Eric J. Jabs at the above address or at *http://www.regulations.gov.*

We consider applications, comments, and other available information when determining which applicants will be designated.

Authority: 7 U.S.C. 71–87k.

Larry Mitchell,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2015–16123 Filed 6–30–15; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Designation for the Topeka, KS; Cedar Rapids, IA; Minot, ND; and Cincinnati, OH Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA), USDA.

ACTION: Notice.

SUMMARY: GIPSA is announcing the designation of Kansas Grain Inspection Service, Inc. (Kansas); Mid-Iowa Grain Inspection, Inc. (Mid-Iowa); Minot Grain Inspection, Inc. (Minot); and Tri-State Grain Inspection Service, Inc. (Tri-State) to provide official services under the United States Grain Standards Act (USGSA), as amended.

DATES: *Effective Date:* July 1, 2015.

ADDRESSES: Eric J. Jabs, Deputy Director, USDA, GIPSA, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153.

FOR FURTHER INFORMATION CONTACT: Eric J. Jabs, 816–659–8408 or *Eric.J.Jabs@usda.gov.*

Read Applications: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

SUPPLEMENTARY INFORMATION: In the February 11, 2015, **Federal Register** (80 FR 7564), GIPSA requested applications for designation to provide official services in the geographic areas presently serviced by Kansas, Mid-Iowa, Minot, and Tri-State. Applications were due by March 13, 2015.

Kansas, Mid-Iowa, Minot, and Tri-State were the sole applicants for designation to provide official services in these areas. As a result, GIPSA did not ask for additional comments.

GIPSA evaluated the designation criteria in section 79(f) of the USGSA (7 U.S.C. 79(f)) and determined that Kansas, Minot, and Tri-State are qualified to provide official services in the geographic area specified in the **Federal Register** on February 11, 2015. This designation action to provide official services in these specified areas is effective July 1, 2015, to June 30, 2018.

After completing an initial quality management review of Mid-Iowa, GIPSA determined that a follow-up review should be conducted. Accordingly, GIPSA is designating Mid-Iowa to provide services in this specified area for one year, effective July 1, 2015, to June 30, 2016. During this timeframe, such a review will be conducted.

Interested persons may obtain official services by contacting these agencies at the following telephone numbers:

Official agency	Headquarters location and telephone	Designation start	Designation end
Kansas	Topeka, KS(785) 233–7063	7/1/2015	6/30/2018
Mid-Iowa	Cedar Rapids, IA(319) 363–0239	7/1/2015	6/30/2016
Minot	Minot, ND(701) 838–1734	7/1/2015	6/30/2018
Tri-State	Cincinnati, OH(513) 251–6571	7/1/2015	6/30/2018

Section 79(f) of the USGSA authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79 (f)).

Under section 79(g) of the USGSA, designations of official agencies are effective for no longer than three years unless terminated by the Secretary; however, designations may be renewed according to the criteria and procedures prescribed in section 79(f) of the USGSA.

Authority: 7 U.S.C. 71–87k.

Larry Mitchell,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2015–16124 Filed 6–30–15; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Office of Procurement and Property Management

Public Availability of FY 2014 Service Contract Inventories

AGENCY: Office of Procurement and Property Management, Departmental Management, U.S. Department of Agriculture

ACTION: Notice of public availability of FY 2014 Service Contract inventories

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), U.S. Department of Agriculture is publishing this notice to advise the public of the availability of the FY 2014 Service Contract inventory. This inventory provides information on FY 2014 service contract actions over $25,000. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010, by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.*

The U.S. Department of Agriculture has posted its inventory and a summary of the inventory on the Office of Procurement and Property Management homepage at the following link: *http://www.dm.usda.gov/procurement/.*

FOR FURTHER INFORMATION CONTACT: Crandall Watson, Office of Procurement and Property Management (OPPM), at (202) 720–7529, or by mail at OPPM, MAIL STOP 9304, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250–9303. Please cite ''2014 Service Contract Inventory'' in all correspondence.

Signed in Washington, DC, on June 23, 2015.

Lisa M. Wilusz,

Director, Office of Procurement and Property Management.

[FR Doc. 2015–16266 Filed 6–30–15; 8:45 am]

BILLING CODE 3410–TX–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Manufacturers' Unfilled Orders Survey

AGENCY: U.S. Census Bureau, 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: To ensure consideration, written comments must be submitted on or before August 31, 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(s) and instructions should be directed to Mary Catherine Potter, U.S. Census Bureau, Economic Indicators Division, 4600 Silver Hill Road, Room 7K157, Washington, DC 20233–6913, (301) 763–4207, or (via the internet at *mary.catherine.potter@census.gov.*)

SUPPLEMENTARY INFORMATION:

I. Abstract

The Manufacturers' Shipments, Inventories, and Orders (M3) survey collects monthly data on the value of shipments, inventories, and new and unfilled orders from manufacturing companies. The orders, as well as the shipments and inventory data, are valuable tools for analysts of business cycle conditions. The Bureau of Economic Analysis, the Counsel of Economic Advisors, the Federal Reserve Board, the Conference Board, and members of the business community such as the National Association of Manufacturers, Wall Street Journal, Market Watch, and Bloomberg business analysts, use the data.

The monthly M3 Survey estimates are based on a relatively small sample that primarily reflects the month-to-month changes of large companies. There is a clear need for periodic benchmarking of the M3 estimates to reflect the manufacturing universe. The Economic Census covering the manufacturing sector and the Annual Survey of Manufactures (ASM) provide annual benchmarks for the shipments and inventory data in this monthly survey. The Manufacturers' Unfilled Orders Survey, the subject of this notice, provides an annual benchmark for unfilled orders.

The Census Bureau uses this data to develop universe estimates of unfilled orders as of the end of the calendar year and to adjust the monthly M3 data on unfilled orders to these levels on the North American Industrial Classification System (NAICS) basis. The benchmarked unfilled orders levels are used to derive estimates of new orders received by manufacturers. The survey data are also used to determine whether it is necessary to collect unfilled orders data for specific industries on a monthly basis; some industries are not requested to provide unfilled orders data on the M3 Survey.

There are no changes to the MA–3000 form.

II. Method of Collection

The Census Bureau will use mail out/mail back survey forms to collect the data with online reporting encouraged. Online response for the survey is typically just under 60 percent. Companies are asked to respond to the survey within 30 days of receipt. Letters encouraging participation are mailed to companies that have not responded by the designated time. Telephone follow-up is conducted to obtain response from delinquent companies.

III. Data

OMB Control Number: 0607–0561.
Form Number(s): MA–3000.
Type of Review: Regular submission.
Affected Public: Manufacturing Businesses, large and small, or other for-profit organizations.
Estimated Number of Respondents: 6,000.
Estimated Time per Response: .50 hour.
Estimated Total Annual Burden Hours: 3,000.
Estimated Total Annual Cost to Public: $0.
Respondents Obligation: Mandatory.
Legal Authority: Title 13 U.S.C., Sections 131, 182, 224 and 225.

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.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2015–16158 Filed 6–30–15; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (''the Act''), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (''the Department'') conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event the Department limits the number of respondents for individual

examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department finds that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that requests a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after July 2015, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

The Department is providing this notice on its Web site, as well as in its ''Opportunity to Request Administrative Review'' notices, so that interested parties will be aware of the manner in which the Department intends to exercise its discretion in the future.

Opportunity to Request a Review: Not later than the last day of July 2015,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in July for the following periods:

	Period of review
Antidumping Duty Proceedings	
FINLAND: Carboxymethylcellulose, A–405–803	7/1/14–6/30/15
INDIA: Polyethylene Terephthalate (Pet) Film, A–533–824	7/1/14–6/30/15
IRAN: In-Shell Pistachios, A–507–502	7/1/14–6/30/15
ITALY: Certain Pasta, A–475–818	7/1/14–6/30/15
JAPAN:	
Clad Steel Plate, A–588–838	7/1/14–6/30/15
Polyvinyl Alcohol, A–588–861	7/1/14–6/30/15
Stainless Steel Sheet and Strip in Coils, A–588–845	7/1/14–6/30/15
MALAYSIA: Welded Stainless Pressure Pipe, A–557–815	1/7/14–6/30/15
NETHERLANDS: Carboxymethylcellulose, A–421–811	7/1/14–6/30/15
REPUBLIC OF KOREA: Stainless Steel Sheet and Strip in Coils, A–580–834	7/1/14–6/30/15
RUSSIA: Solid Urea, A–821–801	7/1/14–6/30/15
SOCIALIST REPUBLIC OF VIETNAM: Welded Stainless Pressure Pipe, A–552–816	1/7/14–6/30/15
TAIWAN:	
Polyethylene Terephthalate Film, A–583–837	7/1/14–6/30/15
Stainless Steel Sheet and Strip in Coils, A–583–831	7/1/14–6/30/15
THAILAND:	
Carbon Steel Butt-Weld Pipe Fittings, A–549–807	7/1/14–6/30/15
Welded Stainless Pressure Pipe, A–549–830	1/7/14–6/30/15
THE PEOPLE'S REPUBLIC OF CHINA:	
Carbon Steel Butt-Weld Pipe Fittings, A–570–814	7/1/14–6/30/15
Certain Potassium Phosphate Salts, A–570–962	7/1/14–6/30/15
Certain Steel Grating, A–570–947	7/1/14–6/30/15

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

	Period of review
Circular Welded Carbon Quality Steel Pipe, A–570–910	7/1/14–6/30/15
Persulfates, A–570–847	7/1/14–6/30/15
Xanthan Gum, A–570–985	7/1/14–6/30/15
TURKEY: Certain Pasta, A–489–805	7/1/14–6/30/15
UKRAINE: Solid Urea, A–823–801	7/1/14–6/30/15
Countervailing Duty Proceedings	
INDIA: Polyethylene Terephthalate Film, C–533–825	1/1/14–12/31/14
ITALY: Certain Pasta, C–475–819	1/1/14–12/31/14
THE PEOPLE'S REPUBLIC OF CHINA:	
Certain Potassium Phosphate Salts, C–570–963	1/1/14–12/31/14
Certain Steel Grating, C–570–948	1/1/14–12/31/14
Circular Welded Carbon Quality Steel Pipe, C–570–911	1/1/14–12/31/14
Prestressed Concrete Steel Wire Strand, C–570–946	1/1/14–12/31/14
TURKEY: Certain Pasta, C–489–806	1/1/14–12/31/14
Suspension Agreements	
UKRAINE: Oil Country Tubular Goods, A–823–815	7/1/14–6/30/15

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) the Department clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.[2]

Further, as explained in *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013), the Department clarified its practice with regard to the conditional review of the non-market economy (NME) entity in administrative reviews of antidumping duty orders. The Department will no longer consider the NME entity as an exporter conditionally subject to administrative reviews. Accordingly, the NME entity will not be under review unless the Department specifically receives a request for, or self-initiates, a review of the NME entity.[3] In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, the Department will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity).

Following initiation of an antidumping administrative review when there is no review requested of the NME entity, the Department will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS'') on Enforcement and Compliance's ACCESS Web site at *http://access.trade.gov.*[4] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of July 2015. If the Department does not receive, by the last day of July 2015, a request for review of entries covered by an order, finding, or

[2] *See also* the Enforcement and Compliance Web site at *http://trade.gov/enforcement/.*

[3] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

[4] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 25, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–16203 Filed 6–30–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (''Sunset'') Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating the five-year review (''Sunset Review'') of the antidumping and countervailing duty (''AD/CVD'') orders listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

DATES: *Effective Date:* July 1, 2015.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating Sunset Reviews of the following antidumping and countervailing duty orders:

DOC case No.	ITC case No.	Country	Product	Department contact
A–570–951	731–TA–1163	PRC	Woven Electric Blankets (1st Review).	Matthew Renkey (202) 482–2312.

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Web site at the following address: ''*http://enforcement.trade.gov/sunset/.*'' All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''), can be found at 19 CFR 351.303.[1]

Revised Factual Information Requirements

This notice serves as a reminder that any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information.[2] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD/CVD investigations or proceedings initiated on or after August 16, 2013.[3] The formats for the revised certifications are provided at the end of the *Final Rule.* The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: The definition of factual information (19 CFR 351.102(b)(21), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information

[1] *See also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] *See* section 782(b) of the Act.

[3] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*'') (amending 19 CFR 351.303(g)).

seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment. To the extent that other regulations govern the submission of factual information in a segment (such as 19 CFR 351.218), these time limits will continue to be applied.

Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation at 19 CFR 351.302(c) concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings: *Extension of Time Limits,* 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time limit established under part 351 of the Department's regulations expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

Letters of Appearance and Administrative Protective Orders

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a public service list for these proceedings. Parties wishing to participate in any of these five-year reviews must file letters of appearance as discussed at 19 CFR 351.103(d). To facilitate the timely preparation of the public service list, it is requested that those seeking recognition as interested parties to a proceeding submit an entry of appearance within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties who want access to proprietary information under administrative protective order (''APO'') to file an APO application immediately following publication in the **Federal Register** of this notice of initiation. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.[4]

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews. Consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: June 15, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–16250 Filed 6–30–15; 8:45 am]

BILLING CODE 3510–DS–P

[4] *See* 19 CFR 351.218(d)(1)(iii).

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for August 2015

The following Sunset Reviews are scheduled for initiation in August 2015 and will appear in that month's Notice of Initiation of Five-Year Sunset Review (''Sunset Review'').

	Department contact
Antidumping Duty Proceedings	
Magnesia Carbon Bricks from China (A–570–954) (1st Review)	Matthew Renkey (202) 482–2312.
Narrow Woven Ribbons with Woven Selvedge from China (A–570–952) (1st Review)	Matthew Renkey (202) 482–2312.
Magnesia Carbon Bricks from Mexico (A–201–837) (1st Review)	Matthew Renkey (202) 482–2312.
Narrow Woven Ribbons with Woven Selvedge from Taiwan (A–583–844) (1st Review)	Matthew Renkey (202) 482–2312.
Countervailing Duty Proceedings	
Magnesia Carbon Bricks from China (C–570–955) (1st Review)	Jacqueline Arrowsmith (202) 482–5255.
Narrow Woven Ribbons with Woven Selvedge from China (C–570–953) (1st Review)	David Goldberger (202) 482–4136.
Suspended Investigations	
No Sunset Review of suspended investigations is scheduled for initiation in August 2015.	

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. The Notice of Initiation of Five-Year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 15, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–16257 Filed 6–30–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with May anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

DATES: *Effective Date:* July 1, 2015.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with May anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (''POR''), it must notify the Department within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://access.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (''the Act''). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the POR. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within seven days of publication of this initiation notice and to make our decision regarding respondent selection within 21 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the applicable review. Rebuttal comments will be due five days after submission of initial comments.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (''Q&V'') Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Respondent Selection—Aluminum Extrusions From the People's Republic of China

In the event the Department limits the number of respondents for individual examination in the administrative review of the antidumping duty order on aluminum extrusions from the People's Republic of China (''PRC''), the Department intends to select respondents based on volume data contained in responses to Q&V questionnaires. Further, the Department intends to limit the number of Q&V questionnaires issued in the review based on CBP data for U.S. imports of aluminum extrusions from the PRC. The extremely wide variety of individual types of aluminum extrusion products included in the scope of the order on aluminum extrusions would preclude meaningful results in attempting to determine the largest PRC exporters of subject merchandise by volume. Therefore, the Department will limit the number of Q&V questionnaires issued based on the import values in CBP data which will serve as a proxy for imported quantities. Parties subject to the review to which the Department does not send a Q&V questionnaire may file a response to the Q&V questionnaire by the applicable deadline if they desire to be included in the pool of companies from which the Department will select mandatory respondents. The Q&V questionnaire will be available on the Department's Web site at *http://trade.gov/enforcement/news.asp* on the date of publication of this notice in the **Federal Register**. The responses to the Q&V questionnaire must be received by the Department within 14 days of publication of this notice. Please be advised that due to the time constraints imposed by the statutory and regulatory deadlines for antidumping duty administrative reviews, the Department does not intend to grant any extensions for the submission of responses to the Q&V questionnaire. Parties will be given the opportunity to comment on the CBP data used by the Department to limit the number of Q&V questionnaires issued. We intend to release the CBP data under APO to all parties having an APO within seven days of publication of this notice in the **Federal Register**. The Department invites comments regarding CBP data and respondent selection within five days of placement of the CBP data on the record.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

Separate Rates

In proceedings involving non-market economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994). In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [2] should timely file a

[2] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 30 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than May 31, 2016.

	Period to be reviewed
Antidumping Duty Proceedings	
Canada: Citric Acid and Certain Citric Salts, A–122–853	5/1/14–4/30/15
Jungbunzlauer Canada Inc.	
India: Circular Welded Carbon Steel Pipe and Tubes, A–533–502	5/1/14–4/30/15
Lloyds Metals & Engineers Limited and Lloyds Line Pipe Ltd.	
Lloyds Steel Industries Ltd.	
Jindal Pipes Limited.	
Maharashtra Seamless Limited.	
Ratnamani Metals Tubes Ltd.	
Tata Iron and Steel Co., Ltd.	
India: Silicomanganese, A–533–823	5/1/14–4/30/15
Nava Bharat Ventures Limited.	
Universal Ferro and Allied Chemicals, Ltd.	
Japan: Diffusion-Annealed Nickel-Plated Flat-Rolled Steel Products, A–588–869	11/19/13–4/30/15
Toyo Kohan Co., Ltd.	
Kazakhstan: Silicomanganese, A–834–807	5/1/14–4/30/15
Alloy 2000, S.A.	
Aksu Ferroalloy Plant.	
Considar, Inc.	
Transnational Co. Kazuchrome.	
Republic of Korea: Certain Polyester Staple Fiber, A–580–839	5/1/14–4/30/15
Toray Chemical Korea, Inc. (formerly known as Woongjin Chemical Company, Ltd.).	
Taiwan:	
Certain Stilbenic Optical Brightening Agents, A–583–848	5/1/14–4/30/15
Teh Fong Min International Co., Ltd.	
Taiwan: Polyester Staple Fiber, A–583–833	5/1/14–4/30/15
Far Eastern New Century Corporation.	
The People's Republic of China: Aluminum Extrusions, A–570–967	5/1/14–4/30/15
Acro Import and Export Co.	
Activa International Inc.	
Allied Maker Limited.	
Alnan Aluminium Co., Ltd.	
Aluminicaste Fundicion de Mexico.	
Atlas Integrated Manufacturing Ltd.	
Belton (Asia) Development Ltd.	
Birchwoods (Lin'an) Leisure Products Co., Ltd.	
Bracalente Metal Products (Suzhou) Co., Ltd.	
Changshu Changsheng Aluminium Products Co., Ltd.	
Changzhou Changzheng Evaporator Co., Ltd.	
Changzhou Tenglong Auto Parts Co., Ltd.	
China Zhongwang Holdings, Ltd.	
Chiping One Stop Industrial & Trade Co., Ltd.	
Classic & Contemporary Inc.	
Clear Sky Inc.	
Cosco (J.M.) Aluminium Co., Ltd.	
Danfoss Micro Channel Heat Exchanger (Jia Xing) Co., Ltd.	
Dongguan Aoda Aluminum Co., Ltd.	
Dongguan Dazhan Metal Co., Ltd.	
Dongguan Golden Tiger Hardware Industrial Co., Ltd.	

[3] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
Dragonluxe Limited.	
Dynamic Technologies China Ltd.	
Dynabright Int'l Group (HK) Limited.	
Ever Extend Ent. Ltd.	
Fenghua Metal Product Factory.	
First Union Property Limited.	
FookShing Metal & Plastic Co. Ltd.	
Foreign Trade Co. of Suzhou New & High-Tech Industrial Development Zone.	
Foshan City Nanhai Hongjia Aluminum Alloy Co., Ltd.	
Foshan Golden Source Aluminum Products Co., Ltd.	
Foshan Guangcheng Aluminium Co., Ltd.	
Foshan Jinlan Aluminum Co. Ltd.	
Foshan JMA Aluminum Company Limited.	
Foshan Sanshui Fenglu Aluminium Co., Ltd.	
Foshan Shunde Aoneng Electrical Appliances Co., Ltd.	
Foshan Yong Li Jian Aluminum Co., Ltd.	
Fujian Sanchuan Aluminum Co., Ltd.	
Genimex Shanghai, Ltd.	
Global PMX Dongguan Co., Ltd.	
Global Point Technology (Far East) Limited.	
Gold Mountain International Development Limited.	
Golden Dragon Precise Copper Tube Group, Inc.	
Gran Cabrio Capital Pte. Ltd.	
Gree Electric Appliances.	
GT88 Capital Pte. Ltd.	
Guang Ya Aluminium Industries (Hong Kong) Ltd.	
Guang Ya Aluminium Industries Co., Ltd.	
Guangdong Hao Mei Aluminium Co., Ltd.	
Guangdong Jianmei Aluminum Profile Company Limited.	
Guangdong JMA Aluminum Profile Factory (Group) Co., Ltd.	
Guangdong Nanhai Foodstuffs Imp. & Exp. Co., Ltd.	
Guangdong Weiye Aluminum Factory Co., Ltd.	
Guangdong Whirlpool Electrical Appliances Co., Ltd.	
Guangdong Xingfa Aluminium Co., Ltd.	
Guangdong Xin Wei Aluminum Products Co., Ltd.	
Guangdong Yonglijian Aluminum Co., Ltd.	
Guangdong Zhongya Aluminum Company Limited.	
Guangzhou Jangho Curtain Wall System Engineering Co., Ltd.	
Guangzhou Mingcan Die-Casting Hardware Products Co., Ltd.	
Hangzhou Xingyi Metal Products Co., Ltd.	
Hanwood Enterprises Limited.	
Hanyung Alcoba Co., Ltd.	
Hanyung Alcobis Co., Ltd.	
Hanyung Metal (Suzhou) Co., Ltd.	
Hao Mei Aluminum Co., Ltd.	
Hao Mei Aluminum International Co., Ltd.	
Hebei Xusen Wire Mesh Products Co., Ltd.	
Henan New Kelong Electrical Appliances Co., Ltd.	
Hong Kong Gree Electric Appliances Sales Limited.	
Honsense Development Company.	
Hui Mei Gao Aluminum Foshan Co., Ltd.	
IDEX Dinglee Technology (Tianjin) Co., Ltd.	
IDEX Technology Suzhou Co., Ltd.	
IDEX Health.	
Innovative Aluminium (Hong Kong) Limited.	
iSource Asia.	
Jackson Travel Products Co., Ltd.	
Jangho Curtain Wall Hong Kong Ltd.	
Jiangmen Qunxing Hardware Diecasting Co., Ltd.	
Jiangsu Changfa Refrigeration Co., Ltd.	
Jiangyin Trust International Inc.	
Jiangyin Xinhong Doors and Windows Co., Ltd.	
Jiaxing Jackson Travel Products Co., Ltd.	
Jiaxing Taixin Metal Products Co., Ltd.	
Jiuyan Co., Ltd.	
JMA (HK) Company Limited.	
Justhere Co., Ltd.	
Kam Kiu Aluminium Products Sdn. Bhd.	
Kanal Precision Aluminum Product Co., Ltd.	
Karlton Aluminum Company Ltd.	
Kong Ah International Company Limited.	
Kromet International, Inc.	
Kunshan Giant Light Metal Technology Co., Ltd.	

	Period to be reviewed
Liaoning Zhongwang Group Co., Ltd.	
Liaoyang Zhongwang Aluminum Profile Co. Ltd.	
Longkou Donghai Trade Co., Ltd.	
Metaltek Group Co., Ltd.	
Metaltek Metal Industry Co., Ltd.	
Midea Air Conditioning Equipment Co., Ltd.	
Midea International Training Co., Ltd./Midea International Trading Co., Ltd.	
Miland Luck Limited.	
Nanhai Textiles Import & Export Co., Ltd.	
New Asia Aluminum & Stainless Steel Product Co., Ltd.	
New Zhongya Aluminum Factory.	
Nidec Sankyo (Zhejang) Corporation.	
Nidec Sankyo Singapore Pte. Ltd.	
Ningbo Coaster International Co., Ltd.	
Ningbo Hi Tech Reliable Manufacturing Company.	
Ningbo Ivy Daily Commodity Co., Ltd.	
Ningbo Yili Import and Export Co., Ltd.	
North China Aluminum Co., Ltd.	
North Fenghua Aluminum Ltd.	
Northern States Metals.	
PanAsia Aluminium (China) Limited.	
Pengcheng Aluminum Enterprise Inc.	
Permasteelisa Hong Kong Limited.	
Permasteelisa South China Factory.	
Pingguo Aluminum Company Limited.	
Pingguo Asia Aluminum Co., Ltd.	
Popular Plastics Co., Ltd.	
Press Metal International Ltd.	
Samuel, Son & Co., Ltd.	
Sanchuan Aluminum Co., Ltd.	
Shangdong Huasheng Pesticide Machinery Co.	
Shangdong Nanshan Aluminum Co., Ltd.	
Shanghai Automobile Air-Conditioner Accessories Co., Ltd.	
Shanghai Canghai Aluminum Tube Packaging Co., Ltd.	
Shanghai Dongsheng Metal.	
Shanghai Shen Hang Imp & Exp Co., Ltd.	
Shanghai Tongtai Precise Aluminum Alloy Manufacturing Co., Ltd.	
Shenyang Yuanda Aluminium Industry Engineering Co. Ltd.	
Shenzhen Hudson Technology Development Co.	
Shenzhen Jiuyuan Co., Ltd.	
Sihui Shi Guo Yao Aluminum Co., Ltd.	
Sincere Profit Limited.	
Skyline Exhibit Systems (Shanghai) Co., Ltd.	
Southwest Aluminum (Group) Co., Ltd.	
Suzhou JRP Import & Export Co., Ltd.	
Suzhou NewHongJi Precision Part Co., Ltd.	
TAI–AO Aluminium (Taishan) Co., Ltd.	
Taishan City Kam Kiu Aluminium Extrusion Co., Ltd.	
Taizhou Lifeng Manufacturing Co., Ltd.	
Taizhou United Imp. & Exp. Co., Ltd.	
tenKsolar (Shanghai) Co., Ltd.	
Tianjin Ganglv Nonferrous Metal Materials Co., Ltd.	
Tianjin Jinmao Import & Export Corp., Ltd.	
Tianjin Ruixin Electric Heat Transmission Technology, Ltd.	
Tianjin Xiandai Plastic & Aluminum Products Co., Ltd.	
Tiazhou Lifeng Manufacturing Corporation/Taizhou Lifeng Manufacturing Corporation, Ltd.	
Top-Wok Metal Co., Ltd.	
Traffic Brick Network, LLC.	
Union Aluminum (SIP) Co.	
Union Industry (Asia) Co., Ltd.	
USA Worldwide Door Components (PINGHU) Co., Ltd.	
Wenzhou Shengbo Decoration & Hardware.	
Whirlpool (Guangdong).	
Whirlpool Canada L.P..	
Whirlpool Microwave Products Development Ltd.	
WTI Building Products, Ltd.	
Xin Wei Aluminum Co.	
Xin Wei Aluminum Company Limited.	
Xinya Aluminum & Stainless Steel Product Co., Ltd.	
Zahoqing China Square Industry Limited/Zhaoqing China Square Industry Limited.	
Zhaoqing Asia Aluminum Factory Company Ltd.	
Zhaoqing China Square Industrial Ltd.	
Zhaoqing New Zhongya Aluminum Co., Ltd.	

	Period to be reviewed
Zhejiang Anji Xinxiang Aluminum Co., Ltd.	
Zhejiang Yongkang Listar Aluminium Industry Co., Ltd.	
Zhejiang Zhengte Group Co., Ltd.	
Zhenjiang Xinlong Group Co., Ltd.	
Zhongshan Daya Hardware Co., Ltd.	
Zhongshan Gold Mountain Aluminium Factory Ltd.	
Zhongya Shaped Aluminium (HK) Holding Limited.	
Zhuhai Runxingtai Electrical Equipment Co., Ltd.	
The People's Republic of China: Certain Activated Carbon [4], A–570–904	4/1/14–3/31/15
Jacobi Carbons Industry (Tianjin).	
The People's Republic of China: Citric Acid and Certain Citrate Salts, A–570–937	5/1/14–4/30/15
Laiwu Taihe Biochemistry Co., Ltd.	
RZBC Co., Ltd.	
RZBC Import & Export Co., Ltd.	
RZBC (Juxian) Co., Ltd.	
The People's Republic of China: Drawn Stainless Steel Sinks [5], A–570–983	4/1/14–3/31/15
Zhuhai Kohler Kitchen & Bathroom Products Co., Ltd.	
The People's Republic of China: Pure Magnesium, A–570–832	5/1/14–4/30/15
Tianjin Magnesium International Co., Ltd. (''TMI'').	
Tianjin Magnesium Metal Co., Ltd. (''TMM'').	
Turkey: Circular Welded Carbon Steel Pipes and Tubes, A–489–501	5/1/14–4/30/15
Borusan Mannesmann Boru Sanayi ve Ticaret A.S.	
Borusan Birlesik Boru Fabrikalari San ve Tic.	
Borusan Istikbal Ticaret T.A.S.	
Borusan Gemlik Boru Tesisleri A.S.	
Borusan Iharcat Ithalat ve Dagitim A.S.	
Borusan Ithicat ve Dagitim A.S.	
Tubeco Pipe and Steel Corporation.	
Erbosan Erciyas Boru Sanayi ve Ticaret A.S.	
Toscelik Profil ve Sac Endustrisi A.S.	
Toscelik Metal Ticaret A.S.	
Tosyali Dis Ticaret A.S.	
Yucel Boru ve Profil Endustrisi A.S.	
Yucelboru Ihracat Ithalat ve Pazarlama A.S.	
Caryirova Boru Sanayi ve Ticaret A.S.	
Turkey: Light-Walled Rectangular Pipe and Tube, A–489–815	5/1/14–4/30/15
Agir Haddecilik A.S.	
United Arab Emirates: Certain Steel Nails, A–520–804	5/1/14–4/30/15
Dubai Wire FZE.	
Oman Fasteners LLC.	
Overseas Distribution Services Inc.	
Overseas International Steel Industry LLC.	
Precision Fasteners LLC.	
Venezuela: Silicomanganese, A–307–820	5/1/14–4/30/15
FerroAtlantica S.A.	
FerroAtlantica de Venezuela.	
Hornos Electricos de Venezuela.	
Countervailing Duty Proceedings	
The People's Republic of China: Aluminum Extrusions, C–570–968	1/1/14–12/31/14
A-Plus Industries Ltd.	
Acro Import and Export Co.	
Activa International Inc.	
Allied Maker Limited.	
Alnan Aluminium Co., Ltd.	
Aluminicaste Fundicion de Mexico.	
Asia Pacific Industrial (Group) Co., Ltd.	
Birchwoods (Lin'an) Leisure Products Co., Ltd.	
Bracalente Metal Products (Suzhou) Co. Ltd.	
Changshu Changsheng Aluminum Products Co., Ltd.	
Changzhou Changzhen Evaporator Co., Ltd.	
Changzhou Jinxi Machinery Co., Ltd.	
Changzhou Tenglong Auto Parts Co., Ltd.	
China Zhongwang Holdings, Ltd.	
Chiping One Stop Industrial & Trade Co., Ltd.	
Classic & Contemporary Inc.	
Clear Sky Inc.	
Cosco (J.M.) Aluminum Co., Ltd.	
Danfoss Micro Channel Heat Exchanger (Jia Xing) Co. Ltd.	
Dongguan Aoda Aluminum Co., Ltd.	
Dongguan Dazhan Metal Co., Ltd.	
Dongguan Golden Tiger Hardware Industrial Co., Ltd.	
Dragonluxe Limited.	

	Period to be reviewed
Dynabright International Group (HK) Limited.	
Dynamic Technologies China.	
Ever Extend Ent. Ltd.	
ETLA Technology (Wuxi) Co., Ltd.	
Fenghua Metal Product Factory.	
First Union Property Limited.	
Foreign Trade Co. of Suzhou New & Hi-Tech Industrial Development Zone.	
Foshan City Nanhai Hongjia Aluminum Alloy Co., Ltd.	
Foshan Golden Source Aluminum Products Co., Ltd.	
Foshan Guancheng Aluminium Co., Ltd.	
Foshan Jinlan Aluminum Co. Ltd.	
Foshan JMA Aluminum Company Limited.	
Foshan Shanshui Fenglu Aluminum Co., Ltd.	
Foshan Shunde Aoneng Electrical Appliances Co., Ltd.	
Foshan Yong Li Jian Aluminum Co., Ltd.	
Fujian Sanchuan Aluminum Co., Ltd.	
Genimex Shanghai, Ltd.	
Global Hi-Tek Precision Limited.	
Global PMX Dongguan Co., Ltd.	
Global Point Technology (Far East) Limited.	
Gold Mountain International Development, Ltd.	
Golden Dragon Precise Copper Tube Group, Inc.	
Gran Cabrio Capital Pte. Ltd.	
Gree Electric Appliances.	
GT88 Capital Pte. Ltd.	
Guang Ya Aluminium Industries (HK) Ltd.	
Guang Ya Aluminium Industries Co., Ltd.	
Guangdong Hao Mei Aluminum Co., Ltd.	
Guangdong Jianmei Aluminum Profile Company Limited.	
Guangdong JMA Aluminum Profile Factory (Group) Co., Ltd.	
Guangdong Nanhai Foodstuffs Imp. & Exp. Co., Ltd.	
Guangdong Weiye Aluminum Factory Co., Ltd.	
Guangdong Whirlpool Electrical Appliances Co., Ltd.	
Guangdong Xingfa Aluminum Co., Ltd.	
Guangdong Xin Wei Aluminum Products Co., Ltd.	
Guangdong Yonglijian Aluminum Co., Ltd.	
Guangdong Zhongya Aluminum Company Limited.	
Guangzhou Jangho Curtain Wall System Engineering Co., Ltd.	
Guangzhou Mingcan Die-Casting Hardware Products Co., Ltd.	
Hangzhou Xingyi Metal Products Co., Ltd.	
Hanwood Enterprises Limited.	
Hanyung Alcoba Co., Ltd.	
Hanyung Alcobis Co., Ltd.	
Hanyung Metal (Suzhou) Co., Ltd.	
Hao Mei Aluminum Co., Ltd.	
Hao Mei Aluminum International Co., Ltd.	
Hebei Xusen Wire Mesh Products Co., Ltd.	
Henan New Kelong Electrical Appliances Co., Ltd.	
Hong Kong Gree Electric Appliances Sales Limited.	
Honsense Development Company.	
Hui Mei Gao Aluminum Foshan Co., Ltd.	
Idex Dinglee Technology (Tianjin) Co., Ltd.	
Idex Health.	
IDEX Technology Suzhou Co., Ltd.	
Innovative Aluminum (Hong Kong) Limited.	
iSource Asia.	
Jackson Travel Products Co., Ltd.	
Jangho Curtain Wall Hong Kong Ltd.	
Jiangmen Qunxing Hardware Diecasting Co., Ltd.	
Jiangsu Changfa Refrigeration Co., Ltd.	
Jiangsu Susun Group (HK) Co., Ltd.	
Jiangsu Zhenhexiang New Material Technology Co., Ltd.	
Jiangsu Shengrun Industry Co, Ltd.	
Jiangyin Trust International Inc.	
Jiangyin Xinhong Doors and Windows Co., Ltd.	
Jiaxing Jackson Travel Products Co., Ltd.	
Jiaxing Taixin Metal Products Co., Ltd.	
Jiuyan Co., Ltd.	
JMA (HK) Company Limited.	
Johnson Precision Engineering (Suzhou) Co Ltd.	
Justhere Co., Ltd.	
Kam Kiu Aluminum Products Sdn Bhd.	
Kanal Precision Aluminum Product Co., Ltd.	

	Period to be reviewed
Karlton Aluminum Company Ltd.	
Kong Ah International Company Limited.	
Kromet International Inc.	
Kunshan Giant Light Metal Technology Co., Ltd.	
Liaoning Zhongwang Group Co., Ltd.	
Liaoyang Zhongwang Aluminum Profile Co. Ltd.	
Longkou Donghai Trade Co., Ltd.	
Markem Imaje China (China) Co. Ltd.	
Metaltek Group Co., Ltd.	
Metaltek Metal Industry Co., Ltd.	
Midea Air Conditioning Equipment Co., Ltd.	
Midea International Training Co., Ltd./Midea International Trading Co., Ltd.	
Miland Luck Limited.	
Nanhai Textiles Import & Export Co., Ltd.	
New Asia Aluminum & Stainless Steel Product Co., Ltd.	
New Zhongya Aluminum Factory.	
Nidec Sankyo Singapore Pte. Ltd.	
Nidec Sankyo (Zhejiang) Corporation.	
Ningbo Coaster International Co., Ltd.	
Ningbo Haina Machine Co., Ltd.	
Ningbo Hi Tech Reliable Manufacturing Company.	
Ningbo Innopower Tengda Machinery Co., Ltd.	
Ningbo Ivy Daily Commodity Co., Ltd.	
Ningbo Yili Import and Export Co., Ltd.	
Ningbo Yinzhou Sanhua Electric Machine Factory.	
North China Aluminum Co., Ltd.	
North Fenghua Aluminum Ltd.	
Northern States Metals.	
PanAsia Aluminum (China) Limited.	
Pengcheng Aluminum Enterprise Inc.	
Permasteelisa Hong Kong Ltd.	
Permasteelisa South China Factory.	
Pingguo Aluminum Company Limited.	
Pingguo Asia Aluminum Co., Ltd.	
Popular Plastics Company Limited.	
Precision Metal Works LTD.	
Press Metal International Ltd.	
Samuel, Son & Co., Ltd.	
Sanchuan Aluminum Co., Ltd.	
Sapa Profiles (Shanghai) Co., Ltd.	
Shangdong Huasheng Pesticide Machinery Co.	
Shangdong Nanshan Aluminum Co., Ltd.	
Shanghai Automobile Air-Conditioner Accessories Co., Ltd.	
Shanghai Canghai Aluminum Tube Packaging Co., Ltd.	
Shanghai Dongsheng Metal.	
Shanghai Shen Hang Imp & Exp Co., Ltd.	
Shanghai Tongtai Precise Aluminum Alloy Manufacturing Co., Ltd.	
Shenyang Yuanda Aluminum Industry Engineering Co., Ltd.	
Shenzhen Hudson Technology Development Co., Ltd.	
Shenzhen Jiuyuan Co., Ltd.	
Shunhai International (HK) Limited.	
Sihui Shi Guo Yao Aluminum Co., Ltd.	
Sincere Profit Limited.	
Summit Heat Sinks Metal Co., Ltd.	
Skyline Exhibit Systems (Shanghai) Co., Ltd.	
Suzhou JRP Import & Export Co., Ltd.	
Suzhou New Hongji Precision Part Co.	
Tai-Ao Aluminum (Taishan) Co. Ltd.	
Taishan City Kam Kiu Aluminium Extrusion Co., Ltd.	
Taizhou Lifeng Manufacturing Co., Ltd.	
Taizhou United Imp. & Exp. Co. Ltd.	
tenKsolar (Shanghai) Co., Ltd.	
Tianjin Ganglv Nonferrous Metal Materials Co., Ltd.	
Tianjin Jinmao Import & Export Corp., Ltd.	
Tianjin Ruxin Electric Heat Transmission Technology Co., Ltd.	
Tianjin Xiandai Plastic & Aluminum Products Co., Ltd.	
Tiazhou Lifeng Manufacturing Corporation/Taizhou Lifeng Manufacturing Co., Ltd.	
Top-Wok Metal Co., Ltd.	
Traffic Brick Network, LLC.	
Union Industry (Asia) Co., Ltd.	
USA Worldwide Door Components (Pinghu) Co., Ltd.	
Wenzhou Shengbo Decoration & Hardware.	
Whirlpool (Guangdong).	

	Period to be reviewed
Whirlpool Canada.	
Whirlpool Microwave Products Development Ltd.	
WTI Building Products, Ltd.	
Wuxi Huida Aluminum Co., Ltd.	
Xin Wei Aluminum Co.	
Xin Wei Aluminum Company Limited.	
Xinya Aluminum & Stainless Steel Product Co., Ltd.	
Yongji Guanghai Aluminium Industry Co., Ltd.	
Zahoqing China Square Industry Limited/Zhaoqing China Square Industry Limited.	
Zhaoqing Asia Aluminum Factory Company Ltd.	
Zhaoqing China Square Industrial Ltd.	
Zhaoqing New Zhongya Aluminum Co., Ltd.	
Zhejiang Anji Xinxiang Aluminum Co., Ltd.	
Zhejiang Dongfeng Refrigeration Components Co., Ltd.	
Zhejiang Yongkang Listar Aluminum Industry Co., Ltd..	
Zhejiang Zhengte Group Co., Ltd.	
Zhenjiang Xinlong Group Co., Ltd.	
Zhongshan Daya Hardware Co., Ltd.	
Zhongshan Gold Mountain Aluminum Factory Ltd.	
Zhongya Shaped Aluminum (HK) Holding Limited.	
Zhuhai Runxingtai Electrical Equipment Co., Ltd.	
The People's Republic of China: Certain Magnesia Carbon Bricks [6], C–570–955	1/1/13–12/31/13
Fengchi Mining Co., Ltd. of Haicheng City.	
The People's Republic of China: Citric Acid and Certain Salts, C–570–938	1/1/14–12/31/14
Laiwu Taihe Biochemistry Co., Ltd.	
RZBC Group Shareholding Co., Ltd.	
RZBC Co., Ltd.	
RZBC Imp. & Exp. Co., Ltd.	
RZBC (Juxian) Co., Ltd.	
Suspension Agreements	
None.	

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia* v. *United States,* 291 F.3d 806 (Fed Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Revised Factual Information Requirements

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the

[4] The company listed above was inadvertently not included in the initiation notice that published on May 26, 2015 (80 FR 30041).

[5] The name of the company listed below was misspelled in the initiation notice that published on May 26, 2015 (80 FR 30041). The correct spelling of the company name is listed in this notice.

[6] The name of the company listed below was misspelled in the initiation notice that published on November 10, 2014 (79 FR 66694). The correct spelling of the company name is listed in this notice.

record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[7] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.[8] The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings: *Final Rule,* 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time limit established under part 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: June 25, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–16248 Filed 6–30–15; 8:45 am]

BILLING CODE 3510–DS–P

[7] *See* section 782(b) of the Act.

[8] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*''); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

DEPARTMENT OF COMMERCE

Minority Business Development Agency

[Docket No: 150623548–5548–01]

Guidance on MBDA Applications for Federal Funding

AGENCY: Minority Business Development Agency, Department of Commerce

ACTION: Notice of public meeting.

SUMMARY: The Minority Business Development Agency (MBDA) publishes this notice to announce a public meeting to be held during the MBDA National Training Conference on July 23, 2015. The public meeting will provide general information and an overview of the history of MBDA, MBDA's Federal Funding Opportunities, tips on writing grant applications, guidance on preparing budgets and budget justifications, and information regarding audit and compliance rules.

DATES: The public meeting will be held on Thursday, July 23, 2015; 1:00 p.m.–3:30 p.m. EST. The meeting will be available via webinar. Please submit your written questions to Nakita Y. Chambers (*See* **FOR FURTHER INFORMATION CONTACT**) no later than July 10, 2015.

ADDRESSES: The public meeting will be held at: The Westin Canal Place, 100 Rue Iberville, New Orleans, Louisiana, 70130. Participants may register for the webinar online at *www.mbda.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information please contact: Ms. Nakita Y. Chambers, Program Manager, Telephone (202) 482–0065, email *nchambers@mbda.gov.* Anyone who requires special assistance, such as sign language interpretation or other reasonable accommodations, should contact Nakita Chambers no later than July 17, 2015.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 11625, the Minority Business Development Agency is authorized provide federal financial assistance to public and private organizations so that they may render technical and business management services to minority business enterprises. MBDA provides federal financial assistance to organizations through grants and cooperative agreements. The purpose of the public meeting is to provide general information to prospective grant applicants interested in MBDA business development grant programs on writing a competitive grant application, preparing budgets and budget justifications, and generally reviewing single audit readiness and compliance regulations.

This meeting is open to the public.

Josephine Arnold,

Chief Counsel.

[FR Doc. 2015–16188 Filed 6–30–15; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Institute of Standards and Technology (NIST) Smart Grid Advisory Committee Meeting

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) Smart Grid Advisory Committee (SGAC or Committee), will meet in open session on Thursday, July 30, 2015 from 8:30 a.m. to 5:00 p.m. Eastern time and Friday, July 31, 2015 from 8:30 a.m. to 12:00 p.m. Eastern time. This meeting was originally scheduled for March 10–11, 2015 and was rescheduled for administrative reasons. The primary purposes of this meeting are to discuss the Grid 3.0 Strategic Planning Effort and NIST Transactive Energy, Distributed Energy Resources, Microgrid, and Smart City activities. The agenda may change to accommodate Committee business. The final agenda will be posted on the Smart Grid Web site at *http://www.nist.gov/smartgrid.*

DATES: The SGAC will meet on Thursday, July 30, 2015 from 8:30 a.m. to 5:00 p.m. Eastern time and Friday, July 31, 2015 from 8:30 a.m. to 12:00 p.m. Eastern time.

ADDRESSES: The meeting will be held in the Executive Conference Room, Building 101 (Administration), National Institute of Standards and Technology (NIST), 100 Bureau Drive, Gaithersburg, Maryland 20899. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. Cuong Nguyen, Smart Grid and Cyber-Physical Systems Program Office, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8200, Gaithersburg, MD 20899–8200; telephone 301–975–2254, fax 301–948–5668; or via email at *cuong.nguyen@nist.gov.*

SUPPLEMENTARY INFORMATION: The Committee was established in accordance with the Federal Advisory Committee Act, as amended, 5 U.S.C. App. The Committee is composed of nine to fifteen members, appointed by the Director of NIST, who were selected on the basis of established records of distinguished service in their professional community and their knowledge of issues affecting Smart Grid deployment and operations. The Committee advises the Director of NIST in carrying out duties authorized by section 1305 of the Energy Independence and Security Act of 2007 (Pub. L. 110–140). The Committee provides input to NIST on Smart Grid standards, priorities, and gaps, on the overall direction, status, and health of the Smart Grid implementation by the Smart Grid industry, and on Smart Grid Interoperability Panel activities, including the direction of research and standards activities. Background information on the Committee is available at *http://www.nist.gov/smartgrid/committee.cfm.*

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the NIST Smart Grid Advisory Committee (SGAC or Committee) will meet in open session on Thursday, July 30, 2015 from 8:30 a.m. to 5:00 p.m. Eastern time and Friday, July 31, 2015 from 8:30 a.m. to 12:00 p.m. Eastern time. The meeting will be open to the public and held in the Executive Conference Room, Building 101 (Administration) at NIST in Gaithersburg, Maryland. The primary purposes of this meeting are to discuss the Grid 3.0 Strategic Planning Effort and NIST Transactive Energy, Distributed Energy Resources, Microgrid, and Smart City activities. The agenda may change to accommodate Committee business. The final agenda will be posted on the Smart Grid Web site at *http://www.nist.gov/smartgrid.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's affairs are invited to request a place on the agenda by submitting their request to Cuong Nguyen at *cuong.nguyen@nist.gov* or (301) 975–2254 no later than 5:00 p.m. Eastern time, Friday, July 24, 2015. On Friday, July 31, 2015, approximately one-half hour will be reserved at the end of the meeting for public comments, and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about three minutes each. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to Mr. Cuong Nguyen, Smart Grid and Cyber-Physical Systems Program Office, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8200, Gaithersburg, MD 20899–8200; telephone 301–975–2254, fax 301–948–5668; or via email at *cuong.nguyen@nist.gov.*

All visitors to the NIST site are required to pre-register to be admitted. Anyone wishing to attend this meeting must register by 5:00 p.m. Eastern time, Friday, July 24, 2015, in order to attend. Please submit your full name, time of arrival, email address, and phone number to Cuong Nguyen. Non-U.S. citizens must submit additional information; please contact Mr. Nguyen. Mr. Nguyen's email address is *cuong.nguyen@nist.gov* and his phone number is (301) 975–2254. Also, please note that under the REAL ID Act of 2005 (Pub. L. 109–13), federal agencies, including NIST, can only accept a state-issued driver's license or identification card for access to federal facilities if issued by states that are REAL ID compliant or have an extension. NIST also currently accepts other forms of federal-issued identification in lieu of a state-issued driver's license. For detailed information please contact Mr. Nguyen or visit: *http://www.nist.gov/public_affairs/visitor/.*

Richard Cavanagh,

Acting Associate Director for Laboratory Programs.

[FR Doc. 2015–16190 Filed 6–30–15; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD990

Atlantic Highly Migratory Species; Essential Fish Habitat Final 5-Year Review

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

ACTION: Notice of availability; notice of intent.

SUMMARY: NMFS announces the availability of the Final Atlantic Highly Migratory Species (HMS) Essential Fish Habitat (EFH) 5-Year Review and intent to initiate an amendment to the 2006 Consolidated Atlantic HMS Fishery Management Plan (FMP) to revise Atlantic HMS EFH descriptions and designations. The purpose of the Atlantic HMS EFH 5-Year Review was to gather relevant new information and determine whether revisions to existing EFH descriptions and designations are warranted, in compliance with the

requirements of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations. NMFS has determined that revisions to EFH descriptions and designations are warranted, and an amendment to the 2006 Consolidated Atlantic HMS FMP will be initiated.

DATES: The Final Atlantic HMS EFH 5-Year Review will be available on July 1, 2015.

ADDRESSES: Electronic copies of the Draft Atlantic HMS EFH 5-Year Review may be obtained on the internet at: *http://www.nmfs.noaa.gov/sfa/hms/documents/2015_final_efh_review.pdf.*

FOR FURTHER INFORMATION CONTACT: Peter Cooper at 301–427–8503, or Jennifer Cudney at 727–824–5399.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) includes provisions concerning the identification and conservation of EFH (16 U.S.C. 1801 *et seq.*). EFH is defined in 50 CFR 600.10 as ''those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.'' NMFS must identify and describe EFH, minimize to the extent practicable the adverse effects of fishing on EFH, and identify other actions to encourage the conservation and enhancement of EFH (§ 600.815(a)). EFH maps are presented online in the NMFS EFH Mapper (*http://www.habitat.noaa.gov/protection/efh/habitatmapper.html*). Federal agencies that authorize, fund, or undertake actions that may adversely affect EFH must consult with NMFS, and NMFS must provide conservation recommendations to Federal and state agencies regarding any such actions (§ 600.815(a)(9)).

In addition to identifying and describing EFH for managed fish species, a review of EFH must be conducted every 5 years, and EFH provisions must be revised or amended, as warranted, based on the best available scientific information. The EFH 5-Year Review evaluates published scientific literature, unpublished scientific reports, information solicited from interested parties, and previously unavailable or inaccessible data. NMFS announced the initiation of this review and solicited information for this review from the public in a **Federal Register** notice on March 24, 2014 (79 FR 15959). The initial public review/submission period ended on May 23, 2014. The draft EFH 5-Year Review was made available in March 2015 and public comments on the draft were solicited in a **Federal Register** notice on March 5, 2015 (80 FR 11981). The public comment period for the draft EFH 5-Year Review ended on April 6, 2015.

The final EFH 5-Year Review for Atlantic HMS includes tunas (bluefin, bigeye, albacore, yellowfin, and skipjack), oceanic sharks, swordfish, and billfishes (blue marlin, white marlin, sailfish, roundscale spearfish, and longbill spearfish). The Atlantic HMS EFH 5-Year Review considers data regarding Atlantic HMS and their habitats that have become available since 2009 that were not included in Final Amendment 1 to the 2006 Consolidated Atlantic HMS (Amendment 1; June 1, 2010, 75 FR 30484); Final Environmental Impact Statement for Amendment 3 to the 2006 Consolidated HMS FMP (June 1, 2010, 75 FR 30484); and the interpretive rule that described EFH for roundscale spearfish (September 22, 2010, 75 FR 57698).

NMFS analyzed the information gathered through the EFH review process in this final 5-year review and determined that revision of EFH is warranted, and an amendment to the 2006 Consolidated Atlantic HMS FMP will be undertaken. In reviewing literature since 2009, new data emerged for certain Atlantic HMS that warrant revision to those species' EFH geographic boundaries. For other Atlantic HMS, new data were either unavailable or it was determined that the new data did not warrant revisions to their EFH geographic boundaries. However, in the upcoming amendment, new observer, survey, and tag/recapture data collected since 2009 will be used to revise EFH geographic boundaries for all species. The current EFH methodology to designate EFH geographic boundaries for Atlantic HMS was first applied in Amendment 1, and Atlantic HMS EFH geographic boundaries have not since been updated using this methodology. It is unknown how data that have been consistently collected since 2009 (*e.g.,* observer, survey, tag/recapture) will impact EFH geographic boundaries. Therefore, all Atlantic HMS EFH geographic boundaries will be updated to see how these data will impact EFH geographic boundaries, even for species where there was limited or no new EFH data found in the literature review.

The upcoming EFH amendment will consider all 10 EFH components, including individual species EFH descriptions, EFH conservation and enhancement recommendations for fishing and non-fishing effects on EFH, and identification of HAPCs, as well as scientific feedback and public comment.

Authority: 16 U.S.C. 971 *et seq.,* and 1801 *et seq.*

Dated: June 26, 2015.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–16191 Filed 6–30–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE021

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit application contains all of the required information and warrants further consideration. This Exempted Fishing Permit would allow eight commercial fishing vessels to fish outside of the limited access sea scallop regulations in support of a study on seasonal bycatch distribution and optimal scallop meat yield on Georges Bank.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed Exempted Fishing Permits.

DATES: Comments must be received on or before July 16, 2015.

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

• *Email: nmfs.gar.efp@noaa.gov.* Include in the subject line ''DA15–036 CFF Georges Bank Optimization Study EFP.''

• *Mail:* John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''DA15–036 CFF Georges Bank Optimization Study EFP.''

FOR FURTHER INFORMATION CONTACT: Shannah Jaburek, Fisheries Management Specialist, 978–282–8456.

SUPPLEMENTARY INFORMATION: NOAA awarded the Coonamesset Farm

Foundation (CFF) a grant through the 2015 Atlantic sea scallop research set-aside program, in support of a project titled, ''Optimizing the Georges Bank Scallop Fishery by Maximizing Meat Yield and Minimizing Bycatch.''

CFF submitted a complete application for an EFP on June 4, 2015. The project would look primarily at seasonal distribution of bycatch in relation to sea scallop meat weight yield while minimizing impacts to other stocks. Additional objectives include continued testing of a modified dredge bag design to reduce flatfish bycatch and collecting biological samples to examine scallop meat quality and yellowtail flounder liver disease. CFF is requesting exemptions that would allow eight commercial fishing vessels be exempt from the Atlantic sea scallop days-at-sea (DAS) allocations at 50 CFR 648.53(b); Closed Area II scallop gear restrictions specified at § 648.81(b); access area program requirements at § 648.60(a)(4); crew size restrictions at § 648.51(c); and possession limits and minimum size requirements specified in 50 CFR part 648, subsections B and D through O, for sampling purposes only.

Eight vessels would conduct scallop dredging in a year-round seasonal study on a total of eight 7-day trips, for a total of 56 DAS. Each trip would complete approximately 70 paired tows per trip for an overall total of 560 tows for the project. Closed Area II tows would take place in the central portion situated below the Closed Area II Habitat Closure Area of the Atlantic Sea Scallop Closed Area II Rotational Closed Area. Open area tows would be conducted on the northern half of Georges Bank west of the boundary of Closed Area II. CFF proposed tow locations inside the Closed Area II Habitat Closure Area. NOAA Fisheries does not believe that access to this area should be granted until a final outcome from the Omnibus Habitat Amendment II is determined, which is currently under development.

NOAA Fisheries recognizes there is a potential for gear conflict with lobster gear in the central portion of CAII. In an effort to help mitigate gear interactions, the project coordinator would distribute the time and location of stations to the lobster industry, work only during daylight hours, post an extra lookout to avoid gear, and conduct fishing operations in a way that avoids tangling in stationary gear. The lobster industry in relation to other actions has also expressed concern about the potential harvest of egg-bearing female lobsters in this area during the months of June-October. We do not expect the DAS, crew size or possession limits and minimum size exemptions to generate any controversy or concern. We will send the EFP notice to the Offshore Lobster association to ensure they are provided adequate opportunity to provide comment.

All tows would be conducted with two tandem 15-foot (4.57-meter) turtle deflector dredges for a duration of 30 minutes using an average tow speed of 4.8 knots. One dredge would be rigged with a 7-row apron and twine top hanging ratio of 2:1, while the other dredge would be rigged with a 5-row apron and 1.5:1 twine top hanging ratio. Both dredge frames would be rigged with identical rock and tickler chain configurations, 10-inch (25.4-cm) twine top, and 4-inch (10.16-cm) ring bag.

For all tows the entire sea scallop catch would be counted into baskets and weighed. One basket from each dredge would be randomly selected and the scallops would be measured in 5-mm increments to determine size selectivity. All finfish catch would be sorted by species and then counted and measured. Weight, sex, and reproductive state would be determined for a random subsample (n=10) of yellowtail, winter, and windowpane flounders. Lobsters would be measured, sexed, and evaluated for damage and shell disease. Maximum catch estimates for lobster for the project would be approximately 283 individuals. With the exception of samples retained for further processing, no catch would be retained for longer than needed to conduct sampling and no catch would be landed for sale.

PROJECT CATCH ESTIMATES

Species	Minimum		Maximum	
American Lobster	—		283 individuals	
	lbs	mt	lbs	mt
Scallops	30,300	13.74	124,400	56.43
Yellowtail	2,900	1.32	5,300	2.40
Winter Flounder	1,700	0.77	2,700	1.22
Windowpane Flounder	4,000	1.81	4,900	2.22
Monkfish	12,600	5.72	18,400	8.35
Other Fish	3,000	1.36	3,300	1.50
Barndoor Skate	5,700	2.59	5,900	2.68
NE Skate Complex	81,200	36.83	106,900	48.49

CFF needs these exemptions to allow them to conduct experimental dredge towing without being charged DAS, as well as deploy gear in areas that are currently closed to scallop fishing. Participating vessels need crew size waivers to accommodate science personnel and possession waivers will enable them to conduct finfish sampling activities.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 26, 2015.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2015–16189 Filed 6–30–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD991

Presidential Task Force on Combating Illegal Unreported and Unregulated (IUU) Fishing and Seafood Fraud Action Plan for Implementing Recommendations 14/15; Determining Types of Information and Operational Standards Related to Data Collection

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

ACTION: Notice; request for comments.

SUMMARY: The National Ocean Council Committee on IUU Fishing and Seafood Fraud (NOC Committee) is seeking public input on the minimum types of information necessary for an effective seafood traceability program to combat IUU fishing and seafood fraud, as well as the operational standards related to collecting, verifying and securing that data.

DATES: Comments must be received by July 31, 2015.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2014–0090, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0090,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Melissa Beaudry, Quality Officer, Office of International Affairs and Seafood Inspection, 1315 East-West Highway, Suite 9511, Silver Spring, MD 20910.

Instructions: Comments sent by any other method, to any other address or individual, or received after the comment period, may not be considered. All comments received are part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. Anonymous comments will be accepted (enter ''N/A'' in the required field if you wish to remain anonymous.)

FOR FURTHER INFORMATION CONTACT: Melissa Beaudry, Quality Officer, Office of International Affairs and Seafood Inspection; 301–427–8308.

SUPPLEMENTARY INFORMATION: On March 15, 2015, the Presidential Task Force on Combating IUU Fishing and Seafood Fraud (Task Force), co-chaired by the Departments of Commerce and State, published its Action Plan for Implementing the Task Force Recommendations (*http://www.nmfs.noaa.gov/ia/iuu/taskforce.html*).

The Action Plan articulates the steps that Federal agencies will take to implement the recommendations the Task Force made to the President in December 2014 on a comprehensive framework of integrated programs to combat IUU fishing and seafood fraud. The plan identifies actions that will strengthen enforcement, create and expand partnerships with state and local governments, industry, and non-governmental organizations, and create a risk-based traceability program to track seafood from harvest to point of entry into U.S. commerce, including the use of existing traceability mechanisms. The work initiated by the Task Force is now under the oversight of a National Ocean Council (NOC) Committee. The design of the traceability program will be led by an interagency working group.

This notice is among the first steps in implementing Task Force Recommendations 14 and 15, specifically, developing types of information and operational standards related to data collection. The data collected will establish a foundation for the risk-based seafood traceability program to combat IUU fishing and seafood fraud from harvest (wild-capture or aquaculture) to point of entry into U.S. commerce, as described in the Task Force Action Plan. This data is being collected for use by appropriate government officials.

With this notice, the Committee is *soliciting comments* on the minimum types of information that should be collected and the operational standards to be applied to this data. The data collected should include, but is not limited to, the following information:

(1) Who harvested or produced the fish?

- Name of harvesting vessel;
- Flag State of harvesting vessel;
- Name of farm or aquaculture facility;
- Name of processor; and
- Type of fishing gear.

(2) What fish was harvested and processed?

- Species of fish;
- Product description;
- Name of product;
- Form of the product; and
- Quantity and/or weight of the product.

(3) Where and when was the fish harvested and landed?

- Area of wild-capture or aquaculture harvest;
- Harvest date(s);
- Name and location of aquaculture facility;
- Point of first landing;
- Date of first landing;

The Committee also believes the following information logically should be considered:

(4) What was the chain of custody of the fish or fish product through the supply chain to point of entry into U.S. commerce including:

- Transshipment of product; and,
- Processing, re-processing, or co-mingling of product

The Committee *seeks comment* regarding the information needed to answer the four questions posed above, as well as any additional information necessary for the implementation of an effective risk-based seafood traceability program. An effective traceability system must be capable of capturing a complex supply chain which may involve reprocessing, mixed species, cold storage holding, trans-shipments, etc., as well as the simple harvest of a single species.

Given the scope of the traceability system anticipated in the Action Plan, additional data required for fish harvested in U.S. domestic fisheries is minimal because domestically harvested fish enters U.S. commerce at its first point of landing and, to a large extent, relevant data are already generated and reported through existing state and federal permitting, catch monitoring, and landing reports implemented under federal and state fishery management plans. At-risk species that are harvested domestically, exported for reprocessing, and then re-imported to the U.S. may require traceability throughout that entire supply chain.

The Operational standards to apply to the data collected may include, but are not limited to, the following:

- How the data are to be collected;
- Interoperability with existing traceability systems;
- Who has responsibility for collecting the data;
- How the data will be verified; and
- Data security.

Who harvested or produced the fish?

This information establishes the starting point of the traceability process. Although this information is straightforward in many cases, operational characteristics of some

fisheries present challenges. Traceability of an operation in which easily identified, individual vessels deliver directly to a buyer or processor may be relatively simple. However in a fishery with tender vessels taking deliveries from many smaller harvesting boats, collection of this information could become burdensome. In this instance, the Committee currently anticipates requiring only the name of the tender vessels making traceable deliveries to a buyer or processor. *Comments are requested* as to what information, if any, is necessary regarding the harvesting vessel name and flag state and authorization to harvest the species in question for the implementation of an effective traceability program.

Aquacultured species are easier to trace back to a particular pond or region, and the Action Plan states that the traceability process shall start at the point of harvest. It is therefore unlikely that facility information for the raising of the breeders or the fingerlings, depending upon the fishery, will be included in the traceability program. Also, the body of water for a farm-raised species could have several aquaculture facilities in place by different companies. The Committee *requests comments* addressing the whether the aquaculture facility or the body of water is appropriate point of origin in a traceability system for aquacultured species.

Processor and gear type are common elements in many fishery traceability systems. Processors may already be required to trace their products through some portion of the supply chain. The Committee considers information related to processing and/or reprocessing of product to be critical to tracking chain-of-custody, notes that this information is required for existing global traceability programs, and anticipates the requirement of such data as a part of this traceability program. This would include information about primary processors and secondary processors who maintained custody of the shipment prior to entering the United States.

In the context of seafood traceability, gear information helps to link specific vessels to the fishery in which they participate and the species they harvest. The Committee intends to require gear type information for the proposed traceability system and requests comments as to whether and what gear type information should be collected for traceability.

What fish was harvested and processed?

A traceability system to combat IUU fishing and seafood fraud requires certain minimal information, including the species of the fish, the quantity and/or weight of the catch, and the form of the product. The state of the shipment (live, raw/fresh, or frozen) and the type of product informs the calculation of the actual amount of fish harvested, as well as the potential risk for fraud associated with the product. The Committee therefore intends to request this information and *seeks comments* regarding its use for traceability purposes as well as suggestions for alternative approaches to trace fish and seafood products in various forms.

The Committee is considering a range of options with respect to species identification, including scientific names, names on the U.S. Food and Drug Administration approved list, and common or market names. Use of scientific names may minimize confusion at the border. As common or market names tend to group similar species, requiring the scientific name could dramatically increase the number of species names listed, thereby increasing the possibility of reporting error. However, using common or market names could be used to mask the import of a species at risk of IUU fishing or seafood fraud. The U.S. Food and Drug Administration approved list of fish names for labeling of fish in the United States may not cover all fish entering the United States and adding a market or common name to that list may take time. *Comments are requested* as to whether scientific names, common, usual, or market names, or some combination, should serve as the basis for species identification in the traceability program and be utilized for identifying imported product at the point of entry into U.S. commerce.

Where and when was the fish harvested and landed?

Collection of information identifying the area of harvest or the region in which an aquaculture facility is located, and the time at which the harvest took place, represents the initial ''link'' in the supply chain. It represents the action back to which the at-risk species entering U.S. commerce will be traced. For wild-capture fisheries, the Committee intends to identify area of harvest by FAO catch area designation or comparable designation of fresh-water sources. The Committee has identified area or body of water and facility as data required for establishing where and when fish was harvested from an aquaculture source. The Committee *seeks comments* on the adequacy of this information for identifying where and when fish is harvested, alternative data that may be useful in tracing product to time and place of harvest, and methods for verifying the accuracy of data used for this purpose.

What was the chain of custody through the supply chain to point of entry into U.S. commerce?

As described above, identifying the point of harvest within an area or aquaculture facility is relatively straightforward. However, the global market for fish and seafood products supports complex supply chains, including transshipment to one or more locations prior to entry into U.S. commerce. Shipments may be co-mingled with similar species from other locations, complicating the process of traceability to point of harvest. An effective traceability system will require information on each point of landing, transshipment and processing throughout the fish or seafood product's chain of custody to point of entry into U.S. commerce. This would include not only the harvest for each shipment, but information regarding any further processing and transshipment that occurred prior to entry into U.S. Commerce. *Comments are requested* as to the level of detailed information that should be required for country of harvest, transshipment, processing and re-processing, and co-mingling of product or species. The Committee *requests comments* regarding the appropriate data and standards for effective traceability at each stage of the supply chain from harvest to point of entry into U.S. commerce.

How the data are to be collected?

The Committee recommends use of the International Trade Data System (ITDS) as the data collection portal for imports of species identified as at-risk of IUU fishing and seafood fraud. In an effort to streamline the import and export process, President Obama signed an Executive Order in February 2014 that requires ITDS to be completed and fully utilized by government agencies by December 2016. ITDS is a ''single window'' system which allows businesses to communicate with U.S. Customs and Border Protection (CBP) and its Partner Government Agencies (PGAs) when importing and exporting goods, eliminating the often duplicative and paper-based processes used previously. With ITDS, companies submit their information electronically, and the data elements can then be

quickly and efficiently retrieved and used by the Federal agencies that require them. More information on ITDS can be found at *www.itds.gov.*

Consistency Across Federal Agencies and Interoperability With Existing International, Federal, State, and Non-Governmental Information Systems

Data at the border is currently collected both in electronic and hard copy formats. Hard copies are often scanned and then stored for future use. Use of the ITDS will not only simplify the collection of data by utilizing an electronic format, but interoperability of information is assured between all Federal agencies as only one data system is employed. The Committee anticipates the collection of data in electronic format using ITDS for ease of collection. With respect to interoperability of data captured and utilized by existing information systems, it is the Committee's intent to avoid, to the extent practicable, the establishment of redundant data collection processes or protocols that undermine the function and effectiveness of existing systems. While it is unlikely that ITDS will be capable of automatically ''retrieving'' data from existing databases, the Committee is interested in comments describing methods that will facilitate the use of existing systems to provide data identified in future traceability rule making. *Comments are also requested* regarding the proposed use of the ITDS, the potential use of other systems the Federal agencies should consider at the border, and if there are any barriers, known or perceived, in using the ITDS system.

Who would collect the data?

Use of the ITDS system to collect proposed data elements for imports of species identified as at risk of IUU fishing and seafood fraud would require the importer (or exporter to the USA) to enter the information along with any necessary supporting documentation. The importer would be responsible for ensuring that the necessary data elements are collected along the supply chain and provided to CBP through ITDS at the point of entry.

How will the data be verified?

A key element of these operational standards is data verification. The operational standards must provide relevant Federal agencies the ability to verify that documentation for at-risk seafood products is complete and accurate upon entry into U.S. commerce, and validate country-specific documents and certifications. The operational standards must also incorporate a system of data checks and periodic auditing. A system of trace-back audits would determine the quality and accuracy of the data submitted and identify missing information and discrepancies. *Comments are requested* regarding a system of audits of the documentation system for quality and accuracy.

Data Security

As the additional data elements will be submitted through the Automated Commercial Environment (ACE)/ITDS single window as part of an entry filing, the supplemental data will only be accessible to the entry filer, CBP, and Federal agencies with authorization to review entry filings for the designated commodities. Consequently, data security concerns are minimal. *Comments regarding additional considerations with respect to data security are requested.*

Following the public comment period, the NOC Committee will take the input received into consideration while finalizing recommendations that will be sent forward for appropriate agency action by September 2015, as outlined in the implementation plan for Task Force Recommendations 14 and 15.

Dated: June 26, 2015.

John Henderschedt,

Director, Office for International Affairs and Seafood Inspection, National Marine Fisheries Service.

[FR Doc. 2015–16185 Filed 6–30–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Southeast Region Vessel Monitoring System (VMS) and Related 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 August 31, 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 Adam Bailey, National Marine Fisheries Service (NMFS), Southeast Regional Office, 263 13th Ave. S, St. Petersburg, FL 33701, (727) 824–5305, *adam.bailey@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for revision and extension of a currently approved information collection.

The Magnuson-Stevens Fishery Conservation and Management Act authorizes the Gulf of Mexico Fishery Management Council (Gulf Council) and South Atlantic Fishery Management Council (South Atlantic Council) to prepare and amend fishery management plans for any fishery in Federal waters under their respective jurisdictions. NMFS and the Gulf Council manage the reef fish fishery in the Gulf of Mexico (Gulf) under the Reef Fish Fishery Management Plan (FMP). NMFS and the South Atlantic Council manage the fishery for rock shrimp in the South Atlantic under the Shrimp FMP. The vessel monitoring system (VMS) regulations for the Gulf reef fish fishery and the South Atlantic rock shrimp fishery may be found at 50 CFR 622.28 and 622.205, respectively.

The FMPs contains several area-specific regulations where fishing is restricted or prohibited in order to protect habitat or spawning aggregations, or to control fishing pressure. Unlike size, bag, and trip limits, where the catch can be monitored on shore when a vessel returns to port, area restrictions require at-sea enforcement. However, at-sea enforcement of offshore area restrictions is difficult due to the distance from shore and the limited number of patrol vessels, resulting in a need to improve enforceability of area fishing restrictions through remote sensing methods. In addition, all fishing gears are subject to some area fishing restrictions. Because of the sizes of these areas and the distances from shore, the effectiveness of enforcement through over flights and at-sea interception is limited. An electronic VMS allows a more effective means to monitor vessels for intrusions into restricted areas.

The VMS provides effort data and significantly aids in enforcement of areas closed to fishing. All position reports are treated in accordance with NMFS existing guidelines for confidential data. As a condition of authorized fishing for or possession of reef fish or rock shrimp in or from the Gulf exclusive economic zone (EEZ) or South Atlantic EEZ, respectively, vessel owners or operators subject to VMS requirements must allow NMFS, the United States Coast Guard (USCG), and their authorized officers and designees, access to the vessel's position data obtained from the VMS.

NMFS would like to move the collection of information requirement for VMS applicable to vessels with limited access endorsements for South Atlantic rock shrimp under OMB Control No. 0648–0205 to this collection. The burden estimates have changed due to inclusion of the applicable burden from OMB Control No. 0648–0205.

II. Method of Collection

Respondents have a choice of either electronic or paper forms. Methods of submittal include email of electronic forms, and mail and facsimile transmission of paper forms.

III. Data

OMB Control Number: 0648–0544.

Form Number(s): None.

Type of Review: Regular (revision and extension of a current information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 894.

Estimated Time Per Response: Installation, 4 hours; installation and activation checklist, 15 minutes; power-down exemption requests, 5 minutes; transmission of fishing activity reports, 1 minute; and annual maintenance, 2 hours.

Estimated Total Annual Burden Hours: 2,719.

Estimated Total Annual Cost to Public: $1,011,121 in start-up, transfer, operations, and maintenance 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: June 25, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–16092 Filed 6–30–15; 8:45 am]

BILLING CODE 3510–22–P

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the U.S. Commission of Fine Arts is scheduled for 16 July 2015, at 9 a.m. in the Commission offices at the National Building Museum, Suite 312, Judiciary Square, 401 F Street NW., Washington, DC 20001–2728. Items of discussion may include buildings, parks and memorials.

Draft agendas and additional information regarding the Commission are available on our Web site: *www.cfa.gov.* Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Thomas Luebke, Secretary, U.S. Commission of Fine Arts, at the above address; by emailing *staff@cfa.gov*; or by calling 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated: June 19, 2015, in Washington, DC.

Thomas Luebke,

Secretary.

[FR Doc. 2015–15853 Filed 6–30–15; 8:45 am]

BILLING CODE 6330–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board Partially Closed Meeting Notice

AGENCY: Department of the Army, DoD.

ACTION: Notice of a partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976 and title 41 of the Code of Federal Regulations, the Department of the Army announces a meeting of the Army Science Board.

FOR FURTHER INFORMATION CONTACT: Army Science Board, Designated Federal Officer, 2530 Crystal Drive, Suite 7098, Arlington, VA 22202; LTC Stephen K. Barker, the committee's Designated Federal Officer (DFO), at (703) 545–8652 or email: *stephen.k.barker.mil@mail.mil,* or Mr. Paul Woodward at (703) 695–8344 or email: *paul.j.woodward2.civ@mail.mil.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (U.S.C. 552b, as amended) and 41 Code of Federal Regulations (CFR) § 102–3.140 through 160, the Department of the Army announces the following committee meeting:

Name of Committee: Army Science Board (ASB) Summer Voting Session.

Date: Thursday, July 16, 2015.

Time: 0800–1630.

Locations:

Open portion: Antlers Hilton, Four South Cascade, Colorado Springs, CO 80903–1685 from 0830–1200.

Closed portion: Fort Carson Colorado, Room 107, Building 1435, 6150 Wetzel Ave, Fort Carson, CO 80913 from 1400–1630.

Purpose of Meeting: The purpose of the meeting is for ASB members to review, deliberate, and vote on the findings and recommendations presented for the Board's five Fiscal Year 2015 (FY15) studies.

Agenda: The board will present findings and recommendations for deliberation and vote on the following five FY15 studies:

Army Cyber at the Tactical Edge. This study is classified and will be presented in the closed meeting. The purpose of this study is to further identify the challenges, both technical and doctrinal, unique to Army tactical edge cyber operations at the Corps-level and below, and to propose what technical capabilities, new processes, training and policy changes are required to ensure the Army is postured to fight and win in cyber space from the tactical edge.

Army Science & Technology for Army Aviation 2025–2040. This study contains classified and unclassified material and will be presented in the open and closed portions of the meeting. The objective of this study is to identify and assess Science and Technology (S&T) enhancements capable of being fielded during the 2025–2040 timeframe that will increase Army Aviation's expeditionary

capabilities to support full-spectrum military operations and reduce its sustainment tails and logistics footprint.

Strategies to Optimize Army Operating and Generating Forces for 2025 & Beyond. This study contains classified and unclassified material and will be presented in the open and closed portions of the meeting. The purpose of the study is to develop strategies for rebalancing the Army operating and generating force to retain or gain capabilities in the mid-term (2025) and beyond (2030–2040). This study will identify opportunities to improve the efficiency of operating force combat service support and generating force capabilities to help provide the means to invest in core operational capabilities.

Human Interaction and Behavioral Enhancement. This study is not classified and will be presented in the open portion of the meeting. The purpose of this study is to identify and asses methods and techniques to understand, interact and influence human behavior in support of Army missions.

Force 2025 and Beyond. This study is not classified and will be presented in the open portion of the meeting. This study will provide findings and recommendations for operational concepts and advanced technologies along with the associated force designs for improving and maintaining readiness, designing and conducting training, and aligning the required logistics investments.

Filing Written Statement: Pursuant to 41 CFR 102–3.140d, the Committee is not obligated to allow the public to speak; however, interested persons may submit a written statement for consideration by the Board. Individuals submitting a written statement must submit their statement to the DFO at the address listed above. Written statements not received at least 10 calendar days prior to the meeting may not be considered by the Board prior to its scheduled meeting.

The DFO will review all timely submissions with the Board's executive committee and ensure they are provided to the specific study members as necessary before, during, or after the meeting. After reviewing written comments, the study chairs and the DFO may choose to invite the submitter of the comments to orally present their issue during a future open meeting.

The DFO, in consultation with the executive committee, may allot a specific amount of time for members of the public to present their issues for discussion.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 3.165, and the availability of space, the open portion of this meeting is open to the public. Seating is on a first-come basis. The Antlers Hilton is fully handicapped accessible. For additional information about public access procedures, contact LTC Stephen Barker at the telephone number or email address listed in the **FOR FURTHER INFORMATION CONTACT** section.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2015–16167 Filed 6–30–15; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Extension of Comment Period for the South Shore of Staten Island (SSSI) Draft Environmental Impact Statement

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability; extension of review period.

SUMMARY: The U.S. Army Corps of Engineers, New York District, has prepared the South Shore of Staten Island (SSSI) Draft Environmental Impact Statement (EIS No. 20150175). A notice of availability was published in the June 19, 2015, issue of the **Federal Register** (80 FR 35356). The New York District is extending the review period for an additional 30 days.

DATES: Comments on the draft environmental impact statement are due by September 9, 2015.

ADDRESSES: The U.S. Army Corps of Engineers, New York District Planning Division-Environmental Brach (ATTN: Ms. Catherine Alcoba) 26 Federal Plaza, New York, NY 10278–0090. Comments may also be submitted by email to *Catherine.J.Alcoba@usace.army.mil.*

FOR FURTHER INFORMATION CONTACT: Mr. Frank Verga at *Frank.Verga@usace.army.mil.*

SUPPLEMENTARY INFORMATION: None.

Dated: June 24, 2015.

Peter Weppler,

Chief, Environmental Analysis Branch, Planning Division, New York District.

[FR Doc. 2015–16262 Filed 6–30–15; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2015–ICCD–0027]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Student Messaging in GEAR UP Demonstration

AGENCY: Institute of Education Sciences/National Center for Education Statistics (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before July 31, 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–2015–ICCD–0027 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 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Marsha Silverberg, 202 208–7178.

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: Student Messaging in GEAR UP Demonstration.

OMB Control Number: 1850–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 5,360.

Total Estimated Number of Annual Burden Hours: 1,386.

Abstract: The Student Messaging in GEAR UP Demonstration, sponsored by the Institute of Education Sciences (IES), U.S. Department of Education (ED), is being conducted to test the effectiveness of a promising strategy to improve college-related outcomes in the federal college access program Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP). The demonstration will use a randomized controlled trial (RCT) design to test the effectiveness of sending customized messaging to students, first during the summer after high school graduation, and then in the fall and spring of their expected first year of college. Students within high schools that volunteer for the demonstration will be randomly assigned to either receive the messages or not. This ICR requests clearance for the collection of GEAR UP student rosters and administration of a baseline survey. In addition to the baseline survey data that will be collected from students, college-related outcome data will be extracted from national datasets (National Student Clearinghouse Data (NSC) and the Federal Student Aid (FSA) database). Impact and descriptive analyses will be conducted to answer the study research questions. The evaluation plans call for two reports. The first, published in summer 2018, will be based on data collected through 2017 that will look at college advising received in high school and early college-related outcomes (*i.e.,* college enrollment and FAFSA completion). The second report will be available in early 2020, and will investigate college persistence.

Dated: June 25, 2015.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2015–16107 Filed 6–30–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Electric Grid Resilience Self-Assessment Tool for Distribution System

AGENCY: Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy.

ACTION: Request for Information.

SUMMARY: The Department of Energy (DOE) Office of Electricity Delivery and Energy Reliability (OE) is seeking comments and information from interested parties to inform the development of a pilot project concerning an interactive self-assessment tool to understand the relative resilience level of national electric grid distribution systems to extreme weather events. An interactive tool could be used by distribution utilities to identify opportunities for enhancing resilience with new technologies and/or procedures to support investment planning and related tariff filings. The focus of this Request for Information (RFI) is on the design and implementation of the interactive self-assessment resilience tool.

DATES: Comments must be received on or before August 17, 2015.

ADDRESSES: Comments can be submitted by any of the following methods and must be identified by ''EGRtool''. By email: *EGRtool@hq.doe.gov* . Include ''EGRtool'' in the subject line of the message. By mail: Dan Ton, Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy, Forrestal Building, Room 6E–092, 1000 Independence Avenue SW., Washington, DC 20585. Note: Delivery of the U.S. Postal Service mail to DOE may be delayed by several weeks due to security screening. DOE, therefore, encourages those wishing to comment to submit comments electronically by email.

For additional information, please contact Dan Ton, Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585; Telephone: (202) 586–4618; email: *EGRtool@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

With the release of Presidential Policy Directive 21 (PPD–21), the nation has started to focus in earnest on the resilience of our critical infrastructure. In the face of the increasing extreme weather events and other stresses or disturbances, the resilience of critical infrastructure, especially the energy infrastructure, has become paramount. Building upon the insights that have been gained through the development of the Cybersecurity Capability Maturity Model, the Electricity Subsector Cybersecurity Capability Maturity Model, and the Smart Grid Maturity Model, DOE–OE would like to build a complementary capability regarding the resilience of electric distribution infrastructure.

For the purposes of this RFI, the definition of resilience is ''the ability of an entity—*e.g.,* asset, organization, community, region—to anticipate, resist, absorb, respond to, adapt to, and recover from a disturbance.'' [1]

This definition provides the framework for four domains that can be used to understand the current level of resilience of distribution system infrastructure. Through these domains, distribution utilities will be able to make informed decisions on strengthening resiliency, based on identifiable areas where future investments in new technologies and operating procedures could be made. The four domains are:

Preparedness: Activities undertaken by an entity in anticipation of the threats/hazards, and the possible consequences, to which it is subject.

Mitigation Measures: Characterize the facility's capabilities to resist a threat/hazard or to absorb the consequences from the threat/hazard.

Response Capabilities: Immediate and ongoing activities, tasks, programs, and systems that have been undertaken or developed to respond and adapt to the adverse effects of an event.

Recovery Mechanisms: Activities and programs designed to be effective and efficient in returning operating conditions to a level that is acceptable to the entity.

[1] Carlson, L., *et al.,* 2012, Resilience Theory and Applications, Argonne National Laboratory, Decision and Information Sciences Division, ANL/DIS–12–1, Argonne, Ill, USA, available at *http://www.dis.anl.gov/pubs/72218.pdf* (accessed April 9, 2015).

Underneath all four domains lie questions that contains specific information for each of the domains. Examples of questions that can be asked with specific reference to resilience are:

—What procedures are included in your emergency action plan? [Preparedness]

—To date, what smart grid technologies have you incorporated into your distribution system? [Mitigation Measures]

—Does the control and dispatch center use a distribution management system? [Response Capabilities]

—What service restoration method(s) does the utility use? [Recovery Mechanisms]

For each of these questions there will be a set of distinct answers. This method of construction allows consistent, objective information collection for all entities interested in using the model. In cooperation with the utility industry, a working group will be created to assist in determining the direction of the program.

II. Request for Information

In order to develop this pilot project, DOE would like input from resilience experts in the electric distribution industry to gauge the interest and usefulness of the proposed decision support tool. This RFI provides the public and industry stakeholders with the opportunity to provide their view on the development of a resilience tool. The intent of this RFI is to solicit information pertinent to the need and viability of the resilience assessment tool. The information obtained is meant to be used by DOE for tool design and strategy development purposes. In your comments, please reference the question(s) to which you are responding, as well as provide other pertinent information.

A. Resilience Assessment Tool Need

(1) Would a resilience assessment tool be of interest for electric distribution utilities?

(2) What would you like to see in such a model should it exist (*i.e.,* functionality, presentation, accessibility?)

B. Resilience Tool Criteria/Domains

There are four key domains proposed for resilience: preparedness, mitigation measures, response and recovery. Each of these components has subcomponents as detailed below:

a. *Preparedness:* Awareness and Planning.

b. *Mitigation Measures:* Extreme Weather Mitigation, Utility Mitigation, and Dependencies Mitigation.

c. *Response Capabilities:* Internal Capabilities and External Capabilities.

d. *Recovery Mechanisms:* Resource Restoration Agreements and Utility Service Restoration.

(3) Do these components and subcomponents make sense as contributors to electric distribution system resilience?

(4) What is missing, or should be taken away?

C. Data Protection

(5) What are your concerns about data protection if asked to submit anonymous aggregate data for a national average for electric distribution resilience?

(6) Data protection is recognized as an important consideration for utility participation in such an assessment model. What are your opinions and recommendations on data protection?

D. Working Group Participation

(7) Would your utility be willing to participate in a working group intent on constructing the relative importance of the different components and subcomponents to the overall resilience of the system? Who would be the appropriate person within your utility to participate in such a working group?

(8) Are there others who you would suggest to provide early feedback on tool development?

(9) Is your utility interested in being part of a demonstration or pilot during early testing?

E. Other Feedback

Additional comments that may not be captured in replies these questions, but are considered relevant by respondents are highly encouraged.

Authority: Presidential Policy Directive-21.

Issued at Washington, DC, on June 25, 2015.

Patricia A. Hoffman,

Assistant Secretary, Department of Energy, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2015–16186 Filed 6–30–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–411]

Application to Export Electric Energy; Targray Americas Inc.

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Targray Americas Inc. (Targray) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before July 31, 2015.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On May 29, 2015, DOE received an application from Targray for authority to transmit electric energy from the United States to Canada as a power marketer for five years using existing international transmission facilities.

In its application, Targray states that it does not own or control any electric generation or transmission facilities, and it does not have a franchised service area. Targray states that it has applied for market-based rate authority from the Federal Energy Regulatory Commission (FERC) to engage in the sale and purchase of electric energy to and from Independent System Operators and Regional Transmission Organizations. As such, the electric energy that Targray proposes to export to Canada would be surplus energy purchased from third parties such as power marketers, independent power producers, electric utilities, and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by Targray have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC)

Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning the Targray application to export electric energy to Canada should be clearly marked with OE Docket No. EA–411. An additional copy is to be provided directly to Ruta Kalvaitis Skucas, Pierce Atwood LLC, 900 17th St., NW., Suite 350, Washington, DC 20006 and to Karen Roberge, Targray Technology International Inc., 18105 Transcanadienne, Kirkland QC, H9J 3Z4 Canada.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov*.

Issued in Washington, DC, on June 25, 2015.

Brian Mills,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2015–16187 Filed 6–30–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–171–D]

Application To Export Electric Energy; Powerex Corp.

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of Application.

SUMMARY: Powerex Corp. (Applicant or Powerex) has applied to renew its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before July 31, 2015.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On November 17, 2010, DOE issued Order No. EA–171–C to Powerex Corp., which authorized the Applicant to transmit electric energy from the United States to Canada as a power marketer for a five-year term using existing international transmission facilities. That authority expires on November 17, 2015. On May 19, 2015, Powerex filed an application with DOE for renewal of the export authority contained in Order No. EA–171–C for an additional five-year term.

In its application, Powerex states that it does not own or operate any electric generation or transmission facilities, and it does not have a franchised service area. The electric energy that Powerex proposes to export to Canada would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by Powerex have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning Powerex's application to export electric energy to Canada should be clearly marked with OE Docket No. EA–171–D. An additional copy is to be provided directly to both Mike MacDougall and Karen McDonald, Powerex Corp., 666 Burrard Street, Suite 1300, Vancouver, British Columbia Canada V6C 2X8 and to both Deanna King and Tracey Bradley, Bracewell and Giuliani LLP, 2000 K Street NW., Suite 500, Washington, DC 20006.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov*.

Issued in Washington, DC, on June 25, 2015.

Brian Mills,

Director, Permitting and Siting Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2015–16233 Filed 6–30–15; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–9929–17]

Access to Confidential Business Information by Science Applications International Corporation and Its Identified Subcontractor, Solutions by Design II, LLC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Science Applications International Corporation of McLean, VA, and its identified subcontractor, Solutions by Design II, LLC of Vienna, VA, to access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data occurred on or about March 25, 2015.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Scott Sherlock, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8257; email address: *sherlock.scott@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2003–0004, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 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 OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the Agency taking?

Under EPA contract number GS–35F–486BA, order number EP–G15H–01095, contractor SAIC of 1701 SAIC Drive, McLean, VA; and Solutions by Design II, LLC of 1953 Gallows Road, Suite 870, Vienna, VA, are assisting OPPT in developing, enhancing, maintaining and operating a variety of EPA databases and applications. They will also assist in the interfaces and linkages to other applications.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number GS–35F–486BA, order number EP–G15H–01095, SAIC and its subcontractor required access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. SAIC and its subcontractor's personnel were given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA has provided SAIC and its subcontractor access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract is taking place at EPA Headquarters in accordance with EPA's *TSCA CBI Protection Manual.*

Access to TSCA data, including CBI, will continue until March 26, 2018. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

SAIC and its subcontractor's personnel have signed nondisclosure agreements and were briefed on appropriate security procedures before they were permitted access to TSCA CBI.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: June 19, 2015.

Pamela S. Myrick,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2015–16226 Filed 6–30–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2015–0365; FRL–9929–88–ORD]

Board of Scientific Counselors (BOSC) Air, Climate, and Energy Subcommittee Meeting—July 2015

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, the U.S. Environmental Protection Agency, Office of Research and Development (ORD), gives notice of a meeting (via conference call) of the Board of Scientific Counselors (BOSC) Air, Climate, and Energy Subcommittee.

DATES: The conference call will be held on Monday, July 20, 2015, from 3:00 p.m. to 5:00 p.m., Eastern Time. These times are approximate; the conference call may adjourn early if all business is finished or may adjourn late if additional time is needed. Written comments and requests for the draft agenda or for making oral presentations at the meeting will be accepted up to one business day before the meeting.

ADDRESSES: Participation in the conference call will be by teleconference only; meeting rooms will not be used. Members of the public may obtain the call-in number and access code for the call from Tim Benner, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section below.

Submitting Comments: Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2015–0365, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email:* Send comments by electronic mail (email) to: *ORD.Docket@epa.gov,* Attention Docket ID No. EPA–HQ–ORD–2015–0365.
- *Fax:* Fax comments to: (202) 566–0224, Attention Docket ID No. EPA–HQ–ORD–2015–0365.
- *Mail:* Send comments by mail to: Board of Scientific Counselors (BOSC) Air, Climate, and Energy Subcommittee Docket, Mail Code: 2822T, 1301 Constitution Ave. NW., Washington, DC, 20004, Attention Docket ID No. EPA–HQ–ORD–2015–0365.
- *Hand Delivery or Courier:* Deliver comments to: EPA Docket Center (EPA/DC), Room 3334, William Jefferson Clinton West Building, 1301 Constitution Ave. NW., Washington, DC, Attention Docket ID No. EPA–HQ–ORD–2015–0365. Note: this is not a mailing address. Deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2015–0365. 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 *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system,

which means 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 *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 disk or CD–ROM 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 additional information about the EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/dockets/.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Board of Scientific Counselors (BOSC) Air, Climate, and Energy Subcommittee Docket, EPA/DC, William Jefferson Clinton 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 ORD Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via mail at: Tim Benner, Mail Code 8104R, Office of Science Policy, Office of Research and Development, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; via phone/voice mail at: (202) 564–6769; via fax at: (202) 565–2911; or via email at: *benner.tim@epa.gov.*

SUPPLEMENTARY INFORMATION:

General Information: The conference call is open to the public. Any member of the public interested in receiving a draft agenda, attending the conference call, or making a presentation during the conference call may contact Tim Benner, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section above. In general, each individual making an oral presentation will be limited to a total of three minutes. Proposed agenda items for the meeting include, but are not limited to, the following: presentation and discussion of the subcommittee's draft responses to the charge questions and approval of the final draft letter report prior to its submission to the BOSC Executive Committee.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Tim Benner at (202) 564–6769 or *benner.tim@epa.gov.* To request accommodation of a disability, please contact Tim Benner, preferably at least ten days prior to the conference call, to give the EPA as much time as possible to process your request.

Dated: June 24, 2015.

Fred S. Hauchman,

Director, Office of Science Policy.

[FR Doc. 2015–16199 Filed 6–30–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0302; FRL–9929–42]

Proposed Antimicrobial Pesticide Use Site Index; Notice of Availability and Request for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing the availability of and requesting public comment on a proposed guidance document called the Antimicrobial Pesticide Use Site Index (USI). The Agency developed this document to provide guidance about antimicrobial pesticide use sites and general antimicrobial pesticide use patterns. This guidance document is intended to assist antimicrobial pesticide applicants and registrants by helping them to identify the 40 CFR part 158 subpart W data requirements that are necessary to register their product(s), and will likewise be used by Agency staff evaluating pesticide applications.

DATES: Comments must be received on or before July 31, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2015–0302, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Steven Weiss, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 308–8293; email address: *weiss.steven@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be affected by this action if you are a producer of pesticide products (NAICS 32532), antifoulants (NAICS 32551), antimicrobial pesticides (NAICS 32561), or wood preservatives (NAICS 32519), importers of such products, or any person or company who seeks to register an antimicrobial, antifoulant coating, ballast water treatment, or wood preservative pesticide or to obtain a tolerance for such a pesticide. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed could also be affected.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or

CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

C. How can I get copies of this document and other related information?

A copy of the proposed guidance document is available in the docket under docket ID number EPA–HQ–OPP–2015–0302.

II. What action is the Agency taking?

The Agency is making available for comment a proposed guidance document called the ''Antimicrobial Pesticide Use Site Index.'' In the **Federal Register** on May 8, 2013 (78 FR 26936) (FRL–8886–5), the Agency published a final rule amending 40 CFR part 158, the section of the regulations setting forth the data requirements that support an application to register a pesticide product. The final rule, which is codified as 40 CFR part 158 subpart W (158W), contains the data requirements specifically applicable to antimicrobial pesticides. The rule became effective July 8, 2013.

The proposed guidance document serves as a compilation of the specific use sites that are commonly listed on antimicrobial labels. The specific use sites are further organized into categories of twelve general use patterns. The general use patterns are broad designations and are used as columns in the antimicrobial data requirements tables to identify which data requirements might be pertinent to the particular pesticide use site. The Agency has developed the proposed guidance document to provide additional information about these use patterns. This guidance document is intended to assist antimicrobial pesticide applicants and registrants by helping them to identify the data requirements that are necessary to register their product(s), and will likewise be used by Agency staff evaluating antimicrobial pesticide applications.

As a guidance document, the association of a particular antimicrobial use site with a general antimicrobial use pattern should be viewed as a recommendation only and is not to be construed as binding on either EPA or any outside parties. EPA may depart from the guidance where circumstances warrant and without prior notice.

The posting of this proposed guidance document for public comment satisfies a condition of the March 2, 2015, settlement agreement between EPA and the American Chemistry Council (ACC), which followed ACC's July 2013 initiation of a legal challenge to the data requirements regulation (subpart 158W of Title 40 of the Code of Federal Regulations) in the U.S. Court of Appeals for the District of Columbia Circuit. Under that settlement agreement, the Agency committed to taking comment on this proposed guidance document within 4 months of the effective date of the settlement agreement.

Authority: 7 U.S.C. 136–136y and 21 U.S.C. 346a.

Dated: June 24, 2015.

Jim Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2015–16232 Filed 6–30–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9929–86–OAR]

Protection of Stratospheric Ozone: Request for Methyl Bromide Critical Use Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is providing notice of the process for submitting applications for critical use exemptions for 2018 and subsequent years. Critical use exemptions are exceptions to the phaseout of production and import of methyl bromide, a controlled class I ozone-depleting substance. Critical use exemptions must be permitted by the Parties to *the Montreal Protocol on Substances that Deplete the Ozone Layer* and must also be in accordance with the Clean Air Act and EPA regulations. Applications received in response to this notice will be considered as the basis for submitting potential nominations for critical use exemptions to future Meetings of the Parties to the Montreal Protocol. Critical use exemptions allow production, import, and use of methyl bromide in the specific year for which the Parties to the Montreal Protocol permit the use. All entities interested in obtaining a critical use exemption must provide EPA with the technical and economic information outlined in this notice to support a ''critical use'' claim by the deadline specified in this notice, even if they have applied for an exemption in previous years.

DATES: Applications for critical use exemptions must be submitted to EPA no later than September 15 of the calendar year three years prior to the calendar year for which the exemption is sought. An application for a critical use exemption for calendar year 2018, for example, must be submitted by September 15, 2015.

ADDRESSES: Application forms are available at *www.epa.gov/ozone/mbr/cueinfo.html.* EPA encourages users to submit applications electronically to *arling.jeremy@epa.gov.* Users can also submit applications by U.S. mail to: U.S. Environmental Protection Agency, Office of Air and Radiation, Stratospheric Protection Division, Attention Methyl Bromide Team, Mail Code 6205J, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

Confidentiality: Application materials that are confidential should be submitted under separate cover and be clearly identified as ''confidential business information.'' Information covered by a claim of business confidentiality will be treated in accordance with the procedures for handling such information under 40 CFR part 2, subpart B, and will be disclosed only to the extent and by means of the procedures set forth in that subpart. If no claim of confidentiality accompanies the information when it is received by EPA, the information may be made available to the public by EPA without further notice to the submitter (40 CFR 2.203). EPA may place a copy of Worksheet 6 from the application in the public domain. Any information on Worksheet 6 shall not be considered confidential and will not be treated as such by the Agency.

FOR FURTHER INFORMATION CONTACT:

General Information: U.S. EPA Stratospheric Ozone Information inbox, *spdcomment@epa.gov*; also *www.epa.gov/ozone/mbr.*

Technical Information: Bill Chism, U.S. Environmental Protection Agency, Office of Pesticide Programs (7503P), 1200 Pennsylvania Ave. NW., Washington, DC 20460, 703–308–8136. Email: *chism.bill@epa.gov.*

Regulatory Information: Jeremy Arling, U.S. Environmental Protection Agency, Stratospheric Protection Division (6205T), 1200 Pennsylvania

Ave. NW., Washington, DC 20460, 202–343–9055. EPA encourages users to submit their applications electronically to *arling.jeremy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Critical Use Exemption

The *Montreal Protocol on Substances that Deplete the Ozone Layer* is the international agreement aimed at protecting the ozone layer by reducing and eliminating the production and consumption of stratospheric ozone-depleting substances. Methyl bromide was added to the Protocol as an ozone-depleting substance in 1992 through the Copenhagen Amendment.

While the Protocol requires developed countries like the United States to phase out the production and consumption of Methyl Bromide in 2005, it also states that the Parties may exempt from that phaseout ''the level of production or consumption that is necessary to satisfy uses agreed by them to be critical uses'' (Art. 2H para 5). The Parties to the Protocol included this language in the treaty's methyl bromide phaseout provisions in recognition that alternatives might not be available by the 2005 phaseout date for certain uses agreed by the Parties to be ''critical uses.''

In their Ninth Meeting (1997), the Parties agreed to Decision IX/6, setting forth the following criteria for a ''critical use'' determination and an exemption from the production and consumption phaseout:

(a) That a use of methyl bromide should qualify as ''critical'' only if the nominating Party determines that:

(i) The specific use is critical because the lack of availability of methyl bromide for that use would result in a significant market disruption; and

(ii) There are no technically and economically feasible alternatives or substitutes available to the user that are acceptable from the standpoint of environment and health and are suitable to the crops and circumstances of the nomination.

(b) That production and consumption, if any, of methyl bromide for a critical use should be permitted only if:

(i) All technically and economically feasible steps have been taken to minimize the critical use and any associated emission of methyl bromide;

(ii) Methyl bromide is not available in sufficient quantity and quality from existing stocks of banked or recycled methyl bromide, also bearing in mind the developing countries' need for methyl bromide;

(iii) It is demonstrated that an appropriate effort is being made to evaluate, commercialize and secure national regulatory approval of alternatives and substitutes, taking into consideration the circumstances of the particular nomination . . . Non-Article 5 Parties [which includes the U.S.] must demonstrate that research programs are in place to develop and deploy alternatives and substitutes.

In 1998, Congress amended the Clean Air Act to require EPA to conform the U.S. phaseout schedule for methyl bromide to the provisions of the Protocol and to allow EPA to provide a critical use exemption. These amendments were codified in Section 604 of the Clean Air Act, 42 U.S.C. 7671c. Under EPA implementing regulations, the production and consumption of methyl bromide were phased out as of January 1, 2005. Section 604(d)(6), as added in 1998, allows EPA to exempt the production and import of methyl bromide from the phaseout for critical uses, to the extent consistent with the Montreal Protocol. EPA has defined ''critical use'' at 40 CFR 82.3 based on the criteria in paragraph (a) of Decision IX/6.

EPA regulations at 40 CFR 82.4 prohibit the production and import of methyl bromide in excess of the amount of unexpended critical use allowances held by the producer or importer, unless authorized under a separate exemption. The use of methyl bromide that was produced or imported through the expenditure of production or consumption allowances prior to 2005, while not confined to critical uses under EPA's phaseout regulations, is subject to the labeling restrictions under FIFRA as specified in the product labeling.

II. Critical Use Nomination Process

Entities requesting critical use exemptions should send a completed application to EPA on the candidate use by September 15, three years prior to the year of the intended use. This timing is necessary for the U.S. Government to complete its consideration for nomination to the United Nations Environment Programme and the Parties to the Montreal Protocol in a timely manner; for the Parties to reach a decision on the nomination; and for EPA to undertake notice-and-comment rulemaking. For example, applications for the 2018 growing season must be submitted by September 15, 2015. Critical use exemptions are valid for only one year and do not automatically renew. All users wanting to obtain an exemption must apply to EPA annually even if they have applied for critical uses in prior years. Because of the potential for changes to registration status, costs, and economic aspects of producing critical use crops and commodities, applicants must fill out the application form completely.

Upon receipt of applications, EPA will review the information and work with other interested Federal agencies as required in section 604 of the Clean Air Act to determine whether the candidate use satisfies Clean Air Act requirements, and whether it meets the critical use criteria adopted by the Parties to the Montreal Protocol and warrants nomination by the United States for an exemption.

All Parties, including the United States, choosing to submit nominations to the UNEP Ozone Secretariat must do so by January 24 to be considered by the Parties at their annual meeting later that year. The UNEP Ozone Secretariat forwards nominations to the Montreal Protocol's Technical and Economic Assessment Panel (TEAP) and the Methyl Bromide Technical Options Committee (MBTOC). The MBTOC and the TEAP review the nominations to determine whether they meet the criteria for a critical use established by Decision IX/6, and to make recommendations to the Parties for critical use exemptions. The Parties then consider those recommendations at their annual meeting before making a final decision. If the Parties determine that a specified use of methyl bromide is critical and permit an exemption from the Protocol's production and consumption phaseout for that year, EPA may then take domestic action to allow the production and consumption to the extent consistent with the Clean Air Act.

III. Information Required for Critical Use Applications

In prior years, EPA issued an annual notice requesting applications for critical use exemptions. Through this action, EPA provides the information necessary to enable applications to be submitted for critical use exemptions for methyl bromide for all future control periods (calendar years). Entities interested in obtaining a critical use exemption must complete the application form available at *www.epa.gov/ozone/mbr/cueinfo.html.*

Applications requesting critical use allowances should include information that U.S. Government agencies and the Parties to the Protocol can use to evaluate the candidate use according to the criteria in Decision IX/6 described above. Applications that fail to include sufficient information may not be nominated.

Specifically, applications should include the information requested in the current version of the TEAP Handbook

on Critical Use Nominations. The handbook is available electronically at *http://ozone.unep.org/Assessment_Panels/TEAP/Reports/MBTOC/Handbook%20CUN-version5-27Nov06.pdf.* EPA requests that applications contain the following information, as described in the handbook, in order for the U.S. to provide sufficient information to the Montreal Protocol's technical review bodies within the nomination:

- A clear statement on the specific circumstances of the nomination which describe the critical need for methyl bromide and quantity of methyl bromide requested;
- Data on the availability and technical and economic feasibility of alternatives to the proposed methyl bromide use;
- A review of the comparative performance of methyl bromide and alternatives including control of target pests in research and commercial scale up studies; [1]
- A description of all technically and economically feasible steps taken by the applicant to minimize methyl bromide use and emissions;
- Data on the use and availability of stockpiled methyl bromide;
- A description of efforts made to test, register, and commercially adopt alternatives;
- Plans for phase-out of critical uses of methyl bromide; and
- The methodology used to provide economic comparisons.

EPA's Web site (*www.epa.gov/ozone/mbr/alts.html*) contains a list of current and potential alternatives. To support the assertion that a specific use of methyl bromide meets the requirements of the critical use exemption, applicants must demonstrate that none of the listed alternatives are technically and economically feasible for that use. In addition, applicants should describe research plans which include the pest(s), chemical(s), or management practice(s) they will be testing to support their transition from methyl bromide.

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this notice under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0482.

Since neither the Protocol nor the Clean Air Act establish a specific end date for Critical Use Exemptions, anyone interested in obtaining a critical use exemption may apply. However, the language and spirit of controls on ozone depleting substances under the Montreal Protocol envision a phaseout of methyl bromide and for the critical use exemption to be a ''temporary derogation'' from that phaseout. Over the last decade, the research, registration, and adoption of alternatives has allowed many sectors to successfully transition from methyl bromide. The number of sectors nominated has declined from seventeen for 2006 to one for 2017. Below is information on how the agency evaluated recent applications for specific uses when considering nominations for critical uses, as well as specific information needed for the United States to successfully defend any future nominations for critical uses.

Commodities Such as Dried Fruit and Nuts

Data reviewed by EPA for commodities such as dried fruit and nuts indicate that sulfuryl fluoride is effective against key pests. The industry has mostly converted to sulfuryl fluoride and no market disruption has occurred. Rapid fumigation is not a critical condition for this sector and therefore, products can be treated with sulfuryl fluoride or phosphine and be held for relatively long periods of time without a significant economic impact.

To support a nomination, applicants should address potential economic losses due to pest pressures, changes in quality, changes in timing, and any other economic implications for producers when converting to alternatives. Alternatives for which such information is needed are: Sulfuryl fluoride, propylene oxide (PPO), phosphine, and controlled atmosphere/temperature treatment systems.

Applicants should include the costs to retrofit equipment or design and construct new fumigation chambers for these alternatives. For the economic assessment applicants should provide: The amount of fumigant gas used (for both methyl bromide and alternatives, which may include heat), price per pound of the fumigant gas from the most recent use season, application rates, differences in time required for fumigation, differences in labor inputs (*i.e.*, hours and wages) associated with alternatives, the amount of commodity treated with each fumigant/treatment and the value of the commodity being treated/produced. Applicants should also provide information on changes in costs for any other practices or equipment used (*e.g.*, sanitation and IPM) that are not needed when methyl bromide is used for fumigation, including information on the size of fumigation chambers where methyl bromide is used, the percent of commodity fumigated under tarps, the length of the harvest season, peak of the harvest season and duration, and volume of commodity treated daily at the harvest peak.

Where applicable, also provide examples of specific customer requests regarding pest infestation and examples of any phytosanitary requirements of foreign markets (*e.g.*, import requirements of other countries) that may necessitate use of methyl bromide accompanied by explanation of why the methyl bromide quarantine and preshipment (QPS) exemption may not be applicable for this purpose. In addition, include information on what pest control practices organic producers are using for their commodity. Applicants should also address their efforts to secure and use stockpiled methyl bromide.

Dried Cured Pork

Applicants should list how many facilities have been fumigated with methyl bromide over the last three years; the rate, volume, and target concentration over time [CT] of methyl bromide at each location; volume of each facility; number of fumigations per year; and the materials from which the facility was constructed. It is important for applicants in this sector to specify research plans into alternatives and alternative practices that support the transition from methyl bromide, as well as information on the technical and economic feasibility of using recapture technologies. Applicants should also address their efforts to secure and use stockpiled methyl bromide. This is particularly important for this sector given the low volume of methyl bromide usage.

Cucurbits, Eggplant, Pepper, and Tomato

EPA found in its review of applications for cucurbits, eggplant, pepper, and tomato that although no single alternative is effective for all pest problems, multiple year data indicates that the alternatives in various combinations provide control equal or superior to methyl bromide plus chloropicrin. Several research studies show that the three-way mixture of 1,3-dichloropene plus chloropicrin plus metam sodium can effectively suppress pathogens (*P. capsici, F. oxysporum*) and nematodes.

To support a nomination, applicants should address potential changes to yield, quality, and timing when

[1] Where an alternative is not registered for use in a particular jurisdiction, growers in that jurisdiction need not address the performance of that particular alternative.

converting to alternatives, including: The mixture of 1,3-dichloropropene plus chloropicrin, the three-way mixture of 1,3-dichloropropene plus chloropicrin plus metam (sodium or potassium) or allyl isothiocyanate (Dominus™) used in place of metam, dimethyl disulfide (DMDS), and any fumigationless system (if data are available).

Applications should address regulatory and economic implications for growers and your region's production of these crops using these alternatives, including the costs to retrofit equipment and the differential impact of buffers for methyl bromide plus chloropicrin compared to the alternatives. For the economic assessment, applicants should provide the following: Price per pound of fumigant gas used (both methyl bromide and alternatives) from the most recent use season; application rates; value of the crop being produced; differences in labor inputs (*i.e.*, hours and wages); and any differences in equipment costs or time needed to operate equipment associated with alternatives. Applicants should also address their efforts to secure and use stockpiled methyl bromide.

Strawberry Fruit

Based on EPA's review of information as part of the 2016 nomination process, EPA believes alternatives are available as advances have been made: (1) In safely applying 100% chloropicrin, (2) in strategies to improve efficacy in applying 1,3-dichloropropene, or mixtures of 1,3-dichloropropene plus chloropicrin, (3) in using the three-way mixture of 1,3-dichloropropene plus chloropicrin plus metam (sodium or potassium) or allyl isothiocyanate (Dominus™) used in place of metam in states other than California, and (4) in transitioning from experimental to commercial use of non-chemical tools, such as steam, anaerobic soil disinfestations, and substrate production.

To support a nomination, applicants should address potential changes to yield, quality, and timing when converting to alternatives, including: Straight chloropicrin, the mixture of 1,3-dichloropropene plus chloropicrin, the three-way mixture of 1,3-dichloropropene plus chloropicrin plus metam (sodium or potassium) or allyl isothiocyanate (Dominus™) used in place of metam in states other than California, or dimethyl disulfide (DMDS), and any fumigationless system (if data are available).

Applications should address regulatory and economic implications for growers and their region's production of these crops using these alternatives, including the costs to retrofit equipment and the differential impact of buffers for methyl bromide plus chloropicrin compared to the alternatives. For the economic assessment, applicants should provide the following: Price per pound of fumigant gas used (both methyl bromide and alternatives) from the most recent use season; application rates; value of the crop being produced; differences in labor inputs (*i.e.*, hours and wages); and any differences in equipment costs or time needed to operate equipment associated with alternatives. Applicants should also address their efforts to secure and use stockpiled methyl bromide.

Orchard Replant

Data reviewed by EPA for orchard replant indicate that while no single alternative is effective for all pest problems, numerous field trials indicate alternatives to methyl bromide are effective. Therefore, EPA has concluded that transitioning to the alternatives is feasible without substantial losses. Registered alternatives are available for individual-hole treatments, and soil preparation procedures are available to enable effective treatment with alternatives even in soils with high moisture content.

To support a nomination, applicants should address potential changes to yield, quality, and timing when converting to alternatives, including: The mixture of 1,3-dichloropropene plus chloropicrin, the three way-mixture of 1,3-dichloropropene plus chloropicrin plus metam (sodium or potassium), dimethyl disulfide (DMDS), and steam.

Applications should address regulatory and economic implications for growers and your region's production of these crops using these alternatives, including the costs to retrofit equipment and the differential impact of buffers for methyl bromide plus chloropicrin compared to the alternatives. For the economic assessment, applicants should provide the following: Price per pound of fumigant gas used (for both methyl bromide and alternatives) from the most recent use season; application rates; value of the crop being produced; differences in labor inputs (*i.e.*, hours and wages); and any differences in equipment costs or time needed to operate equipment associated with alternatives. Applicants should also address their efforts to secure and use stockpiled methyl bromide.

Ornamentals

EPA found in its review of applications for ornamentals that while no single alternative is effective for all pest problems, multiple-year data indicate that the alternatives in various combinations provide control equal or superior to methyl bromide plus chloropicrin. Research demonstrates that 1,3-dichloropene plus chloropicrin, the three way mixture of 1,3-dichloropene plus chloropicrin plus metam sodium, and dimethyl disulfide plus chloropicrin all show excellent results. To support a nomination, applicants should address potential changes to yield, quality, and timing when converting to alternatives, including: The mixture of 1,3-dichloropropene plus chloropicrin, the three way mixture of 1,3-dichloropropene plus chloropicrin plus metam (sodium or potassium) or allyl isothiocyanate (Dominus™) used in place of metam, dimethyl disulfide (DMDS), and steam.

Applications should address regulatory and economic implications for growers and their region's production of these crops using these alternatives, including the costs to retrofit equipment and the differential impact of buffers for methyl bromide plus chloropicrin compared to the alternatives. For the economic assessment, applicants should provide the following: Price per pound of fumigant gas used (both methyl bromide and alternatives) from the most recent use season; application rates; value of the crop being produced; differences in labor inputs (*i.e.*, hours and wages); and any differences in equipment costs or time needed to operate equipment associated with alternatives. Applicants should also address their efforts to secure and use stockpiled methyl bromide.

Nurseries

In considering this sector in the 2016 nomination process, EPA noted that a Special Local Need label allows Telone II to be used in accordance with certification standards for propagative material.[2]

To support a nomination, applicants should address potential changes to yield, quality, and timing when converting to alternatives, including: The mixture of 1,3-dichloropropene plus chloropicrin, the three-way mixture of 1,3-dichloropropene plus

[2] EPA also noted that growers can use a combination of methyl bromide for quarantine situations and 1,3-D plus chloropicrin for non-quarantine situations to meet certification requirements.

chloropicrin plus metam (sodium or potassium) or allyl isothiocyanate (Dominus™) used in place of metam in states other than California, dimethyl disulfide (DMDS), and steam.

Applications should address regulatory and economic implications for growers and your region's production of these crops using these alternatives, including the costs to retrofit equipment and the differential impact of buffers for methyl bromide plus chloropicrin compared to the alternatives. For the economic assessment, applicants should provide the following: Price per pound of fumigant gas used (for both methyl bromide and alternatives) from the most recent use season; application rates; value of the crop being produced; differences in labor inputs (*i.e.*, hours and wages); and any differences in equipment costs or time needed to operate equipment associated with alternatives. Applicants should also address their efforts to secure and use stockpiled methyl bromide.

Golf Courses

EPA has not found that a significant market disruption would occur in the golf industry in the absence of methyl bromide. To support a nomination, applicants should address potential changes to quality when converting to alternatives, including: Basamid, chloropicrin, 1,3-dichloropene, 1,3-dichloropene plus chloropicrin, metam sodium, or allyl isothiocyanate (Dominus™), and steam. Non-fumigant alternatives currently in use (*e.g.*, additional pesticides, fertilizers, different cultural practices, and increased management) should also be described.

Applications should address regulatory and economic implications for growers using these alternatives, including the costs to retrofit equipment and the differential impact of buffers for methyl bromide compared to the alternatives. For the economic assessment, applicants should provide the following: Price per pound of fumigant gas used (both methyl bromide and alternatives) from the most recent use season; application rates; economic impact for the golf course from a transition to alternatives (*e.g.*, downtime when resurfacing, years between fumigations); differences in labor inputs (*i.e.*, hours and wages); and any differences in equipment costs or time needed to operate equipment associated with alternatives. Supporting evidence could be included that would demonstrate that alternatives lead to more frequent resurfacing and therefore, greater adverse economic impacts. Applicants should also address their efforts to secure and use stockpiled methyl bromide.

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

Dated: June 23, 2015.

Sarah Dunham,

Director, Office of Atmospheric Programs.

[FR Doc. 2015–16044 Filed 6–30–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9929–87–OA]

Notification of Two Public Teleconferences of the Science Advisory Board Chemical Assessment Advisory Committee Augmented for the Review of EPA's Draft Benzo[a]pyrene Assessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces two public teleconferences of the SAB Chemical Assessment Advisory Committee Augmented for the Review of the Draft Benzo[a]pyrene Assessment (CAAC-Benzo[a]pyrene Panel) to discuss its draft report concerning EPA's draft Integrated Risk Information System (IRIS) *Toxicological Review of Benzo[a]pyrene* (September, 2014 External Review Draft).

DATES: The public teleconferences will be held on Friday August 21, 2015 and Wednesday September 2, 2015. The teleconferences will be held from 1:00 p.m. to 5:00 p.m. (Eastern Time) on both days.

ADDRESSES: The public teleconference will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the teleconferences may contact Dr. Diana Wong, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 564–2049; or via email at *wong.diana-M@epa.gov.* General information concerning the EPA Science Advisory Board can be found at the EPA SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDAA) codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the SAB CAAC—Benzo[a]pyrene Panel will hold public teleconferences to discuss its draft report regarding the draft IRIS *Toxicological Review of Benzo[a]pyrene* (September 2014 External Review Draft). The EPA SAB Staff Office augmented the SAB CAAC with subject matter experts to provide advice through the chartered SAB regarding this IRIS assessment.

The SAB CAAC—Benzo[a]pyrene Panel held a public meeting on April 15–17, 2015. The purpose of that meeting was to develop responses to the peer review charge on the agency's draft IRIS *Toxicological Review of Benzo[a]pyrene* (September 2014 External Review Draft). The purpose of these public teleconferences is for the Panel to discuss its draft report peer reviewing the agency's draft toxicological review. The two public teleconferences will be conducted as one complete meeting, beginning on August 21, 2015 and if necessary, will continue on September 2, 2015.

Availability of Meeting Materials: Additional background on this SAB activity, the teleconference agenda, draft report, and other materials for the teleconferences will be posted on the SAB Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/IRIS%20BaP?OpenDocument*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to the EPA. Members of the public can submit relevant comments pertaining to the meeting materials or the group conducting this SAB activity. Input from the public to the SAB will have the most impact if it consists of comments that provide specific scientific or technical information or analysis for SAB committees and panels to consider or if it relates to the clarity or accuracy of the technical information. Members

of the public wishing to provide comment should contact the DFO directly.

Oral Statements: In general, individuals or groups requesting an oral presentation on a public teleconference will be limited to three minutes per speaker. Interested parties wishing to provide comments should contact Dr. Diana Wong, DFO (preferably via email), at the contact information noted above, by August 14, 2015 to be placed on the list of public speakers for the teleconference. *Written Statements:* Written statements for these teleconferences should be received in the SAB Staff Office by the same deadlines given above for requesting oral comments. Written statements should be supplied to the DFO via email. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Diana Wong at (202) 564–2049 or *wong.diana-M@epa.gov.* To request accommodation of a disability, please contact Dr. Wong preferably at least ten days prior to the teleconferences, to give EPA as much time as possible to process your request.

Dated: June 24, 2015.

Thomas H. Brennan,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2015–16197 Filed 6–30–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2011–0465; FRL–9930–00–OW]

Proposed Information Collection Request; Comment Request; Water Quality Standards Regulation (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Water Quality Standards Regulation (Renewal)'' (EPA ICR No. 0988.12, OMB Control No. 2040–0049) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through December 31, 2015. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before August 31, 2015.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OW–2011–0465, online using *www.regulations.gov* (our preferred method), by email to *ow-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Tangela Cooper, Office of Water, Office of Science and Technology, Standards and Health Protection Division, (4305T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–566–0369; fax number: 202–566–0409; email address: *cooper.tangela@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: Water quality standards are provisions of state,[1] tribal, and federal law that consist of designated uses for waters of the United States, water quality criteria to protect the designated uses, and an antidegradation policy. Section 303(c) of the Clean Water Act requires states and authorized tribes to establish water quality standards, and to review and, if appropriate, revise their water quality standards once every three years. The Act also requires EPA to review and either approve or disapprove the new or revised standards, and to promulgate replacement federal standards if necessary. Section 118(c)(2) of the Act specifies additional water quality standards requirements for waters of the Great Lakes system.

The Water Quality Standards regulation (40 CFR part 131 and portions of part 132) governs national implementation of the water quality standards program. The regulation describes requirements and procedures for states and authorized tribes to develop, review, and revise their water quality standards, and EPA procedures for reviewing and approving the water quality standards. The regulation requires the development and submission of information to EPA, including:

—The minimum elements in water quality standards that each state or tribe must submit to EPA for review, including any new or revised water

[1] The Clean Water Act defines the term ''state'' to mean the 50 states, the District of Columbia, and specific territories including Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

quality standards resulting from the jurisdiction's triennial review (40 CFR 131.6 and 131.20). The elements include use designations for specific water bodies; methods used and analyses conducted to support water quality standards revisions; supporting analysis for use attainability analyses; water quality criteria sufficient to protect the designated uses; methodologies for site-specific criteria development; an antidegradation policy; certification by the jurisdiction's Attorney General or other appropriate legal authority that the water quality standards were duly adopted pursuant to state or tribal law; information that will aid EPA in determining the adequacy of the scientific basis for the standards; and information on general policies that may affect the implementation of the standards.

—Information that an Indian tribe must submit to EPA in order to determine whether a tribe is qualified to administer the water quality standards program (40 CFR 131.8).

—Information a state or tribe must submit if it chooses to exercise a dispute resolution mechanism for disputes between states and tribes over water quality standards on common water bodies (40 CFR 131.7).

—Information related to public participation requirements during state and tribal review and revision of water quality standards (40 CFR 131.20). States and tribes must hold public hearings as part of their triennial reviews, and make any proposed standards and supporting analyses available to the public before the hearing.

The regulation establishes specific additional requirements for water quality standards and their implementation in the waters of the Great Lakes system, contained in the Water Quality Guidance for the Great Lakes System (40 CFR part 132). This portion of the regulation includes the following requirements for information collection: Bioassay tests to support the development of water quality criteria; studies to identify and provide information on antidegradation control measures that will guard against the reduction of water quality in the Great Lakes system; and information collection and record keeping activities associated with analyses and reporting to request regulatory relief from Guidance requirements. The Guidance includes additional information collections that are addressed in separate Information Collection Requests for the National Pollutant Discharge Elimination System program.

Form Numbers: None.

Respondents/affected entities: The Water Quality Standards regulation requires reporting at least once every three years from 96 jurisdictions: 56 states and territories, and Indian tribes with EPA-approved standards (40 tribes as of May 2015). The respondents affected by this collection activity are in North American Industry Classification System (NAICS) code 92411 ''Administration of Air and Water Resources and Solid Waste Management Programs,'' formerly SIC code #9511. Additionally water dischargers subject to certain requirements related to the WQS in the Great Lakes System include dischargers in the following NAICS codes: Mining (except oil and gas) (212), Food manufacturing (311), Paper manufacturing (322), Chemical manufacturing (325), Petroleum refineries (32411), Primary metal manufacturing (331), Fabricated metal product manufacturing (332), Machinery manufacturing (333), Computer and electronic product manufacturing (334), Electrical equipment, appliance, and component manufacturing (335), Transportation equipment manufacturing (336), Electric power generation, transmission, and distribution (2211), and Sewage treatment facilities (22132).

Respondent's obligation to respond: Voluntary.

Estimated number of potential respondents: 96 jurisdictions plus 2,323 Great Lakes dischargers.

Frequency of response: On occasion.

Total estimated burden: 286,981 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $13,359,089 (per year). There are no annualized capital or operation & maintenance costs.

Changes in Estimates: There is an increase of 10,000 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase reflects an increase in the estimated number of respondents to reflect EPA's approval of water quality standards for four additional tribes. These estimates could change further if, for example, EPA approves water quality standards for additional tribes, or if there are changes in the burden related to expected NPDES permit activities in the Great Lakes basin covered by the ICR.

Dated: June 24, 2015.

Elizabeth Southerland,

Director, Office of Science and Technology.

[FR Doc. 2015–16234 Filed 6–30–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–9929–26]

Access to Confidential Business Information by Vision Technologies, Inc., and Its Identified Subcontractor, Computer Sciences Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Vision Technologies, Inc., of Glen Burnie, MD, and Computer Sciences Corporation (CSC) of Falls Church, VA, its identified subcontractor to access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data will occur no sooner than July 8, 2015.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Scott Sherlock, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8257; fax number: (202) 564–8251; email address: *sherlock.scott@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2003–0004 is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 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 OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the agency taking?

Under EPA contract number GS–06F–0535Z, order number 0015, contractor Vision Technologies, Inc., of 530 McCormick Drive, Suite 6, Glen Burnie, MD, and CSC, 3170 Fairview Park Drive, Falls Church, VA, will assist EPA's Office of Research and Development by supporting the desktop systems on which the CBI will reside. The contractor will also provide information technology support and solutions to enhance science and research results.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number GS–06F–0535Z, order number 0015, Vision Technologies and CSC will require access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. Vision Technologies and CSC personnel will be given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide Vision Technologies and CSC access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters in accordance with *TSCA CBI Protection Manual.*

Access to TSCA data, including CBI, will continue until October 21, 2016. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

Vision Technologies and CSC personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: June 19, 2015.

Pamela S. Myrick,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2015–16228 Filed 6–30–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–9929–67]

Access to Confidential Business Information by Eastern Research Group, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Eastern Research Group, Inc. (ERG) of Lexington, MA, to access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data will occur no sooner than July 8, 2015.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Scott Sherlock, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8257; fax number: (202) 564–8251; email address: *sherlock.scott@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2003–0004 is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 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 OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the agency taking?

Under EPA contract number EP–D–11–006, contractor ERG of 110 Hartwell Ave., Suite 1, Lexington, MA, will assist the Office of Pollution Prevention and Toxics (OPPT) in the performance of work related to source characterization. The contractor will also assist in identifying information to characterize lifecycle inventory unit process flows associated with certain chemical categories.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number EP–D–11–006, ERG will require access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. ERG's personnel will be given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide ERG access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and ERG's site located at 14555 Avion Parkway, Suite 200, Chantilly, VA, in accordance with EPA's *TSCA CBI Protection Manual.*

Access to TSCA data, including CBI, will continue until March 31, 2016. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

ERG personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: June 24, 2015.

Pamela S. Myrick,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2015–16229 Filed 6–30–15; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice 2015–6015]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB Review and Comments Request.

Form Title: EIB 94–08 Notification and Assignment by Insured to Financial Institution of Medium Term Export Credit Insurance Policy.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. This collection of information is necessary, pursuant to 12 U.S.C. Sec. 635(a)(1), to determine where insurance proceeds should be sent and to determine which exporters require lender financing of their insured receivables.

Ex-Im Bank's exporter policy holders, along with the financial institution providing it with financing, provide this form to Ex-Im Bank. The form transfers the duties and obligations of the insured exporter to the financial institution. It also provides certifications to the financial institution and Ex-Im Bank that the financed export transaction results in a valid, enforceable, and performing debt obligation. Exporter policy holders need this form to obtain financing for their medium term export sales.

The form can be viewed at *http://www.exim.gov/sites/default/files/pub/pending/eib94–08.pdf.*

DATES: Comments should be received on or before August 31, 2015 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *www.regulations.gov* or by mail to Michele Kuester, Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 94–08 Notification and Assignment by Insured to Financial Institution of Medium Term Export Credit Insurance Policy.

OMB Number: 3048–0040.

Type of Review: Regular.

Need and Use: The form transfers the duties and obligations of the insured exporter to the financial institution. It also provides certifications to the financial institution and Ex-Im Bank that the financed export transaction results in a valid, enforceable, and performing debt obligation. Exporter policy holders need this form to obtain financing for their medium term export sales.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 50.

Estimated Time per Respondent: 10 minutes.

Annual Burden Hours: 8.3 hours.

Frequency of Reporting or Use: As needed.

Government Expenses:

Reviewing time per year: 12 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $510 (time * wages).

Benefits and Overhead: 20%.

Total Government Cost: $612.

Bonita Jones-McNeil,

Agency Clearance Officer.

[FR Doc. 2015–16052 Filed 6–30–15; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

[Public Notice: 2015–6013]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

Form Title: EIB 03–02, Application for Medium Term Insurance or Guarantee

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

The purpose of this collection is to gather information necessary to make a determination of eligibility of a transaction for Ex-Im Bank assistance under its medium-term guarantee and insurance program.

The Export-Import Bank has made a change to the report to have the financial institution provide specific information (industry code, number of employees and annual sales volume) needed to make a determination as to whether or not the exporter meets the SBA's definition of a small business. The financial institution already provides the exporter's name and address. These additional pieces of information will allow Ex-Im Bank to better track the extent to which its support assists U.S. small businesses.

The other change that Ex-Im Bank has made is to require the financial institution to indicate whether the exporter is a minority-owned business, women-owned business and/or veteran-owned business. Although answers to the questions are mandatory, the company may choose any one of the three answers: Yes/No/Decline to Answer. The option of ''Decline to Answer'' allows a company to consciously decline to answer the specific question should they not wish to provide that information. The form can be viewed at: *http://www.exim.gov/sites/default/files/pub/pending/eib03-02_0.pdf.*

DATES: Comments should be received on or before August 31, 2015, to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *http://www.regulations.gov* (EIB:03–02) or by mail to Michele Kuester, Export-Import Bank of the United States, 811 Vermont Ave NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 03–02, Application for Medium Term Insurance or Guarantee.

OMB Number: 3048–0014.

Type of Review: Regular.

Need and Use: The purpose of this collection is to gather information necessary to make a determination of eligibility of a transaction for Ex-Im Bank assistance under its medium-term guarantee and insurance program.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 400.

Estimated Time per Respondent: 1.2 hour.

Annual Burden Hours: 480 hours.

Frequency of Reporting or Use: As needed.

Government Expenses:

Reviewing Time per Year: 700 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $29,750 (time*wages).

Benefits and Overhead: 20%.

Total Government Cost: $35,700.

Bonita Jones-McNeil,

Agency Clearance Officer, Records Management Division, Office of the Chief Information Officer.

[FR Doc. 2015–16065 Filed 6–30–15; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 2015–6016]

Agency Information Collection Activities: Final Collection; Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB review and comments request.

Form Title: EIB 99–14 Export-Import Bank Trade Reference form.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. This collection of information is necessary, pursuant to 12 U.S.C. Sec. 635(a)(1), to determine whether or not a company has a good payment history.

This form will enable Ex-Im Bank to make a credit decision on a foreign buyer credit limit request submitted by a new or existing policy holder. Additionally, this form is used by those Ex-Im Bank policy holders granted delegated authority to commit the Bank to a foreign buyer credit limit.

The form can be viewed at *http://www.exim.gov/sites/default/files/pub/pending/eib99-14.pdf.*

DATES: Comments should be received on or before August 31, 2015, to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* or by mail to Michele Kuester, Export-Import Bank of the United States, 811 Vermont Ave NW., Washington, DC 20571.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 99–14 Export-Import Bank Trade Reference form.

OMB Number: 3048–0042.

Type of Review: Regular.

Need and Use: This form provides essential credit information used by Ex-Im Bank credit officers when analyzing requests for export credit insurance/financing support, both short-term (360 days and less) and medium-term (longer than 360 days), for the export of their U.S. goods and services. Additionally, this form is an integral part of the short term Multi-Buyer export credit insurance policy for those policy holders granted foreign buyer discretionary credit limit authority (DCL). Multi-Buyer policy holders given DCL authority may use this form as the sole source or one piece among several sources of credit information for their internal foreign buyer credit decision which, in turn, commits Ex-Im's insurance.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 6,500.

Estimated Time per Respondent: 15 minutes.

Annual Burden Hours: 1,625 hours.

Frequency of Reporting or Use: As needed.

Government Expenses:

Reviewing time per year: 1,625 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $69,062 (time * wages).

Benefits and Overhead: 20%.

Total Government Cost: $82,875.

Bonita Jones-McNeil,

Agency Clearance Officer, Records Management Division, Office of the Chief Information Officer.

[FR Doc. 2015–16066 Filed 6–30–15; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10112, First Bank of Kansas City, Kansas City, Missouri

NOTICE IS HEREBY GIVEN that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for First Bank of Kansas City, Kansas City, Missouri (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of First Bank of Kansas City on September 04, 2009. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 32.1, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: June 26, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–16159 Filed 6–30–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10466 Hometown Community Bank, Braselton, GA

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Hometown Community Bank, Braselton, Georgia (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of Hometown Community Bank on November 16, 2012. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: June 26, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–16160 Filed 6–30–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10304, The First National Bank of Barnesville, Barnesville, GA

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for The First National Bank of Barnesville, Barnesville, GA (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of The First National Bank of Barnesville on October 22, 2010. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 32.1, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: June 26, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–16161 Filed 6–30–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 27, 2015.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Atlantic Capital Bancshares, Inc.,* Atlanta, Georgia; to merge with First Security Group, Inc., and thereby acquire FSGBank, NA, both in Chattanooga, Tennessee.

In connection with this applicantion, Atlantic Capital Bancshares' parent companies BankCap Equity Fund, LLC; BankCap Partners GP L.P.; BankCap Partners Fund I, L.P.; and BCP Fund I Southeast Holdings, LLC, all in Dallas, Texas, will indirectly acquire First Security Group, Inc., and FSGBank, NA, both in Chattanooga, Tennessee.

Board of Governors of the Federal Reserve System, June 26, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–16157 Filed 6–30–15; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Goal-Oriented Adult Learning in Self-Sufficiency Study.

OMB No.: New Collection.

Description: The Administration for Children and Families (ACF) is proposing a data collection activity as part of the Goal-Oriented Adult Learning in Self-Sufficiency (GOALS) study. The purpose of the GOALS project is to address the nexus between the growing knowledge base in the psychological sciences and long-standing approaches to self-sufficiency programs targeted to adults and young adults. The project will explore the programmatic implications of existing research on psychological processes associated with goal-directed behaviors, including socio-emotional regulation and cognitive skills, executive functioning, and related areas. The project will synthesize current research on these topics; address how insights gained from research can be used to promote economic advancement among low-income populations, identify promising strategies, or strengthen underlying skills in these areas; and inform measurement of changes and developments in skill acquisition.

The proposed information collection activity consists of exploratory calls with program directors and administrators, semi-structured interviews with key program staff and community partner organization staff, and focus group discussions with program participants. ACF seeks to gain an in-depth, systematic understanding of program administration and implementation, service delivery and operation, outputs and outcomes, and identify promising practices and other areas for further study.

Respondents: Key program directors and administrators, program staff and community partner organization staff, and program participants at selected program sites.

ANNUAL BURDEN ESTIMATES

Instrument	Total Number of Respondents	Annual Number of Respondents	Number of Responses per Respondent	Average Burden Hours per Response	Annual Burden Hours
Exploratory telephone call semi-structured interview—program directors and administrators	24	12	1	1	12

ANNUAL BURDEN ESTIMATES—Continued

Instrument	Total Number of Respondents	Annual Number of Respondents	Number of Responses per Respondent	Average Burden Hours per Response	Annual Burden Hours
Site visit semi-structured interview—program staff and community partner organization staff	180	90	1	1.25	113
Site visit group discussion—program participants	84	42	1	1.25	53
Estimated Total Annual Burden Hours					178

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Karl Koerper,

Reports Clearance Officer.

[FR Doc. 2015–16073 Filed 6–30–15; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0742]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 31, 2015.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0045. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution—21 CFR Part 207

OMB Control Number 0910–0045—Extension

Requirements for drug establishment registration and drug listing are set forth in section 510 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360), section 351 of the Public Health Service Act (42 U.S.C. 262), and part 207 (21 CFR part 207). Fundamental to FDA's mission to protect the public health is the collection of this information, which is used for important activities such as postmarket surveillance for serious adverse drug reactions, inspection of drug manufacturing and processing facilities, and monitoring of drug products imported into the United States. Comprehensive, accurate, and up to date information is critical to conducting these activities with efficiency and effectiveness.

Under section 510 of the FD&C Act, FDA is authorized to establish a system for registration of producers of drugs and for listing of drugs in commercial distribution. To implement section 510 of the FD&C Act, FDA issued part 207. Under current § 207.20, manufacturers, repackers, and relabelers that engage in the manufacture, preparation, propagation, compounding, or processing of human or veterinary drugs and biological products, including bulk drug substances and bulk drug substances for prescription compounding, and drug premixes as well as finished dosage forms, whether prescription or over-the-counter, are required to register their establishment. In addition, manufacturers, repackers, and relabelers are required to submit a listing of every drug or biological product in commercial distribution. Owners or operators of establishments that distribute under their own label or trade name a drug product manufactured by a registered establishment are not required either to register or list. However, distributors may elect to submit drug listing information in lieu of the registered

establishment that manufactures the drug product. Foreign drug establishments must also comply with the establishment registration and product listing requirements if they import or offer for import their products into the United States.

Under current § 207.21, establishments, both domestic and foreign, must register with FDA within 5 days after beginning the manufacture of drugs or biologicals, or within 5 days after the submission of a drug application or biological license application. In addition, establishments must register annually. Changes in individual ownership, corporate or partnership structure, location, or drug handling activity must be submitted as amendments to registration under current § 207.26 within 5 days of such changes. Under § 207.20(b), private label distributors may request their own labeler code and elect to submit drug listing information to FDA. In such instances, at the time of submitting or updating drug listing information, private label distributors must certify to the registered establishment that manufactured, prepared, propagated, compounded, or processed (which includes, among other things, repackaging and relabeling) the listed drug that the drug listing submission was made. Establishments must, within 5 days of beginning the manufacture of drugs or biologicals, submit to FDA a listing for every drug or biological product in commercial distribution at that time. Private label distributors may elect to submit to FDA a listing of every drug product they place in commercial distribution. Registered establishments must submit to FDA drug product listing for those private label distributors who do not elect to submit listing information.

Under § 207.25, product listing information submitted to FDA by domestic and foreign manufacturers must, depending on the type of product being listed, include any new drug application number or biological establishment license number, copies of current labeling and a sampling of advertisements, a quantitative listing of the active ingredient for each drug or biological product not subject to an approved application or license, the national drug code (NDC) number, and any drug imprinting information.

In addition to the product listing information required, FDA may also require, under § 207.31, a copy of all advertisements and a quantitative listing of all ingredients for each listed drug or biological product not subject to an approved application or license; the basis for a determination, by the establishment, that a listed drug or biological product is not subject to marketing or licensing approval requirements; and a list of certain drugs or biological products containing a particular ingredient. FDA may also request, but not require, the submission of a qualitative listing of the inactive ingredients for all listed drugs or biological products, and a quantitative listing of the active ingredients for all listed drugs or biological products subject to an approved application or license.

Under § 207.30, establishments must update their product listing information every June and December or, at the discretion of the establishment, when any change occurs. These updates must include the following information: (1) A listing of all drug or biological products introduced for commercial distribution that have not been included in any previously submitted list; (2) all drug or biological products formerly listed for which commercial distribution has been discontinued; (3) all drug or biological products for which a notice of discontinuance was submitted and for which commercial distribution has been resumed; and (4) any material change in any information previously submitted. No update is required if no changes have occurred since the previously submitted list.

Historically, drug establishment registration and drug listing information have been submitted in paper form using Form FDA 2656 (Registration of Drug Establishment/Labeler Code Assignment), Form FDA 2657 (Drug Product Listing), and Form FDA 2658 (Registered Establishments' Report of Private Label Distributors) (collectively referred to as FDA Forms). Changes in the FD&C Act resulting from enactment of the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85) (FDAAA) require that drug establishment registration and drug listing information be submitted electronically unless a waiver is granted. Before the enactment of FDAAA, section 510(p) of the FD&C Act expressly provided for electronic submission of drug establishment registration information upon a finding that electronic receipt was feasible, and section 510(j) of the FD&C Act provided that drug listing information be submitted in the form and manner prescribed by FDA. Section 224 of FDAAA, which amends section 510(p) of the FD&C Act, now expressly, requires electronic drug listing in addition to drug establishment registration. In certain cases, if it is unreasonable to expect a person to submit registration and listing information electronically, FDA may grant a waiver from the electronic format requirement.

In the **Federal Register** of June 1, 2009 (74 FR 26248), FDA announced the availability of a guidance for industry entitled ''Providing Regulatory Submissions in Electronic Format—Drug Establishment Registration and Drug Listing'' (the 2009 guidance). The document provides guidance to industry on the statutory requirement to submit electronically drug establishment registration and drug listing information. The guidance describes the types of information to include for purposes of drug establishment registration and drug listing and how to prepare and submit the information in an electronic format (Structured Product Labeling (SPL) files) that FDA can process, review, and archive. In addition to the information that previously was collected on the FDA Forms, the guidance addresses electronic submission of other required information as follows:

- For registered foreign drug establishments, the name, address, and telephone number of its U.S. agent (§ 207.40(c));
- the name of each importer that is known to the establishment (the U.S. company or individual in the United States that is an owner, consignee, or recipient of the foreign establishment's drug that is imported into the United States. An importer does not include the consumer or patient who ultimately purchases, receives, or is administered the drug, unless the foreign establishment ships the drug directly to the consumer or the patient) (section 510(i)(1)(A) of the FD&C Act); and
- the name of each person who imports or offers for import (the name of each agent, broker, or other entity, other than a carrier, that the foreign drug establishment uses to facilitate the import of their drug into the United States) (section 510(i)(1)(A) of the FD&C Act).

FDA also recommends the voluntary submission of the following additional information, when applicable:

- To facilitate correspondence between foreign establishments and FDA, the email address for the U.S. agent, and the telephone number(s) and email address for the importer and person who imports or offers for import their drug;
- a site-specific Data Universal Numbering System number for each entity (*e.g.,* the registrant, establishments, U.S. agent, importer);
- the NDC product code for the source drug that is repacked or relabeled;

• distinctive characteristics of certain listed drugs, *i.e.,* the flavor, the color, and image of the actual solid dosage form; and

• registrants may indicate that they view as confidential the registrant's business relationship with an establishment, or an inactive ingredient.

In addition to this collection of information, there is an additional burden for the following activities:

• preparing a standard operating procedure (SOP) for the electronic submission of drug establishment registration and drug listing information;

• creating the SPL file, including accessing and reviewing the technical specifications and instructional documents provided by FDA (accessible at *http://www.fda.gov/oc/datacouncil/spl.html*);

• reviewing and selecting appropriate terms and codes used to create the SPL file (accessible at *http://www.fda.gov/oc/datacouncil/spl.html*);

• obtaining the digital certificate used with FDA's electronic submission gateway and uploading the SPL file for submission (accessible at *http://www.fda.gov/esg/default.htm*); and

• requests for waivers from the electronic submission process as described in the draft guidance.

When FDA published the 2009 guidance on submitting establishment registration and drug listing information in electronic format, the Agency also amended its burden estimates for OMB control number 0910–0045 to include the additional burden for the collection of information that had not been submitted using the FDA forms, and to create and upload the SPL file. The amended burden estimates included the one-time preparation of an SOP for creating and uploading the SPL file. Although most firms will already have prepared an SOP for the electronic submission of drug establishment registration and drug listing information, each year additional firms will need to create an SOP. As provided in Table 2, FDA estimates that approximately 1,000 firms will have to expend a one-time burden to prepare, review, and approve an SOP, and the Agency estimates that it will take 40 hours per recordkeeper to create 1,000 new SOPs for a total of 40,000 hours.

In the **Federal Register** of March 23, 2015 (80 FR 15214), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received one comment.

The comment noted that under § 207.20(a), manufacturers, repackers, and relabelers are required to register their establishment and submit a listing of every drug or biological product in commercial distribution. Under § 207.20(b), owners or operators of establishments that distribute under their own label or trade name a drug product manufactured by a registered establishment are not required either to register or list but may elect to submit drug listing information in lieu of the registered establishment that manufactures the drug product. The comment said that although the burden of listing private label drugs rests on the manufacturer, the standard industry practice has been to submit two separate listings under different marketing categories. The comment said that these listings are submitted either by the private label distributor or by the manufacturer and ''in order for the necessary information to be provided to FDA (all Offices and Centers) both listings are necessary.'' The comment also recommended that all drug listings should include the marketing category of the drug.

FDA Response: Under section 510 of the FD&C Act and part 207, contract manufacturers (registered establishments) are required to list their products with FDA under their own labeler code. To properly identify such a listing, contract manufacturers should list products manufactured for a private label distributor by using one of following marketing categories: (1) Approved Drug Product Manufactured Exclusively For Private Label Distributor; (2) OTC Monograph Drug Product Manufactured Exclusively For Private Label Distributor; (3) Unapproved Drug Product Manufactured Exclusively For Private Label Distributor. Contract manufacturers may also include the private label distributor's labeling with the listing submission.

Additionally, § 207.20(b) requires that the private label distributor have its product listed under its own labeler code (using whatever marketing category is appropriate to the finished product (*e.g.,* NDA, OTC Monograph, Unapproved Drug)). The private label distributor may elect to do this on its own. If the private label distributor elects not to do this, then the responsibility for submitting the additional listing falls on the registered establishment (the contract manufacturer).

In Tables 1 and 2, the information collection requirements of the drug establishment registration and drug listing requirements have been grouped according to the information collection areas of the requirements.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
New registrations, including new labeler codes requests	1,400	2	2,800	4.5	12,600
Annual updates of registration information	10,000	1	10,000	4.5	45,000
New drug listings	1,567	7	11,000	4.5	49,500
New listings for private label distributor	146	10.06	1,469	4.5	6,611
June and December updates of all drug listing information	5,300	20	106,000	4.5	477,000
Waiver requests	1	1	1	1	1
Total					590,712

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity resulting from Section 510(p) of the FD&C Act as amended by FDAAA	Number of record-keepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
One-time preparation of SOP	1,000	1	1,000	40	40,000
SOP maintenance	3,295	1	3,295	1	3,295
Total	43,295				

[1] There are no capital costs or operating and maintenance costs associated with the collection of information.

Dated: June 25, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–16129 Filed 6–30–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–2044]

Authorization of Emergency Use of an In Vitro Diagnostic Device for Detection of Enterovirus D68; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the issuance of an Emergency Use Authorization (EUA) (the Authorization) for in an vitro diagnostic device for detection of Enterovirus D68 (EV–D68) strains detected in North America in 2014. FDA issued this Authorization under the Federal Food, Drug, and Cosmetic Act (the FD&C Act), as requested by the Centers for Disease Control and Prevention (CDC). The Authorization contains, among other things, conditions on the emergency use of the authorized in vitro diagnostic device. The Authorization follows the February 6, 2015, determination by the Department of Health and Human Services (HHS) Secretary that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of U.S. citizens living abroad and that involves EV–D68. On the basis of such determination, the Secretary of HHS also declared on February 6, 2015, that circumstances exist justifying the authorization of emergency use of in vitro diagnostic devices for detection of EV–D68 subject to the terms of any authorization issued under the FD&C Act. The Authorization, which includes an explanation of the reasons for issuance, is reprinted in this document.

DATES: The Authorization is effective as of May 12, 2015.

ADDRESSES: Submit written requests for single copies of the EUA to the Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4338, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the Authorization may be sent. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the Authorization.

FOR FURTHER INFORMATION CONTACT: Carmen Maher, Acting Assistant Commissioner for Counterterrorism Policy and Acting Director, Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4347, Silver Spring, MD 20993–0002, 301–796–8510.

SUPPLEMENTARY INFORMATION:

I. Background

Section 564 of the FD&C Act (21 U.S.C. 360bbb–3) as amended by the Project BioShield Act of 2004 (Pub. L. 108–276) and the Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (Pub. L. 113–5) allows FDA to strengthen the public health protections against biological, chemical, nuclear, and radiological agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations. With this EUA authority, FDA can help assure that medical countermeasures may be used in emergencies to diagnose, treat, or prevent serious or life-threatening diseases or conditions caused by biological, chemical, nuclear, or radiological agents when there are no adequate, approved, and available alternatives.

Section 564(b)(1) of the FD&C Act provides that, before an EUA may be issued, the Secretary of HHS must declare that circumstances exist justifying the authorization based on one of the following grounds: (1) A determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of attack with a biological, chemical, radiological, or nuclear agent or agents; (2) a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to U.S. military forces of attack with a biological, chemical, radiological, or nuclear agent or agents; (3) a determination by the Secretary of HHS that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of U.S. citizens living abroad, and that involves a biological, chemical, radiological, or nuclear agent or agents, or a disease or condition that may be attributable to such agent or agents; or (4) the identification of a material threat by the Secretary of Homeland Security under section 319F–2 of the Public Health Service (PHS) Act (42 U.S.C. 247d–6b) sufficient to affect national security or the health and security of U.S. citizens living abroad.

Once the Secretary of HHS has declared that circumstances exist justifying an authorization under section 564 of the FD&C Act, FDA may authorize the emergency use of a drug, device, or biological product if the Agency concludes that the statutory criteria are satisfied. Under section 564(h)(1) of the FD&C Act, FDA is required to publish in the **Federal Register** a notice of each authorization, and each termination or revocation of an authorization, and an explanation of the reasons for the action. Section 564 of the FD&C Act permits FDA to authorize the introduction into interstate commerce of a drug, device, or biological product intended for use when the Secretary of HHS has declared that circumstances exist justifying the authorization of emergency use. Products appropriate for emergency use may include products and uses that are not approved, cleared, or licensed under sections 505, 510(k), or 515 of the FD&C Act (21 U.S.C. 355, 360(k), and 360e) or section 351 of the PHS Act (42 U.S.C. 262).

FDA may issue an EUA only if, after consultation with the HHS Assistant Secretary for Preparedness and Response, the Director of the National Institutes of Health, and the Director of CDC (to the extent feasible and appropriate given the applicable circumstances), FDA [1] concludes: (1) That an agent referred to in a declaration of emergency or threat can cause a serious or life-threatening disease or condition; (2) that, based on the totality of scientific evidence available to FDA, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that: (A) The product may be effective in diagnosing, treating, or preventing (i) such disease or condition; or (ii) a serious or life-threatening disease or condition caused by a product authorized under section 564, approved or cleared under the FD&C Act, or licensed under section 351 of the PHS Act, for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and (B) the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product, taking into consideration the material threat posed by the agent or agents identified in a declaration under section 564(b)(1)(D) of the FD&C Act, if applicable; (3) that there is no adequate, approved, and available alternative to the product for diagnosing, preventing, or treating such disease or condition; and (4) that such other criteria as may be prescribed by regulation are satisfied.

No other criteria for issuance have been prescribed by regulation under section 564(c)(4) of the FD&C Act. Because the statute is self-executing, regulations or guidance are not required for FDA to implement the EUA authority.

II. EUA Request for an In Vitro Diagnostic Device for Detection of EV–D68

On February 6, 2015, under section 564(b)(1)(C) of the FD&C Act (21 U.S.C. 360bbb–3(b)(1)(C)), the Secretary of HHS determined that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of U.S. citizens living abroad and that involves EV–D68. Also on February 6, 2015, under section 564(b)(1) of the FD&C Act and on the basis of such determination, the Secretary of HHS declared that circumstances exist justifying the authorization of emergency use of in vitro diagnostics for detection of EV–D68, subject to the terms of any authorization issued under section 564 of the FD&C Act. Notice of the determination and declaration of the Secretary was published in the **Federal Register** on February 27, 2015 (80 FR 10685). On April 24, 2015, CDC requested, and on May 12, 2015, FDA issued, an EUA for the CDC EV–D68 2014 Real-time RT–PCR Assay, subject to the terms of the Authorization.

III. Electronic Access

An electronic version of this document and the full text of the Authorization are available on the Internet at *http://www.regulations.gov.*

IV. The Authorization

Having concluded that the criteria for issuance of the Authorization under section 564(c) of the FD&C Act are met, FDA has authorized the emergency use of an in vitro diagnostic device for detection of EV–D68 strains detected in North America in 2014 subject to the terms of the Authorization. The Authorization in its entirety (not including the authorized versions of the fact sheets and other written materials) follows and provides an explanation of the reasons for its issuance, as required by section 564(h)(1) of the FD&C Act:

BILLING CODE 4164–01–P

[1] The Secretary of HHS has delegated the authority to issue an EUA under section 564 of the FD&C Act to the Commissioner of Food and Drugs.

DEPARTMENT OF HEALTH & HUMAN SERVICES

May 12, 2015

Food and Drug Administration
Silver Spring, MD 20993

Thomas R. Frieden, M.D., M.P.H.
Director
Centers for Disease Control and Prevention
1600 Clifton Rd, MS D-14
Atlanta, GA 30333

Dear Dr. Frieden:

This letter is in response to your request that the Food and Drug Administration (FDA) issue an Emergency Use Authorization (EUA) for emergency use of the Centers for Disease Control and Prevention's (CDC) Enterovirus D68 2014 Real-time RT-PCR Assay (EV-D68 2014 rRT-PCR) for the *in vitro* qualitative detection of RNA from the enterovirus D68 (EV-D68) strains detected in North America in 2014 in upper respiratory specimens (such as nasopharyngeal (NP) swabs, oropharyngeal (OP) swabs, dual NP/OP swabs, and/or nasal washes) and sera in conjunction with patient-matched upper respiratory specimen(s) from individuals with signs and symptoms of EV-D68 infection and/or epidemiologic risk factors, by qualified laboratories designated by CDC on specified instruments, pursuant to section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. § 360bbb-3).

On February 6, 2015, pursuant to section 564(b)(1)(C) of the Act (21 U.S.C. § 360bbb-3(b)(1)(C)), the Secretary of Health and Human Services (HHS) determined that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad and that involves EV-D68.[1] Pursuant to section 564(b)(1) of the Act (21 U.S.C. § 360bbb-3(b)(1)), and on the basis of such determination, the Secretary of HHS then declared that circumstances exist justifying the authorization of the emergency use of *in vitro* diagnostics for the detection of EV-D68, subject to the terms of any authorization issued under 21 U.S.C. § 360bbb-3(a).[2]

Having concluded that the criteria for issuance of this authorization under section 564(c) of the Act (21 U.S.C. § 360bbb-3(c)) are met, I am authorizing the emergency use of the EV-D68 2014 rRT-PCR (as described in the Scope of Authorization section of this letter (section II)) in individuals with signs and symptoms of EV-D68 infection and/or epidemiologic risk factors (as described in the Scope of Authorization section of this letter (section II)) for the *in vitro* qualitative detection of EV-D68 strains detected in North America in 2014.

[1] As amended by the Pandemic and All-Hazards Preparedness Reauthorization Act, Pub. L. No. 113-5, under section 564(b)(1)(C) of the Act the Secretary may make a determination of a public health emergency, or of a significant potential for a public health emergency.

[2] HHS. *Determination and Declaration Regarding Emergency Use of New In Vitro Diagnostics for Detection of Enterovirus D68.* 80 Fed. Reg. 10685 (February 27, 2015).

I. Criteria for Issuance of Authorization

I have concluded that the emergency use of the EV-D68 2014 rRT-PCR for the *in vitro* qualitative detection of EV-D68 strains detected in North America in 2014 in the specified population meets the criteria for issuance of an authorization under section 564(c) of the Act, because I have concluded that:

1. EV-D68 can cause EV-D68 infection, a serious or life-threatening disease or condition to humans infected with this virus;

2. Based on the totality of scientific evidence available to FDA, it is reasonable to believe that the EV-D68 2014 rRT-PCR, when used with the specified instruments, may be effective in diagnosing EV-D68 infection, and that the known and potential benefits of the EV-D68 2014 rRT-PCR for diagnosing EV-D68 infection outweigh the known and potential risks of such product; and

3. There is no adequate, approved, and available alternative to the emergency use of the EV-D68 2014 rRT-PCR for diagnosing EV-D68 infection.[3]

II. Scope of Authorization

I have concluded, pursuant to section 564(d)(1) of the Act, that the scope of this authorization is limited to the use of the authorized EV-D68 2014 rRT-PCR by qualified laboratories designated by CDC for the *in vitro* qualitative detection of EV-D68 strains detected in North America in 2014 in individuals with signs and symptoms of EV-D68 infection and/or epidemiologic risk factors.

The Authorized Enterovirus D68 2014 Real-time RT-PCR Assay

The EV-D68 2014 rRT-PCR is a real-time reverse transcriptase PCR (rRT-PCR) for the *in vitro* qualitative detection of EV-D68 strains detected in North America in 2014 in upper respiratory specimens (such as NP swabs, OP swabs, dual NP/OP swabs, and/or nasal washes), sera in conjunction with patient-matched upper respiratory specimen(s), and other authorized specimen types from individuals with signs and symptoms of EV-D68 infection and/or epidemiologic risk factors. The test procedure consists of nucleic acid extraction using the QIAamp Viral RNA Mini Kit, QIAamp DSP Viral RNA Mini Kit, bioMérieux easyMAG, or other authorized extraction methods, followed by rRT-PCR on Applied Biosystems PCR instrument systems (i.e., AB 7500, AB 7500 Fast, and AB 7500 Fast Dx Real-Time PCR Systems with SDS software) or other authorized instruments.

The EV-D68 2014 rRT-PCR is based on one-step real-time reverse transcription polymerase chain reaction. The Assay employs one primer and probe set (VP1.2014) that targets the viral protein 1 (VP1) gene of the EV-D68 genome, and one primer and probe set (RP) that targets the human RNase P gene.

[3] No other criteria of issuance have been prescribed by regulation under section 564(c)(4) of the Act.

The EV-D68 2014 rRT-PCR uses the following primer/probe sets:

VP1.2014: targets the EV-D68 viral protein 1 (VP1) gene

RP[a]: targets the human Ribonuclease P gene. This primer and probe set is included as a control for specimen quality, to confirm that human nucleic acid was successfully extracted from the clinical specimen.

The EV-D68 2014 rRT-PCR includes the following assay controls:

1. EV-D68 2014 rRT-PCR Positive Control is comprised of synthetic, *in vitro* transcribed single-stranded, positive–sense RNA transcript.

2. RNase P Primer and Probe Set is run on all clinical specimens tested with the EV-D68 2014 rRT-PCR as a measure of the presence and quality of nucleic acid resulting from extraction of the clinical specimens.

The above-described EV-D68 2014 rRT-PCR, when labeled consistently with the labeling authorized by FDA entitled "Enterovirus D68 2014 Real-time RT-PCR Assay Instructions for Use" (available at http://www.fda.gov/MedicalDevices/Safety/EmergencySituations/ucm161496.htm), which may be revised by CDC in consultation with FDA, is authorized to be distributed to, and used by, qualified laboratories designated by CDC under this EUA, despite the fact that it does not meet certain requirements otherwise required by federal law.

The above described EV-D68 2014 rRT-PCR is authorized to be accompanied by the following information pertaining to the emergency use, which is authorized to be made available to health care providers and patients:

- Fact Sheet for Health Care Providers: Interpreting CDC's Enterovirus D68 2014 Real-time RT-PCR Assay (EV-D68 2014 rRT-PCR) Results

- Fact Sheet for Patients: Understanding Results from the Enterovirus D68 2014 Real-time RT-PCR Assay (EV-D68 2014 rRT-PCR)

As described in section IV below, CDC and any authorized distributor(s) are also authorized to make available additional information relating to the emergency use of the authorized EV-D68 2014 rRT-PCR that is consistent with, and does not exceed, the terms of this letter of authorization.

I have concluded, pursuant to section 564(d)(2) of the Act, that it is reasonable to believe that the known and potential benefits of the authorized EV-D68 2014 rRT-PCR in the specified population, when used for the *in vitro* qualitative detection of EV-D68 strains detected in North America in 2014, outweigh the known and potential risks of such a product.

I have concluded, pursuant to section 564(d)(3) of the Act, based on the totality of scientific evidence available to FDA, that it is reasonable to believe that the authorized EV-D68 2014 rRT-

PCR may be effective in the diagnosis of EV-D68 infection pursuant to section 564(c)(2)(A) of the Act. FDA has reviewed the scientific information available to FDA, including the information supporting the conclusions described in section I above, and concludes that the authorized EV-D68 2014 rRT-PCR, when used to diagnose EV-D68 infection in the specified population, meets the criteria set forth in section 564(c) of the Act concerning safety and potential effectiveness.

The emergency use of the authorized EV-D68 2014 rRT-PCR under this EUA must be consistent with, and may not exceed, the terms of this letter, including the Scope of Authorization (section II) and the Conditions of Authorization (section IV). Subject to the terms of this EUA and under the circumstances set forth in the Secretary of HHS's determination described above and the Secretary of HHS's corresponding declaration under section 564(b)(1), the EV-D68 2014 rRT-PCR described above is authorized to diagnose EV-D68 infection in individuals with signs and symptoms of EV-D68 infection and/or epidemiologic risk factors.

This EUA will cease to be effective when the HHS declaration that circumstances exist to justify the EUA is terminated under section 564(b)(2) of the Act or when the EUA is revoked under section 564(g) of the Act.

III. Waiver of Certain Requirements

I am waiving the following requirements for the EV-D68 2014 rRT-PCR during the duration of this EUA:

- Current good manufacturing practice requirements, including the quality system requirements under 21 CFR part 820 with respect to the design, manufacture, packaging, labeling, storage, and distribution of the EV-D68 2014 rRT-PCR.

- Labeling requirements for cleared, approved, or investigational devices, including labeling requirements under 21 CFR 809.10 and 21 CFR 809.30, except for the intended use statement (21 CFR 809.10(a)(2), (b)(2)), adequate directions for use (21 U.S.C. 352(f)), (21 CFR 809.10(b)(5), (7), and (8)), any appropriate limitations on the use of the device including information required under 21 CFR 809.10(a)(4), and any available information regarding performance of the device, including requirements under 21 CFR 809.10(b)(12).

IV. Conditions of Authorization

Pursuant to section 564 of the Act, I am establishing the following conditions on this authorization:

CDC and Any Authorized Distributor(s)

A. CDC and any authorized distributor(s) will distribute the authorized EV-D68 2014 rRT-PCR with the authorized labeling, as may be revised only by CDC in consultation with FDA, to qualified laboratories designated by CDC.

B. CDC and any authorized distributor(s) will provide to qualified laboratories designated by CDC the authorized EV-D68 2014 rRT-PCR Fact Sheet for Health Care Providers and the authorized EV-D68 2014 rRT-PCR Fact Sheet for Patients.

C. CDC any authorized distributor(s) will make available on their websites the EV-D68 2014 rRT-PCR Fact Sheet for Health Care Providers and the authorized EV-D68 2014 rRT-PCR Fact Sheet for Patients.

D. CDC and any authorized distributor(s) will inform qualified laboratories designated by CDC and relevant public health authority(ies) of this EUA, including the terms and conditions herein.

E. CDC and any authorized distributor(s) will ensure that qualified laboratories designated by CDC using the authorized EV-D68 2014 rRT-PCR have a process in place for reporting test results to health care professionals and relevant public health authorities, as appropriate.

F. Through a process of inventory control, CDC and any authorized distributor(s) will maintain records of device usage.

G. CDC and any authorized distributor(s) will collect information on the performance of the assay, and report to FDA any suspected occurrence of false positive or false negative results of which CDC and any authorized distributor(s) become aware.

H. CDC and any authorized distributor(s) are authorized to make available additional information relating to the emergency use of the authorized EV-D68 2014 rRT-PCR that is consistent with, and does not exceed, the terms of this letter of authorization.

CDC

I. CDC will notify FDA of any authorized distributor(s) of the EV-D68 2014 rRT-PCR, including the name, address, and phone number of any authorized distributor(s).

J. CDC will provide any authorized distributor(s) with a copy of this EUA, and communicate to any authorized distributor(s) any subsequent amendments that might be made to this EUA and its authorized accompanying materials (e.g., fact sheets, instructions for use).

K. CDC only may request changes to the authorized EV-D68 2014 rRT-PCR Fact Sheet for Health Care Providers or the authorized EV-D68 2014 rRT-PCR Fact Sheet for Patients. Such requests will be made only by CDC in consultation with FDA.

L. CDC may request the addition of other specimen types for use with the authorized EV-D68 2014 rRT-PCR. Such requests will be made by CDC in consultation with, and require concurrence of, FDA.

M. CDC may request the addition of other extraction methods for use with the authorized EV-D68 2014 rRT-PCR. Such requests will be made by CDC in consultation with, and require concurrence of, FDA.

N. CDC may request the addition of other real-time PCR instruments for use with the authorized EV-D68 2014 rRT-PCR. Such requests will be made by CDC in consultation with, and require concurrence of, FDA.

O. CDC will track adverse events and report to FDA under 21 CFR part 803.

Qualified Laboratories Designated by CDC

P. Qualified laboratories designated by CDC will include with reports of the results of the EV-D68 2014 rRT-PCR the authorized Fact Sheet for Health Care Providers and the authorized Fact Sheet for Patients. Under exigent circumstances, other appropriate methods for disseminating these Fact Sheets may be used, which may include mass media.

Q. Qualified laboratories designated by CDC will have a process in place for reporting test results to health care professionals and relevant public health authorities, as appropriate.

R. Qualified laboratories designated by CDC will collect information on the performance of the assay, and report to CDC and any authorized distributor(s) any suspected occurrence of false positive or false negative results of which they become aware.

S. All laboratory personnel using the assay will be appropriately trained on the use of the EV-D68 2014 rRT-PCR on the specified Applied Biosystems PCR instrument systems or other authorized instruments, and use appropriate laboratory and personal protective equipment when handling this test.

CDC, Any Authorized Distributors, and Qualified Laboratories Designated by CDC

T. CDC, any authorized distributor(s), and qualified laboratories designated by CDC will ensure that any records associated with this EUA are maintained until notified by FDA. Such records will be made available to FDA for inspection upon request.

Conditions Related to Advertising and Promotion

U. All advertising and promotional descriptive printed matter relating to the use of the authorized EV-D68 2014 rRT-PCR shall be consistent with the Fact Sheets and authorized labeling, as well as the terms set forth in this EUA and the applicable requirements set forth in the Act and FDA regulations.

V. All advertising and promotional descriptive printed matter relating to the use of the authorized EV-D68 2014 rRT-PCR shall clearly and conspicuously state that:

- This test has not been FDA cleared or approved;

Page 7 –Dr. Frieden, Centers for Disease Control and Prevention

- This test has been authorized by FDA under an EUA for use by qualified laboratories designated by CDC;
- This test has been authorized only for the detection of EV-D68; and
- This test is only authorized for the duration of the declaration that circumstances exist justifying the authorization of the emergency use of *in vitro* diagnostics for detection of EV-D68 under section 564(b)(1) of the Act, 21 U.S.C. § 360bbb-3(b)(1), unless the authorization is terminated or revoked sooner.

No advertising or promotional descriptive printed matter relating to the use of the authorized EV-D68 2014 rRT-PCR may represent or suggest that this test is safe or effective for the diagnosis of EV-D68.

The emergency use of the authorized EV-D68 2014 rRT-PCR described in this letter of authorization must comply with the conditions and all other terms of this authorization.

V. Duration of Authorization

This EUA will be effective until the declaration that circumstances exist justifying the authorization of the emergency use of *in vitro* diagnostics for detection of EV-D68 is terminated under section 564(b)(2) of the Act or the EUA is revoked under section 564(g) of the Act.

Sincerely,

Stephen M. Ostroff, M.D.
Acting Commissioner of Food and Drugs

Enclosure

Dated: June 25, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–16125 Filed 6–30–15; 8:45 am]

BILLING CODE 4164–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–0967]

Intent to Exempt Certain Unclassified, Class II, and Class I Reserved Medical Devices From Premarket Notification Requirements; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''Intent to Exempt Certain Unclassified, Class II, and Class I Reserved Medical Devices from Premarket Notification Requirements.'' This guidance describes FDA's intent to exempt certain unclassified medical devices (that FDA intends to classify into class I or II), certain class II medical devices, and certain class I medical devices from premarket notification requirements. FDA believes the devices identified in this guidance document are sufficiently well understood and do not require premarket notification to assure their safety and effectiveness.

DATES: Submit either electronic or written comments on this guidance at any time. General comments on Agency guidance documents are welcome at any time.

ADDRESSES: An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Intent to Exempt Certain Unclassified, Class II, and Class I Reserved Medical Devices from Premarket Notification Requirements'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

Submit electronic comments on the guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Angela C. Krueger, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1666, Silver Spring, MD 20993–0002, 301–796–6380.

SUPPLEMENTARY INFORMATION:

I. Background

In the commitment letter (section 1.G of the Performance Goals and Procedures) that was drafted as part of the reauthorization process for the Medical Device User Fee Amendments of 2012, part of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), FDA committed to identifying low-risk medical devices to exempt from premarket notification requirements. This guidance describes FDA's intent to exempt certain unclassified medical devices (that FDA intends to classify into class I or II), certain class II medical devices, and certain class I medical devices (that no longer meet the ''reserved'' criteria in section 510(l) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360(l))) from premarket notification requirements. FDA believes the devices identified in this guidance document are sufficiently well understood and do not require 510(k) notification to assure their safety and effectiveness.

The draft of this guidance was made available in the **Federal Register** on August 1, 2014 (79 FR 44804). The comment period closed on September 30, 2014. FDA received one comment on the draft guidance requesting that devices classified under 21 CFR 880.6760 (Protective restraint, product code OYS, Patient Bed with Canopy/Restraints) be considered for inclusion in the guidance document. FDA considered the comment and determined it was appropriate to add this device type to the final guidance.

In the process of finalizing the guidance document, the Center for Devices and Radiological Health (CDRH) reviewed additional medical device product codes not included in the draft guidance and determined that there were additional device types which are sufficiently well understood and do not require premarket notification (510(k)) to assure their safety and effectiveness. As a result, the following device types (product codes) were added to the final guidance document: EIB—Syringe, Irrigating (Dental); EWD—Protector, Hearing (Insert); EWE—Protector, Hearing (Circumaural); LEZ—Aids, Speech Training for the Hearing Impaired (AC-Powered and Patient-Contact); LFA—Aids, Speech Training for the Hearing Impaired (Battery-Operated or Non-Patient); KLX—Electroglottograph; LZI—Device, Assistive Listening; LRL—Cushion, Hemorrhoid; KMJ—Lubricant, Patient; OYS—Patient Bed with Canopy/Restraint (see above); HCD—Cannula, Ventricular; GYK—Instrument, Shunt System Implantation; LHM—System, Thermographic, Liquid Crystal; KYA—System, Thermographic, Liquid Crystal, Nonpowered (Adjunctive Use); NUR—Pad, Interlabial; and LZW—Monitor, Spine Curvature.

Additionally, CDRH reviewed the device types (product codes) included in the draft guidance document and determined that two device types (product codes) originally proposed in the draft guidance document should not be included in the final guidance as devices for which FDA intends to exempt from premarket notification requirements: FLL—Thermometer, Electrical, Clinical (21 CFR 880.2910); and GWO—Plate, Cranioplasty, Preformed, Alterable (21 CFR 882.5320). CDRH determined that premarket notification (510(k)) is necessary to assure the safety and effectiveness of these devices. Notably, the FLL product code currently covers thermometers with a range of technologies and intended uses, including those used to screen for potential pandemic contagious diseases. CDRH believes that some thermometer types may be candidates for exemption from premarket notification requirements at a later date, but that thermometers should first be further categorized by technology and/or intended use into distinct product codes. CDRH is actively reviewing this issue and will further consider which of the sub-types may be appropriate to exempt from premarket notification requirements. In addition, CDRH believes that premarket notification (510(k)) is necessary to provide a reasonable assurance of safety and effectiveness for cranioplasty plates (GWO), which are permanent implants and may be constructed of polymeric materials and/or may be resorbable, because FDA must evaluate the material properties and resorption rate in relation to bone healing. CDRH recognizes that manufacturers may not have submitted a 510(k) for these two device types following publication of the draft guidance. As a result, CDRH is providing such manufacturers 90 days following the publication of this notice to submit a 510(k) for these device types; however, distribution and marketing of such devices must cease if a manufacturer receives an order from FDA declaring the device to be not substantially equivalent to any legally marketed predicate device. Finally, CDRH changed the product code listed in the guidance document for Ophthalmic Cameras (21 CFR 886.1120) from HKI—Camera, Ophthalmic, AC-Powered to PJZ—Camera, Ophthalmic, AC-Powered, General Use to clarify the type of AC-powered Ophthalmic Camera CDRH intended to exempt. CDRH also removed LQX—Device, Finger-Sucking (21 CFR 890.3475) from the final guidance because this device type is already classified as class I (general controls) and exempt from premarket notification. Finger-sucking devices (LQX) and cranioplasty plates (GWO) were unintentionally included in the draft guidance.

III. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of the FDA on the Intent to Exempt Certain Unclassified, Class II, and Class I Reserved Medical Devices from Premarket Notification Requirements. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

IV. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the Internet. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm*. Guidance documents are also available at *http://www.regulations.gov*. Persons unable to download an electronic copy of ''Intent to Exempt Certain Unclassified, Class II, and Class I Reserved Medical Devices from Premarket Notification Requirements'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1300046 to identify the guidance you are requesting.

V. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E, have been

approved under OMB control number 0910–0120.

VI. 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*.

Dated: June 26, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–16150 Filed 6–30–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0129]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; General Licensing Provisions; Section 351(k) Biosimilar Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 31, 2015.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0719. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

General Licensing Provisions; Section 351(k) Biosimilar Applications OMB Control Number 0910–0719—Extension

The Patient Protection and Affordable Care Act (Affordable Care Act) (Pub. L. 111–148) contains a subtitle called the Biologics Price Competition and Innovation Act of 2009 (BPCI Act), which amends the Public Health Service Act (PHS Act) and establishes an abbreviated licensure pathway for biological products shown to be biosimilar to, or interchangeable with, an FDA-licensed biological reference product (See sections 7001 through 7003 of the Affordable Care Act.)

Section 351(k) of the PHS Act (42 U.S.C. 262(k)), added by the BPCI Act, sets forth the requirements for an application for a proposed biosimilar product and an application or a supplement for a proposed interchangeable product. Section 351(k) defines biosimilarity to mean ''that the biological product is highly similar to the reference product notwithstanding minor differences in clinically inactive components'' and that ''there are no clinically meaningful differences between the biological product and the reference product in terms of the safety, purity, and potency of the product.'' (See section 351(i)(2) of the PHS Act.) A 351(k) application must contain, among other things, information demonstrating that the biological product is biosimilar to a reference product based upon data derived from analytical studies, animal studies, and clinical studies, unless FDA determines, in its discretion, that certain studies are unnecessary in a 351(k) application. (See section 351(k)(2) of the PHS Act.) To demonstrate interchangeability, an applicant must provide sufficient information to demonstrate biosimilarity and that the biosimilar biological product can be expected to produce the same clinical result as the reference product in any given patient and, if the biosimilar biological product is administered more than once to an individual, the risk in terms of safety or diminished efficacy of alternating or switching between the use of the biosimilar biological product and the reference product is not greater than the risk of using the reference product without such alternation or switch. (See section 351(k)(4) of the PHS Act.) Interchangeable products may be substituted for the reference product without the intervention of the prescribing health care provider. (See section 351(i)(3) of the PHS Act.)

In estimating the information collection burden for 351(k) applications, we reviewed the number of 351(k) applications FDA has received through fiscal year (FY) 2014, as well as the collection of information regarding the general licensing provisions for biologics license applications under section 351(a) of the PHS Act submitted to OMB (approved under OMB control number 0910–0338). For the information collection burden for 351(a) applications, FDA described § 601.2(a) (21 CFR 601.2(a)) as requiring a manufacturer of a biological product to submit an application on forms prescribed for such purpose with accompanying data and information including certain labeling information to FDA for approval to market a product in interstate commerce. FDA also added in the burden estimate the container and package labeling requirements provided under §§ 610.60 through 610.65 (21 CFR 610.60 through 610.65). The estimated hours per response for § 601.2, and §§ 610.60 through 610.65, are 860 hours.

In addition, in submitting a 351(a) application, an applicant completes the Form FDA 356h, ''Application to Market a New Drug, Biologic, or an Antibiotic Drug for Human Use.'' The application form serves primarily as a checklist for firms to gather and submit certain information to FDA. The checklist helps to ensure that the application is complete and contains all the necessary information so that delays due to lack of information may be eliminated. The form provides key information to FDA for efficient handling and distribution to the appropriate staff for review. The estimated burden hours for biological product submissions using FDA Form 356h are included under the applicable requirements approved under OMB control number 0910–0338.

To submit an application seeking licensure of a proposed biosimilar product under section 351(k)(2)(A)(i) and (k)(2)(A)(iii) of the PHS Act, FDA believes that the estimated burden hours would be approximately the same as noted under OMB control number 0910–0338 for a 351(a) application—860 hours. The burden estimates for seeking licensure of a proposed biosimilar product that meets the standards for interchangeability under section 351(k)(2)(B) and (k)(4) would also be 860 hours. Until we gain more experience with biosimilar applications, FDA believes this estimate is

appropriate for 351(k) applications because to determine biosimilarity or interchangeability of a proposed 351(k) product, the application and the information submitted is expected to be comparably as complex and technically demanding as a proposed 351(a) application. FDA may determine, in its discretion, an element required under a 351(k) application to be unnecessary to support licensure of a biosimilar or interchangeable product. In those cases, the number of hours per response may be less than the hours estimated.

A summary of the information collection requirements in the submission of a 351(k) application as described under the BPCI Act follows:

Section 351(k)(2)(A)(i) requires manufactures of 351(k) products to submit an application for FDA review and licensure before marketing a biosimilar product. An application submitted under this section shall include information demonstrating that:

- The biological product is biosimilar to a reference product based upon data derived from analytical studies, animal studies (including toxicity), and a clinical study or studies (including immunogenicity and pharmacokinetics or pharmacodynamics). The Secretary of Health and Human Services (the Secretary) may determine that any of these elements is unnecessary;
- The biological product and reference product utilize the same mechanism or mechanisms of action for the condition or conditions of use prescribed, recommended, or suggested in the proposed labeling, but only to the extent the mechanism or mechanisms of action are known for the reference product;
- The condition or conditions of use prescribed, recommended, or suggested in the labeling proposed for the biological product have been previously approved for the reference product;
- The route of administration, the dosage form, and the strength of the biological product are the same as those of the reference product; and
- The facility in which the biological product is manufactured, processed, packed, or held meets standards designed to assure that the biological product continues to be safe, pure, and potent.

Section 351(k)(2)(A)(iii) requires the application to include publicly available information regarding the Secretary's previous determination that the reference product is safe, pure, and potent. The application may include any additional information in support of the application, including publicly available information with respect to the reference product or another biological product.

Under section 351(k)(2)(B) and (k)(4), a manufacturer may include information demonstrating that the biological product meets the standards for interchangeability either in the application to show biosimilarity or in a supplement to such an application. The information submitted to meet the standard for interchangeability must show that: (1) The biological product is biosimilar to the reference product and can be expected to produce the same clinical result as the reference product in any given patient; and (2) for a biological product that is administered more than once to an individual, the risk in terms of safety or diminished efficacy of alternating or switching between use of the biological product and the reference product is not greater than the risk of using the reference product without such alternation or switch.

In addition to the collection of information regarding the submission of a 351(k) application for a proposed biosimilar or interchangeable biological product, section 351(l) of the BPCI Act establishes procedures for identifying and resolving patent disputes involving applications submitted under section 351(k) of the PHS Act. The burden estimates for the patent provisions under section 351(l)(6)(C) of the BPCI Act are included in table 1 of this document and are based on the estimated number of 351(k) biosimilar respondents. Based on similar reporting requirements, FDA estimates this notification will take 2 hours. A summary of the collection of information requirements under section 351(l)(6)(C) follows:

Not later than 30 days after a complaint from the reference product sponsor is served to a 351(k) applicant in an action for patent infringement described under 351(l)(6), section 351(l)(6)(C) requires that the 351(k) applicant provide the Secretary with notice and a copy of such complaint. The Secretary shall publish in the **Federal Register** notice any complaint received under section 351(l)(6)(C)(i).

In the **Federal Register** of February 3, 2015 (80 FR 5761), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received three comments.

(Comment) One comment requested FDA provide clarity and interpretation regarding the standards for interchangeability (sections 351(k)(2)(B) and (k)(4) of the PHS Act). The comment also sought clarification regarding the timelines and the chosen mode of communication for FDA to convey to the stakeholders any details on an unnecessary element under a 351(k) application.

(Response) FDA expects to issue a draft guidance, ''Considerations in Demonstrating Interchangeability to a Reference Product,'' in 2015. FDA issued a draft guidance, ''Formal Meetings Between the FDA and Biosimilar Biological Product Sponsors or Applicants,'' in 2013, which provides recommendations to industry on formal meetings between FDA and biosimilar biological product sponsors or applicants.

(Comment) Another comment requested FDA provide clarity on the factors for consideration in assessing whether a proposed biosimilar is highly similar to a reference product to support a demonstration of biosimilarity—specifically, which product quality attributes are considered critical to match (and how much difference is allowed).

(Response) FDA issued the final guidance, ''Quality Considerations in Demonstrating Biosimilarity of a Therapeutic Protein Product to a Reference Product,'' in April 2015. This final guidance provides further clarification on factors for consideration in assessing whether products are highly similar, including expression system, manufacturing process, impurities, reference product, and reference standards.

(Comment) A third comment supported approval and post-market policies that would allow healthcare practitioners to make informative decisions when treating patients.

(Response) FDA issued the final guidance, ''Scientific Considerations in Demonstrating Biosimilarity to a Reference Product,'' in April 2015. This guidance discusses a stepwise approach to demonstrating biosimilarity, the totality-of-the-evidence approach that FDA will use to review applications for biosimilar products, as well as general scientific principles in conducting comparative structural and functional analyses, animal testing, and clinical studies (including human pharmacokinetic and pharmacodynamic studies, clinical immunogenicity assessment, and comparative clinical studies). The guidance also provides information on postmarketing safety monitoring considerations.

The comment also requested FDA consider adding as part of a biosimilar or interchangeable product's labeling instruction guidance on third party substitution of biosimilars without the knowledge of the healthcare provider. As noted by the comment, these issues

are also subject to state laws and regulations. Under the BPCI Act, a biological product that has been approved as an ''interchangeable'' may be substituted for the reference product without the intervention of the health care provider who prescribed the reference product.

Based on the number of 351(k) applications FDA received through FY 2014, we estimate that we will receive approximately five 351(k) applications annually. The number of respondents submitting 351(k) applications is based on the number of sponsors submitting 351(k) applications through FY 2014. In making these estimates, FDA has taken into account, among other things, the expiration dates of patents that relate to potential reference products and general market interest in biological products that could be candidates for 351(k) applications.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

351(k) Applications (42 U.S.C. 262(k))	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
351(k)(2)(A)(i) and 351(k)(2)(A)(iii) Biosimilar Product Applications	5	1	5	860	4,300
351(k)(2)(B) and (k)(4) Interchangeable Product Applications or Supplements	2	1	2	860	1,720
351(l)(6)(C) Patent Infringement Notifications	5	1	5	2	10
Total					6,030

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 25, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–16128 Filed 6–30–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Lists of Designated Primary Medical Care, Mental Health, and Dental Health Professional Shortage Areas

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: This notice advises the public of the published lists of all geographic areas, population groups, and facilities designated as primary medical care, mental health, and dental health professional shortage areas (HPSAs) as of May 29, 2015, available on the Health Resources and Services Administration (HRSA) Web site at *http://www.hrsa.gov/shortage/*. HPSAs are designated or withdrawn by the Secretary of Health and Human Services (HHS) under the authority of section 332 of the Public Health Service (PHS) Act and 42 CFR part 5.

FOR FURTHER INFORMATION CONTACT: Requests for further information on the HPSA designations listed on the HRSA Web site and requests for additional designations, withdrawals, or reapplication for designations should be submitted to Kae Brickerd, Ph.D., Director, Shortage Designation Branch, Division of Policy and Shortage Designation, Bureau of Health Workforce, Health Resources and Services Administration, Mail Stop 11SWH03, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 594–5168.

SUPPLEMENTARY INFORMATION:

Background

Section 332 of the PHS Act, 42 U.S.C. 254e, provides that the Secretary of HHS shall designate HPSAs based on criteria established by regulation. HPSAs are defined in section 332 to include (1) urban and rural geographic areas with shortages of health professionals, (2) population groups with such shortages, and (3) facilities with such shortages. Section 332 further requires that the Secretary annually publish a list of the designated geographic areas, population groups, and facilities. The lists of HPSAs are to be reviewed at least annually and revised as necessary. HRSA's Bureau of Health Workforce (BHW) has the responsibility for designating and updating HPSAs.

Public or private nonprofit entities are eligible to apply for assignment of National Health Service Corps (NHSC) personnel to provide primary care, mental, or dental health services in or to these HPSAs. NHSC health professionals with a service obligation may enter into service agreements to serve only in federally designated HPSAs. Entities with clinical training sites located in HPSAs are eligible to receive priority for certain residency training program grants administered by the BHW. Many other federal programs also utilize HPSA designations. For example, under authorities administered by the Centers for Medicare and Medicaid Services, certain qualified providers in geographic area HPSAs are eligible for increased levels of Medicare reimbursement.

Development of the Designation and Withdrawal Lists

Criteria for designating HPSAs were published as final regulations (42 CFR part 5) in 1980. Criteria then were defined for each of seven health professional types (primary medical care, dental, psychiatric, vision care, podiatric, pharmacy, and veterinary care). The criteria for correctional facility HPSAs were revised and published on March 2, 1989 (54 FR 8735). The criteria for psychiatric HPSAs were expanded to mental health HPSAs on January 22, 1992 (57 FR 2473). Currently funded PHS Act programs use only the primary medical care, mental health, or dental HPSA designations.

Individual requests for designation or withdrawal of a particular geographic area, population group, or a facility as a HPSA are received and reviewed continuously by BHW. The majority of the requests come from the Primary Care Offices (PCO) in the State Health Departments, who have access to the on-line application and review system. Requests that come from other sources are referred to the PCOs for their review and concurrence. In addition, interested parties, including the Governor, the State Primary Care Association and state professional associations are notified of each request submitted for their comments and recommendations.

Annually, lists of designated HPSAs are made available to all PCOs, state medical and dental societies and others, with a request to review and update the data on which the designations are based. Emphasis is placed on updating those designations that are more than 3 years old or where significant changes relevant to the designation criteria have occurred.

Recommendations for possible additions, continuations, revisions, or withdrawals from a HPSA list are reviewed by BHW, and the review findings are provided by letter to the agency or individual requesting action or providing data, with copies to other interested organizations and individuals. These letters constitute the official notice of designation as a HPSA, rejection of recommendations for HPSA designation, revision of a HPSA designation, and/or advance notice of pending withdrawals from the HPSA list. Designations (or revisions of designations) are effective as of the date on the notification letter from BHW. Proposed withdrawals become effective only after interested parties in the area affected have been afforded the opportunity to submit additional information to BHW in support of its continued or revised designation. If no new data are submitted, or if BHW review confirms the proposed withdrawal, the withdrawal becomes effective upon publication of the lists of designated HPSAs in the **Federal Register**. In addition, lists of HPSAs are updated daily on the HRSA Web site at *http://www.hrsa.gov/shortage/,* so that interested parties can access the most accurate and timely information.

Publication and Format of Lists

Due to the large volume of designations, a printed version of the list is no longer distributed. This notice serves to inform the public of the availability of the complete listings of designated HPSA on the HRSA Web site. The three lists (primary medical care, mental health, and dental) of designated HPSAs are available at a link on the HRSA Web site at *http://www.hrsa.gov/shortage/* and include a snapshot of all geographic areas, population groups, and facilities that were designated HPSAs as of May 29, 2015. This notice incorporates the most recent annual reviews of designated HPSAs and supersedes the HPSA lists published in the **Federal Register** on June 25, 2014 (**Federal Register**/Vol. 79, No. 122/Wednesday, June 25, 2014/Notices 36075). The lists also include automatic facility HPSAs, designated as a result of the Health Care Safety Net Amendments of 2002 (Pub. L. 107–251), not subject to update requirements. Each list of designated HPSAs (primary medical care, mental health, and dental) is arranged by state. Within each state, the list is presented by county. If only a portion (or portions) of a county is (are) designated, or if the county is part of a larger designated service area, or if a population group residing in the county or a facility located in the county has been designated, the name of the service area, population group, or facility involved is listed under the county name. Counties that have a whole county geographic HPSA are indicated by the ''Entire county HPSA'' notation following the county name. Further details on the snapshot of HPSAs listed can be found on the HRSA Web site at *http://www.hrsa.gov/shortage/.*

In addition to the specific listings included in this notice, all Indian Tribes that meet the definition of such Tribes in the Indian Health Care Improvement Act of 1976, 25 U.S.C. 1603(d), are automatically designated as population groups with primary medical care and dental health professional shortages. The Health Care Safety Net Amendments of 2002 also made the following entities eligible for automatic facility HPSA designations: All federally qualified health centers (FQHCs) and rural health clinics that offer services regardless of ability to pay. These entities include: FQHCs funded under section 330 of the PHS Act, FQHC Look-Alikes, and Tribal and urban Indian clinics operating under the Indian Self-Determination and Education Act of 1975 (25 U.S.C. 450) or the Indian Health Care Improvement Act. Many, but not all, of these entities are included on this listing. Exclusion from this list does not exclude them from HPSA designation; any facilities eligible for automatic designation will be included in the database as they are identified.

Future Updates of Lists of Designated HPSAs

The lists of HPSAs on the HRSA Web site consist of all those that were designated as of May 29, 2015. It should be noted that HPSAs are currently updated on an ongoing basis based on the identification of new areas, population groups, facilities, and sites that meet the eligibility criteria or that no longer meet eligibility criteria and/or are being replaced by another type of designation. As such, additional HPSAs may have been designated by letter since that date. The appropriate agencies and individuals have been or will be notified of these actions by letter. These newly designated HPSAs will be included in the next publication of the HPSA list and are currently included in the daily updates posted on the HRSA Web site at *http://www.hrsa.gov/shortage/find.html.*

Any designated HPSA listed on the HRSA Web site is subject to withdrawal from designation if new information received and confirmed by HRSA indicates that the relevant data for the area involved have significantly changed since its designation. The effective date of such a withdrawal will be the next publication of a notice regarding this list in the **Federal Register**.

All requests for new designations, updates, or withdrawals should be based on the relevant criteria in regulations published at 42 CFR part 5.

Electronic Access Address

The complete list of HPSAs designated as of May 29, 2015, are available on the HRSA Web site at *http://www.hrsa.gov/shortage/.* Frequently updated information on HPSAs is also available at *http://datawarehouse.hrsa.gov.*

Dated: June 25, 2015.

James Macrae,

Acting Administrator.

[FR Doc. 2015–16168 Filed 6–30–15; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than July 31, 2015.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_*

submission@omb.eop.gov or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Radiation Exposure Screening and Education Program

OMB No.: 0915-xxxx—NEW.

Abstract: The Radiation Exposure Screening and Education Program (RESEP) is authorized by Section 417C of the Public Health Service Act, Part C of Title IV, Public Law 106–245 (42 U.S.C. 285(a)-9). The purpose of RESEP is to assist individuals who live (or lived) in areas where U.S. nuclear weapons testing occurred and who are diagnosed with cancer and other radiogenic diseases caused by exposure to nuclear fallout or nuclear materials such as uranium. RESEP funds support eligible health care organizations in implementing cancer screening programs; developing education programs; disseminating information on radiogenic diseases and the importance of early detection; screening eligible individuals for cancer and other radiogenic diseases; providing appropriate referrals for medical treatment; and facilitating documentation of Radiation Exposure Compensation Act (RECA) claims.

Need and Proposed Use of the Information: For this program, performance measures were drafted to provide data useful to the program and to enable HRSA to provide aggregate program data required by Congress under the Government Performance and Results Act (GPRA) of 1993 (Pub. L. 103–62). These measures cover the principal topic areas of interest to the Federal Office of Rural Health Policy, including: (a) Demographics for RESEP medical user patient population; (b) medical screening activities for cancers and other radiogenic diseases; (c) exposure and presentation types for eligible radiogenic malignant and non-malignant diseases; (d) referrals for appropriate medical treatment; (e) eligibility counseling and referral assistance for the RECA and Energy Employees Occupational Illness Compensation Act programs; and (f) program outreach and education activities. These measures will speak to the Office's progress toward meeting the goals set. A 60-day **Federal Register** Notice was published in 80 FR 9268 (February 20, 2015). There were no comments.

Likely Respondents: RESEP award recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Radiation Exposure Screening and Education Program Performance Measures	42	1	42	24	1,008
Total	42	1	42	24	1,008

Jackie Painter,

Director, Division of the Executive Secretariat.

[FR Doc. 2015–16136 Filed 6–30–15; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as last amended at 80 FR 3610 dated January 23, 2015).

This notice reflects organizational changes in the Health Resources and Services Administration (HRSA). Specifically, this notice: (1) Transfers the border health function from the Federal Office of Rural Health Policy, Office of the Associate Administrator (RH) to the Office of Planning, Analysis and Evaluation, Office of External Engagement (RA57); and (2) updates the functional statement for the Federal Office of Rural Health Policy, Office of the Associate Administrator (RH) and the Office of Planning, Analysis and Evaluation, Office of External Engagement (RA57).

Chapter RH—Federal Office of Rural Health Policy

Section RH–20, Functions

This notice reflects organizational changes within the Federal Office of Rural Health Policy. Specifically: (1) Transfers the border health function from the Federal Office of Rural Health Policy (FORHP), Office of the Associate Administrator (RH) to the Office of Planning, Analysis and Evaluation (OPAE), Office of External Engagement (RA57); and (2) updates the functional statement for the FOHRP, Office of the Associate Administrator (RH).

Office of the Associate Administrator (RH)

The Federal Office of Rural Health Policy (FORHP) is responsible for the overall leadership and management of the office. FORHP serves as a focal point within the Department of Health and Human Services (HHS) for rural health-related issues and as a principal source of advice to the Secretary for coordinating efforts to strengthen and improve the delivery of health services to populations in the nation's rural areas. FORHP provides leadership within HHS and with stakeholders in providing information and counsel related to access to, and financing and quality of, health care to rural populations. Specifically, the Office of

the Associate Administrator: (1) Provides staff support to the National Advisory Committee on Rural Health and Human Services; (2) stimulates and coordinates interaction on rural health activities and programs in the Agency, Department and with other federal agencies; (3) establishes and maintains a resource center for the collection and dissemination of the latest information and research findings related to the delivery of health services in rural areas; (4) ensures successful dissemination of appropriate information technology advances, such as electronic health records systems; (5) monitors the health information technology policy and activities of other HHS components for useful application in rural areas; (6) provides overall direction and leadership over the management of nationwide community-based rural health grants programs; (7) provides overall direction and leadership over the management of a program of state grants which supports collaboration within state offices of rural health; (8) provides overall direction and leadership over the management of programs to advance the use of telehealth and coordination of health information technology; and (9) provides overall direction and leadership over the office's administrative and management functions.

Chapter RA5—Office of Planning, Analysis and Evaluation

Section RA5–20, Functions

This notice reflects organizational changes within the Office of Planning, Analysis and Evaluation. Specifically: (1) Transfers the border health function from the Federal Office of Rural Health Policy (FORHP), Office of the Associate Administrator (RH) to the Office of Planning, Analysis and Evaluation (OPAE), Office of External Engagement (RA57); and (2) updates the functional statement for the OPAE, Office of External Engagement (RA57).

Office of External Engagement (RA57)

(1) Serves as the principal Agency resource for facilitating external engagement; (2) coordinates the Agency's intergovernmental activities; (3) provides the Administrator with a single point of contact on all activities related to important state and local government, stakeholder association, and interest group activities; (4) coordinates Agency cross-Bureau cooperative agreements and activities with organizations such as the National Governors Association, National Conference of State Legislature, Association of State and Territorial Health Officials, National Association of Counties, and National Association of County and City Health Officials; (5) interacts with various commissions such as the Delta Regional Authority, Appalachian Regional Commission, and on the Denali Commission; (6) monitors HRSA's border health activities and investments to promote collaboration and improve health care access to those living along the U.S.-Mexico border; (7) serves as the primary liaison to Department intergovernmental staff; and (8) serves as the Agency liaison to manage and coordinate study engagements with the Government Accountability Office and the HHS Office of the Inspector General, Office of Evaluation and Inspections .

Delegations of Authority

All delegations of authority and re-delegations of authority made to HRSA officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

This reorganization is effective upon date of signature.

Dated: June 19, 2015.

James Macrae,

Acting Administrator.

[FR Doc. 2015–16169 Filed 6–30–15; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Final Effect of Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice concerning the final effect of the HHS decision to designate a class of employees from the Dow Chemical Company in Pittsburg, California, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, NIOSH, 1090 Tusculum Avenue, MS C–46, Cincinnati, OH 45226–1938, Telephone 877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV.*

SUPPLEMENTARY INFORMATION:

Authority: Authority: 42 U.S.C. 7384q(b). 42 U.S.C. 7384*l*(14)(C).

On May 21, 2015, as provided for under 42 U.S.C. 7384l(14)(C), the Secretary of HHS designated the following class of employees as an addition to the SEC:

All Atomic Weapons Employer employees who worked for Dow Chemical Company in Pittsburg, California, from October 1, 1947, through June 30, 1957, for a number of work days aggregating at least 250 work days, occurring either solely under this employment or in combination with work days within the parameters established for one or more other classes of employees included in the Special Exposure Cohort.

This designation became effective on June 20, 2015. Therefore, beginning on June 20, 2015, members of this class of employees, defined as reported in this notice, became members of the SEC.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2015–16276 Filed 6–30–15; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Minority Health

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Minority Health.

ACTION: Notice of meeting.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the Advisory Committee on Minority Health (ACMH) will hold a meeting. This meeting will be open to the public. Preregistration is required for both public attendance and comment. Any individual who wishes to attend the meetings and/or participate in the public comment session should email *OMH–ACMH@hhs.gov.*

DATES: The meeting will be held on Tuesday, July 21, 2015, from 9:00 a.m. to 5:00 p.m. and on Wednesday, July 22, 2015, from 9:00 a.m. to 1:00 p.m.

ADDRESSES: The meeting will be held at the Omni Shoreham Hotel, 2500 Calvert St. NW., Washington, DC 20008.

FOR FURTHER INFORMATION CONTACT: Dr. Rashida Dorsey, Designated Federal Officer, ACMH; Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852. Phone: 240–453–8222, Fax: 240–453–8223; *OMH–ACMH@hhs.gov*

SUPPLEMENTARY INFORMATION: In accordance with Public Law 105–392, the ACMH was established to provide advice to the Deputy Assistant Secretary for Minority Health in improving the health of each racial and ethnic minority group and on the development of goals and specific program activities of the Office of Minority Health.

Topics to be discussed during the meeting will include strategies to improve the health of racial and ethnic minority populations through the development of health policies and programs that will help eliminate health disparities, as well as other related issues.

Public attendance at this meeting is 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 designated contact person at least fourteen (14) business days prior to the meeting. Members of the public will have an opportunity to provide comments at the meeting. Public comments will be limited to three minutes per speaker. Individuals who would like to submit written statements should mail or fax their comments to the Office of Minority Health at least seven (7) business days prior to the meeting. Any members of the public who wish to have printed material distributed to ACMH committee members should submit their materials to the Designated Federal Officer, ACMH, Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852, prior to close of business on Tuesday, July 14, 2015.

Dated: June 23, 2015.

Rashida Dorsey,

Designated Federal Officer, ACMH, Office of Minority Health, U.S. Department of Health and Human Services.

[FR Doc. 2015–16195 Filed 6–30–15; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Final Effect of Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice concerning the final effect of the HHS decision to designate a class of employees from the Grand Junction Facilities site in Grand Junction, Colorado, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, NIOSH, 1090 Tusculum Avenue, MS C–46, Cincinnati, OH 45226–1938, Telephone 877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV*.

SUPPLEMENTARY INFORMATION:

Authority: 42 U.S.C. 7384q(b). 42 U.S.C. 7384*l*(14)(C). On May 20, 2015, as provided for under 42 U.S.C. 7384l(14)(C), the Secretary of HHS designated the following class of employees as an addition to the SEC:

All employees of the Department of Energy, its predecessor agencies, and its contractors and subcontractors who worked at the Grand Junction Facilities site in Grand Junction, Colorado, during the period from February 1, 1975, through December 31, 1985, for a number of work days aggregating at least 250 work days, occurring either solely under this employment or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation became effective on June 19, 2015. Therefore, beginning on June 19, 2015, members of this class of employees, defined as reported in this notice, became members of the SEC.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2015–16268 Filed 6–30–15; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Final Effect of Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice concerning the final effect of the HHS decision to designate a class of employees from the Hanford site in Richland, Washington, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, NIOSH, 1090 Tusculum Avenue, MS C–46, Cincinnati, OH 45226–1938, Telephone 877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV*.

SUPPLEMENTARY INFORMATION:

Authority: 42 U.S.C. 7384q(b). 42 U.S.C. 7384*l*(14)(C).

On May 20, 2015, as provided for under 42 U.S.C. 7384l(14)(C), the Secretary of HHS designated the following class of employees as an addition to the SEC:

All employees of Department of Energy contractors and subcontractors (excluding employees of the following Hanford prime contractors during the specified time periods: Battelle Memorial Institute, January 1, 1984, through December 31, 1990; Rockwell Hanford Operations, January 1, 1984, through June 28, 1987; Boeing Computer Services Richland, January 1, 1984, through June 28, 1987; UNC Nuclear Industries, January 1, 1984, through June 28, 1987; Westinghouse Hanford Company, January 1, 1984, through December 31, 1990; and Hanford Environmental Health Foundation, January 1, 1984, through December 31, 1990), who worked at the Hanford site in Richland, Washington, during the period from January 1, 1984, through December 31, 1990, for a number of work days aggregating at least 250 work days, occurring either solely under this employment, or in combination with work days within the parameters established for one or more other classes of employees included in the Special Exposure Cohort.

This designation became effective on June 21, 2015. Therefore, beginning on June 21, 2015, members of this class of employees, defined as reported in this notice, became members of the SEC.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2015–16277 Filed 6–30–15; 8:45 am]

BILLING CODE 4163–19–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; Metabolomics Core for the Undiagnosed Diseases Network.

Date: July 14–15, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Rolf Jakobi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7806, Bethesda, MD 20892, 301–495–1718, *jakobir@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Molecular and Cellular Substrates of Complex Brain Disorders.

Date: July 24, 2015.

Time: 8:00 a.m. to 6:00 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: Deborah L Lewis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4183, MSC 7850, Bethesda, MD 20892, 301–408–9129, *lewisdeb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; National Primate Research Centers (P51) Revision Application.

Date: July 27, 2015.

Time: 11:00 a.m. to 12:30 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: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cognition and Perception.

Date: July 28–29, 2015.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, 301–594–3163, *champoum@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Immunopathology and Immunotherapy.

Date: July 28, 2015.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sharon K Gubanich, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6195D, MSC 7804, Bethesda, MD 20892, (301) 408–9512, *gubanics@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: June 25, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–16063 Filed 6–30–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); and on April 30, 2010 (75 FR 22809).

A notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.samhsa.gov/workplace.*

FOR FURTHER INFORMATION CONTACT: Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 7–1051, One Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. The ''Mandatory Guidelines for Federal Workplace Drug Testing Programs,'' as amended in the revisions listed above, requires strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on urine specimens for federal agencies.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated November 25, 2008 (73 FR 71858), the following HHS-certified laboratories and IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

HHS-Certified Instrumented Initial Testing Facilities

Dynacare, 6628 50th Street NW., Edmonton, AB Canada T6B 2N7, 780–784–1190, (Formerly: Gamma-Dynacare Medical Laboratories).

HHS-Certified Laboratories

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264.

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–

255–2400, (Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc., Aegis Analytical Laboratories).
Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.).
Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.).
Baptist Medical Center-Toxicology Laboratory, 11401 I–30, Little Rock, AR 72209–7056, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).
Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917.
DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890.
Dynacare*, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630, (Formerly: Gamma-Dynacare Medical Laboratories).
ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609.
Fortes Laboratories, Inc., 25749 SW Canyon Creek Road, Suite 600, Wilsonville, OR 97070, 503–486–1023.
Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387.
Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.).
Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).
Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).
LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.).
MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244.
MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.
Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088.
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.
One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).
Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory).
Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7.
Phamatech, Inc., 15175 Innovation Drive, San Diego, CA 92128, 888–635–5840.
Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).
Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).
Quest Diagnostics Incorporated, 8401 Fallbrook Ave., West Hills, CA 91304, 818–737–6370, (Formerly: SmithKline Beecham Clinical Laboratories).
Redwood Toxicology Laboratory, 3700650 Westwind Blvd., Santa Rosa, CA 95403, 800–255–2159.
Southwest Laboratories, 4625 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027.
STERLING Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800–442–0438.
US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 30, 2010 (75 FR 22809). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Janine Denis Cook,

Chemist, Division of Workplace Programs, Center for Substance Abuse Prevention, SAMHSA.

[FR Doc. 2015–16172 Filed 6–30–15; 8:45 am]

BILLING CODE 4160–20–P

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Advisory Council on Historic Preservation Quarterly Business Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of Advisory Council on Historic Preservation Quarterly Business Meeting.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation (ACHP) will hold its next quarterly meeting on Wednesday, July 15, 2015. The meeting will be held in Room SR325 at the Russell Senate Office Building at Constitution and Delaware Avenues NE., Washington, DC, starting at 9:00 a.m. DST.

DATES: The quarterly meeting will take place on Wednesday, July 15, 2015, starting at 9:00 a.m. DST.

ADDRESSES: The meeting will be held in Room SR325 at the Russell Senate Office Building at Constitution and Delaware Avenues NE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Cindy Bienvenue, 202–517–0202, *cbienvenue@achp.gov.*

SUPPLEMENTARY INFORMATION: The Advisory Council on Historic Preservation (ACHP) is an independent federal agency that promotes the preservation, enhancement, and sustainable use of our nation's diverse historic resources, and advises the President and the Congress on national historic preservation policy. The goal of the National Historic Preservation Act (NHPA), which established the ACHP in 1966, is to have federal agencies act as responsible stewards of our nation's resources when their actions affect historic properties. The ACHP is the only entity with the legal responsibility to encourage federal agencies to factor historic preservation into federal project requirements. For more information on the ACHP, please visit our Web site at *www.achp.gov.*

The agenda for the upcoming quarterly meeting of the ACHP is the following:

Call to Order—9:00 a.m.

I. Chairman's Welcome
II. Swearing in Ceremony
III. Section 106 Issues
  A. Federal Agency Support for SHPOs and THPOs
  B. Amending ACHP Program Comment on Communication Facilities
IV. Historic Preservation Policy and Programs
  A. Building a More Inclusive Preservation Program
  1. Asian-American Pacific Islander Initiative
  2. American Latino Heritage Initiative
  3. ACHP Youth Initiatives
  B. Preservation 50
  1. ACHP Public Policy Initiative.
  2. ACHP 50th Anniversary Retrospective
  C. Historic Preservation Legislation in the 114th Congress
  1. Policy for Adoption of ACHP Legislative Positions
  2. ACHP Legislative Agenda-H.R. 2817, Reauthorization of the Historic Preservation Fund
  D. Policy Statement on the Role of Historic Preservation in Rebuilding Resilient Communities
V. Native American Affairs Committee Activities
VI. New Business
VII. Adjourn

The meetings of the ACHP are open to the public. If you need special accommodations due to a disability, please contact Cindy Bienvenue, 202–517–0202 or *cbienvenue@achp.gov,* at least seven (7) days prior to the meeting.

Authority: 54 U.S.C. 304102

Dated: June 25, 2015.

Javier E. Marques,

Associate General Counsel.

[FR Doc. 2015–16134 Filed 6–30–15; 8:45 am]

BILLING CODE 4310–K6–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4222–DR; Docket ID FEMA–2015–0002]

Oklahoma; Amendment No. 6 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 the State of Oklahoma (FEMA–4222–DR), dated May 26, 2015, and related determinations.

DATES: *Effective Date:* June 11, 2015.

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 notice of a major disaster declaration for the State of Oklahoma is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 26, 2015.

Adair, Beckham, Caddo, Creek, Garvin, Jackson, Logan, Marshall, McIntosh, Muskogee, Pushmataha, Sequoyah, and Washita Counties for Public Assistance.

Comanche and McCurtain Counties for Public Assistance (already designated for Individual Assistance).

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. 2015–16242 Filed 6–30–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001]

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.'')

Roy E. Wright,

Deputy Associate Administrator for Insurance and 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.
Illinois:					
Cook (FEMA Docket No.: B–1420).	City of Palos Heights (13–05–8093P).	The Honorable Robert Straz, Mayor, City of Palos Heights, 7607 West College Drive, Palos Heights, IL 60463.	City Hall, 7607 West College Drive, Palos Heights, IL 60463.	September 19, 2014	170142
DuPage (FEMA Docket No.: B–1420).	Village of Lisle (14–05–2185P).	The Honorable Joseph J. Broda, Mayor, Village of Lisle, 925 Burlington Avenue, Lisle, IL 60532.	Village Hall, 925 Burlington Avenue, Lisle, IL 60532.	September 10, 2014	170211
Indiana:					
Marshall (FEMA Docket No.: B–1420).	City of Plymouth (14–05–0926P).	The Honorable Mark Senter, Mayor, City of Plymouth, 124 North Michigan Street, Plymouth, IN 46563.	124 North Michigan Street, Plymouth, IN 46563.	September 11, 2014	180164
Marshall (FEMA Docket No.: B–1420).	Unincorporated Areas of Marshall County (14–05–0926P).	The Honorable Kevin Overmyer, Marshall County President, Board of Commissioners, 112 West Jefferson Street, Room 205, Plymouth, IN 46563.	112 West Jefferson, Plymouth, IN 46563.	September 11, 2014	180443
Kansas: Lyon (FEMA Docket No.: B–1420).	City of Emporia (13–07–1700P).	The Honorable Rob Gilligan, Mayor, City of Emporia, P.O. Box 928, Emporia, KS 66801.	521 Market Street, Emporia, KS 66801.	October 10, 2014	200203
Minnesota:					
Olmsted (FEMA Docket No.: B–1420).	City of Rochester (13–05–8106P).	The Honorable Ardell F. Brede, Mayor, City of Rochester, 201 4th Street SE., Room 281, Rochester, MN 55904.	2122 Campus Drive, Suite 300, Rochester, MN 55904.	October 17, 2014	275246
Pennington (FEMA Docket No.: B–1420).	City of Thief River Falls (14–05–0815P).	The Honorable Jim Dagg, Mayor, City of Thief River Falls, 405 Third Street East, Thief River Falls, MN 56701.	City Hall, 405 Third Street East, Thief River Falls, MN 56701.	September 18, 2014	270344
Pennington (FEMA Docket No.: B–1420).	Unincorporated Areas of Pennington County (14–05–0815P).	The Honorable Neil Peterson, Pennington County Chairman Board of Commissioners, P.O. Box 616, Thief River Falls, MN 56701.	201 Sherwood Avenue South, Thief River Falls, MN 56701.	September 18, 2014	270651
Missouri:					
Buchanan (FEMA Docket No.: B–1420).	City of St. Joseph (14–07–0148P).	The Honorable Bill Falkner, Mayor, City of Saint Joseph, 1100 Frederick Avenue, Room 309, St. Joseph, MO 64506.	1100 Frederick Avenue, Room 107, St. Joseph, MO 64506.	September 25, 2014	290043
Cape Girardeau (FEMA Docket No.: B–1420).	City of Cape Girardeau (14–07–0463P).	The Honorable Harry Rediger, Mayor, City of Cape Girardeau, 401 Independence Street, Cape Girardeau, MO 63703.	401 Independence Street, Cape Girardeau, MO 63703.	September 8, 2014	290458
New Hampshire: Hillsborough (FEMA Docket No.: B–1420).	City of Nashua (14–01–0876P).	The Honorable Donnalee Lozeau, Mayor, City of Nashua, 229 Main Street, Nashua, NH 03061.	229 Main Street, Nashua, NH 03061.	September 19, 2014	330097
Ohio:					
Logan (FEMA Docket No.: B–1420).	City of Bellefontaine (14–05–4416P).	The Honorable Adam Brannon, Mayor, City of Bellefontaine, 135 North Detroit Street, Bellefontaine, OH 43311.	135 North Detroit Street, Bellefontaine, OH 43311.	September 19, 2014	390340
Summit (FEMA Docket No.: B–1420).	City of Hudson (14–05–3718P).	The Honorable William A. Currin, Mayor, City of Hudson, 115 Executive Parkway, Suite 400, Hudson, OH 44236.	27 East Main Street, Hudson, OH 44236.	September 22, 2014	390660
Oregon:					
Jackson (FEMA Docket No.: B–1420).	City of Medford (13–10–1490P).	The Honorable Gary Wheeler, Mayor, City of Medford, 411 West 8th Street, Medford, OR 97501.	411 West 8th Street, Medford, OR 97501.	September 18, 2014	410096
Jackson (FEMA Docket No.: B–1420).	City of Medford (14–10–0435P).	The Honorable Gary Wheeler, Mayor, City of Medford, 411 West 8th Street, Medford, OR 97501.	411 West 8th Street, Medford, OR 97501.	September 15, 2014	410096

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Wisconsin: Chippewa (FEMA Docket No.: B–1420).	City of Eau Claire (14–05–1736P).	Mr. Russell Van Gompel, City of Eau Claire, City Manager, 203 South Farwell Street, Third Floor, Eau Claire, WI 54701.	City Hall, 203 South Farwell Street Third Floor, Eau Claire, WI 54701.	September 12, 2014	550128

[FR Doc. 2015–16225 Filed 6–30–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2015–0001; Internal Agency Docket No. FEMA–B–1520]

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 September 29, 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–1520, 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. For communities with multiple ongoing Preliminary studies, the studies will be identified by the unique project number and Preliminary FIRM date 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: June 16, 2015.

Roy E. Wright,

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

I. Non-watershed-based studies:

Community	Local map repository address
Montgomery County, Kansas, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 10–07–0013S Preliminary Date: October 17, 2014	
City of Caney	City Hall, 100 West 4th Avenue, Caney, KS 67333.
City of Cherryvale	City Hall, 123 West Main Street, Cherryvale, KS 67335.
City of Coffeyville	Engineering Department, 11 East 2nd Street, Coffeyville, KS 67337.
City of Dearing	City Hall, 306 South Independence Avenue, Dearing, KS 67340.
City of Elk City	City Hall, 114 North Montgomery Avenue, Elk City, KS 67344.
City of Havana	Montgomery County Judicial Center, 300 East Main Street, Lower Level, Independence, KS 67301.
City of Independence	City Hall, 120 North 6th Street, Independence, KS 67301.
City of Liberty	Montgomery County Judicial Center, 300 East Main Street, Lower Level, Independence, KS 67301.
City of Tyro	Tyro City Clerk's Office, 1655 County Road 2700, Caney, KS 67333.
Unincorporated Areas of Montgomery County	Montgomery County Judicial Center, 300 East Main Street, Lower Level, Independence, KS 67301.
Camden County, NJ (All Jurisdictions)	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 13–02–0051S Preliminary Date: Septmeber 19, 2014	
Borough of Audubon	Borough Hall, 606 West Nicholson Road, Audubon, NJ 08106.
Borough of Audubon Park	Community Hall, 20 Road C, Audubon Park, NJ 08106.
Borough of Bellmawr	Municipal Building, 21 East Browning Road, Bellmawr, NJ 08031.
Borough of Brooklawn	Borough Hall, 301 Christiana Street, Brooklawn, NJ 08030.
Borough of Collingswood	Borough Hall, 678 Haddon Avenue, Collingswood, NJ 08108.
Borough of Mount Ephraim	Tax Office, 121 South Black Horse Pike, Mount Ephraim, NJ 08059.
Borough of Oaklyn	Borough Hall, 500 White Horse Pike, Oaklyn, NJ 08107.
Borough of Runnemede	Borough Hall, 24 North Black Horse Pike, Runnemede, NJ 08078.
Borough of Woodlynne	Municipal Building, 200 Cooper Avenue, Woodlynne, NJ 08107.
City of Camden	Planning Department, 520 Market Street, Suite 224, Camden, NJ 08101.
City of Gloucester	Municipal Building, 512 Monmouth Street, Gloucester City, NJ 08030.
Township of Gloucester	Municipal Building, 1261 Chews Landing Road, Laurel Springs, NJ 08021.
Township of Haddon	Annex Building, 10 Reeve Avenue, Haddon Township, NJ 08108.
Township of Pennsauken	Municipal Building, 5605 North Crescent Boulevard, Pennsauken, NJ 08110.
Gloucester County, New Jersey (All Jurisdictions)	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Project: 13–02–0052S Preliminary Date: September 19, 2014	
Borough of National Park	Borough Hall, 7 South Grove Avenue, National Park, NJ 08063.
Borough of Paulsboro	Administration Building, 1211 North Delaware Street, Paulsboro, NJ 08066.
Borough of Swedesboro	Borough Hall, 1500 Kings Highway, Swedesboro, NJ 08085.
Borough of Wenonah	1 South West Avenue, Wenonah, NJ 08090.
Borough of Westville	165 Broadway, Westville, NJ 08093.
City of Woodbury	City Hall, 33 Delaware Street, Woodbury, NJ 08096.
Township of Deptford	Municipal Building, 1011 Cooper Street, Deptford, NJ 08096.
Township of East Greenwich	East Greenwich Township Municipal Building, 159 Democrat Road, Mickleton, NJ 08056.
Township of Greenwich	Greenwich Township Construction and Zoning Office, 403 West Broad Street, Gibbstown, NJ 08027.
Township of Logan	125 Main Street, Bridgeport, NJ 08014.
Township of Mantua	Municipal Building, 401 Main Street, Mantua, NJ 08051.
Township of West Deptford	400 Crown Point Road, West Deptford, NJ 08086.
Township of Woolwich	121 Woodstown Road, Swedesboro, NJ 08085.

[FR Doc. 2015–16227 Filed 6–30–15; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4222–DR; Docket ID FEMA–2015–0002]

Oklahoma; Amendment No. 7 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 the State of Oklahoma (FEMA–4222–DR), dated May 26, 2015, and related determinations.

DATES: *Effective Date:* June 12, 2015.

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 notice of a major disaster declaration for the State of Oklahoma is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 26, 2015.

Wagoner County for Individual Assistance.

Beckham, Caddo, Canadian, Marshall, McIntosh, and Seminole Counties for Individual Assistance (already designated for Public Assistance).

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. 2015–16241 Filed 6–30–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2015–0026]

Homeland Security Science and Technology Advisory Committee Charter Renewal

AGENCY: Homeland Security Science and Technology Advisory Committee. (HSSTAC), Department of Homeland Security.

ACTION: Committee management; notice of Federal Advisory Committee charter renewal.

SUMMARY: The Secretary of Homeland Security has determined that the renewal of the charter of the Homeland Security Science and Technology Advisory Committee (HSSTAC) is necessary and in the public interest in connection with the Department of Homeland Security, Science and Technology Directorate's performance of its duties. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

ADDRESSES: If you desire to submit comments on this action, they must be submitted by August 14, 2015. Comments must be identified by (DHS–2015–0026) and may be submitted by *one* of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Email: *Bishop.Garrison@hq.dhs.gov.* Include the docket number in the subject line of the message.
- Fax: 202–254–6176.
- Mail: Bishop Garrison, HSSTAC Executive Director, Science and Technology Directorate, Department of Homeland Security, 245 Murray Lane, IAO Stop 0205, Washington, DC 20528–0205
- Instructions: All submissions received must include the words ''Department of Homeland Security'' and DHS–2015–0026, the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov* including any personal information provided.
- Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bishop Garrison, HSSTAC Executive Director, Science and Technology Directorate, Department of Homeland Security, 245 Murray Lane, IAO Stop 0205, Washington, DC 20528–0205, 202–254–5866 (O) 202–254–6176 (F), *Bishop.Garrison@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Purpose and Objective: The charter of the Homeland Security Science and Technology Committee (HSSTAC) is being renewed in accordance with the provisions of the Federal Advisory Committee Act (FACA), Title 5 United States Code, Appendix. The committee addresses science and technology needs and trends, management processes and organizational constructs, and other matters of special interest to the Under Secretary of Science and Technology and will ensure the identification of new technologies and application of new technologies in those areas to strengthen homeland security.

Duration: The committee's charter is effective June 15, 2015 and expires June 14, 2017.

Responsible DHS Officials: Bishop Garrison, HSSTAC Executive Director, Science and Technology Directorate, Department of Homeland Security, 245 Murray Lane, IAO Stop 0205, Washington, DC 20528–0205, 202–254–5617 (O), 202–254–6176 (F), *Bishop.Garrison@hq.dhs.gov.*

Dated: June 23, 2015.

Dr. Reginald Brothers,

Under Secretary for Science and Technology.

[FR Doc. 2015–16156 Filed 6–30–15; 8:45 am]

BILLING CODE 9110–9F–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0114]

Agency Information Collection Activities: Application for Civil Surgeon Designation Registration, Form I–910; Revision of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to

respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until August 31, 2015.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0114 in the subject box, the agency name and Docket ID USCIS–2013–0002. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *http://www.regulations.gov* under e-Docket ID number USCIS–2013–0002;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov;*

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Laura Dawkins, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2013–0002 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the 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 submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Civil Surgeon Designation Registration.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–910; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. Section 212(a)(1)(A) of the Immigration and Nationality Act (Act) renders individuals inadmissible if the individual is afflicted with the statutorily mentioned diseases or medical conditions. In order to establish that the individual is admissible when seeking adjustment of status to a legal permanent resident (and in certain cases other aliens seeking an immigration benefit), the individual must submit Form I–693 (OMB Control Number 1615–0033), Report of Medical Examination and Vaccination Record, that is completed by a civil surgeon, a USCIS designated physician.'' To be selected as a civil surgeon, the physician has to demonstrate that he or she is a licensed physician with no less than 4 years of professional experience.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form I–910 is 725 and the estimated hour burden per response is 2 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 1,450 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $3,625.

Dated: June 25, 2015.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2015–16120 Filed 6–30–15; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5837–N–03]

60-Day Notice of Proposed Information Collection: Evaluation of the Section 811 Project Rental Assistance Program, Phase I

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice of proposed information collection.

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:* August 31, 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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

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: Evaluation of the Section 811 Project Rental Assistance Program, Phase I.

OMB Approval Number: N/A.

Type of Request: New.

Form Number: N/A.

Description of the need for the information and proposed use: The Office of Policy Research and Development, U.S. Department of Housing and Urban Development (HUD), is proposing a data collection activity as part of the evaluation of the Section 811 Supportive Housing for Persons with Disabilities (Section 811) Project Rental Assistance (PRA) Program. The PRA Program is a new model of housing assistance authorized in 2010 that provides project-based rental assistance to state housing agencies for the development of supportive housing for extremely low-income persons with disabilities. Housing agencies must have a formal partnership with the state health and human service agency and the state Medicaid provider to provide services and supports directly to residents living in units funded with Section 811 PRA.

The Section 811 PRA program authorizing statute requires HUD to describe the assistance under the program, to analyze its effectiveness, and propose recommendations for future assistance under Section 811. HUD is implementing a two-phase evaluation of the Section 811 PRA program. The first phase of the evaluation is focused on a process evaluation that will describe the implementation of the program in the first 12 states awarded Section 811 PRA funds. The second phase will evaluate the program effectiveness and its impact on residents. This request for OMB clearance covers the first phase of the evaluation. Data collection includes in-person interviews with staffs at state agencies, (housing, health and human services and state Medicaid providers) and Section 811 PRA Partner Agencies (property owners or managers of properties where Section 811 PRA participants live and staff at organizations that provide supportive services to PRA participants). The purpose of the interviews is to document the implementation experience of the Section 811 PRA Program.

Respondents (*i.e.* affected public): State housing agencies, state health and human service and Medicaid provider agencies, and Section 811 PRA Partner Agencies.

Total Estimated Burden: For the state housing agency staff, state health and human service agency staff and state Medicaid agency staff, researchers will administer interviews on the implementation of the Section 811 PRA Program for a total of five hours. An additional two hours will be needed to compile material needed on the PRA program in order to answer the research questions. The total burden for state housing agency and Medicaid respondents is 168 hours. The average burden of interviews for Section 811 PRA Partner Agency staff is one hour, with an additional hour to compile information needed to complete the interview. The total burden for PRA Partner Agencies is 137.5 hours. The total burden for all respondents is 305.5 hours.

Respondents	Number of respondents	Frequency of response	Average burden/ response (hours)	Average burden/ data collection (hours)	Total estimated burden (hours)
State housing agencies implementing Section 811 PRA	12	1	5	2	84
Medicaid agencies implementing Section 811 PRA	12	1	5	2	84
Section 811 PRA Partner Agencies	55	1	1.5	1	137.5
Total Burden Hours					305.5

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: 1701z–1 Research and Demonstrations; 12 U.S.C. chapter 13.

Dated: June 22, 2015.

Katherine M. O'Regan,

Assistant Secretary, Office of Policy Development and Research.

[FR Doc. 2015–16202 Filed 6–30–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[GX15LR000F60100]

Agency Information Collection Activities: Request for Comments

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of an extension and revision of a currently approved information collection (1028–0062).

SUMMARY: We (the U.S. Geological Survey) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. The collection will consist of 38 forms. As part of the

requested extension we will make a revision to the number of the associated collection instruments. This revision includes deleting USGS Form 9–4002–A and USGS Form 9–4019–A. As required by the Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This collection is scheduled to expire on November 30, 2015.

DATES: To ensure that your comments are considered, we must receive them on or before August 31, 2015.

ADDRESSES: Please submit a copy of your comments to the Information Collection Clearance Officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, VA 20192 (mail); 703–648–7195 (fax); or *gs-info_collections@usgs.gov* (email). Reference 'Information Collection 1028–0062, Industrial Minerals Surveys' in all correspondence.

FOR FURTHER INFORMATION CONTACT: Elizabeth Sangine at 703–648–7720 (telephone); *escottsangine@usgs.gov* (email); or by mail at U.S. Geological Survey, 989 National Center, 12201 Sunrise Valley Drive, Reston, VA 20192.

SUPPLEMENTARY INFORMATION:

I. Abstract

Respondents to these forms supply the USGS with domestic production and consumption data of industrial mineral commodities, some of which are considered strategic and critical. These data and derived information will be published as chapters in Minerals Yearbooks, monthly and quarterly Mineral Industry Surveys, annual Mineral Commodity Summaries, and special publications, for use by Government agencies, industry, education programs, and the general public.

II. Data

OMB Control Number: 1028–0062.

Form Number: Various (38 forms).

Title: Industrial Minerals Surveys.

Type of Request: Extension and revision of a currently approved collection.

Affected Public: Business or Other-For-Profit Institutions: U.S. nonfuel minerals producers and consumers of industrial minerals. Public sector: State and local governments.

Respondent Obligation: None. Participation is voluntary.

Frequency of Collection: Monthly, Quarterly, Semiannually, or Annually.

Estimated Number of Annual Responses: 20,053.

Estimated Time per Response: For each form, we will include an average burden time ranging from 10 minutes to 5 hours.

Annual Burden Hours: 14,004 hours.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: There are no ''non-hour cost'' burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number and current expiration date.

III. Request for Comments

We are soliciting comments as to: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden time to the proposed collection of information; (c) how to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your personal mailing address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment, including your personally identifiable information, may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public view, we cannot guarantee that we will be able to do so.

Michael J. Magyar,

Associate Director, National Minerals Information Center, U.S. Geological Survey.

[FR Doc. 2015–16126 Filed 6–30–15; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[156A2100DD/AAKC001030/A0A501010.999900 253G]

Land Acquisition; Ho-Chunk Nation of Wisconsin

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Acquisition of Land into Trust.

SUMMARY: The United States has acquired approximately 1,553 acres of Federal land within the boundary of the former Badger Army Ammunition Plant near Baraboo, Wisconsin, in trust for the Ho-Chunk Nation of Wisconsin. The acquisition was effectuated by the National Defense Authorization Act for Fiscal Year 2015. This notice provides a legal description of the property.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Black, Director, Bureau of Indian Affairs, MS–4606 MIB, 1849 C Street, NW., Washington, DC 20240; Telephone (202) 208–5116.

SUPPLEMENTARY INFORMATION: On December 12, 2014, Congress passed the National Defense Authorization Act for Fiscal Year 2015 (Act), and on December 19, 2015, the President signed the Act into law. *See* Public Law 113–291. The Act legislatively transferred approximately 1,553 acres located within the boundary of the former Badger Army Ammunition Plant near Baraboo, Wisconsin, to the Secretary of the Interior in trust for the Ho-Chunk Nation of Wisconsin. The legislation effectuated the acquisition of the land in trust and clarified responsibility and liability with regard to conduct or activities that took place on the land before the transfer. 160 Cong. Rec. S6722 (daily ed. Dec. 12, 2014) (statement of Sen. Baldwin).

The approximately 1,533 acres are within the boundary of the former Badger Army Ammunition Plan, near Baraboo, Wisconsin, and the external boundary is described as follows:

BIA-Ho-Chunk Nation Reservation Trust Land Former Badger Army Ammunition Plant, Sauk Co. WI. Legal Description

A parcel of land located in the NW¼ of the SE¼, the NE¼ of the SE¼, the SE¼ of the SE¼ and the SW¼ of the SE¼ of Section 34, the NW¼ of the SW¼, the NE¼ of the SW¼, the SE¼ of the SW¼, the SW¼ of the SW¼, the NW¼ of the SE¼ and the SW¼ of the SE¼ of Section 35, all in T11N, R6E, Town of Sumpter, Sauk County, Wisconsin, the NW¼ of the NW¼, the SW¼ of the NW¼, the NW¼ of the SW¼ and the SW¼ of the SW¼ of Section 1, the NE¼ of the NE¼, the NW¼ of the NE¼, the SW¼ of the NE¼, the SE¼ of the NE¼, the NE¼ of the NW¼, the NW¼ of the NW¼, the SW¼ of the NW¼, the SE¼ of the NW¼, the NE¼ of the SW¼, the NW¼ of the SW¼, the SW¼ of the SW¼, the SE¼ of the SW¼, the NE¼ of the SE¼, the NW¼ of the SE¼, the SW¼ of the

SE¼ and SE¼ of the SE¼ of Section 2, the NE¼ of the NE¼, the NW¼ of the NE¼, the SW¼ of the NE¼, the SE¼ of the NE¼, the NE¼ of the SE¼, the NW¼ of the SE¼, the SW¼ of the SE¼ and SE¼ of the SE¼ of Section 3, the NE¼ of the NE¼ and the SE¼ of the NE¼ of Section 10, the NE¼ of the NE¼, the NW¼ of the NE¼, the SW¼ of the NE¼, the SE¼ of the NE¼, the NE¼ of the NW¼, the NW¼ of the NW¼, the SW¼ of the NW¼, the SE¼ of the NW¼ of Section 11, all in T10N, R6E, Town of Sumpter, Sauk County, Wisconsin more particularly described as follows:

Commencing at the north quarter corner of Section 3, T10N, R6E; thence S52°06′02″ E, 865.88 ft. to a ¾″ solid round iron rod; thence N85°00′00″ E, 35.00 ft. to a ¾″ solid round iron rod; thence S5°00′00″ E, 35.00 ft. to a ¾″ solid round iron rod; thence S85°00′00″ W, 35.00 ft. to a ¾″ solid round iron rod; thence N5°0′00″ W, 35.00 ft. to a ¾″ solid round iron rod; thence N52°06′02″ W, 865.88 ft. to the north quarter corner of section 3, T10N, R6E; THENCE N89°53′11″ E along the north line of the NW¼ of the NE¼ of said Section 3, 20.16 ft. to the south quarter corner of Section 34, T11N, R6E; THENCE N89°56′52″ E along the south line of the SW¼ of the SE¼ of said Section 34, 6.71 ft. to the centerline of United States Highway ''12''; THENCE N00°55′51″ E along said centerline, 940.81 ft. to the point of curvature of a curve to the right having a central angle of 05°40′12″ and a radius of 1,910.00 ft.; thence northeasterly along the arc of said curve and said centerline, 189.02 ft. to the point of tangency thereof, said curve having a long chord bearing N03°45′57″ E, 188.94 ft.; THENCE N06°36′03″ E along said centerline, 701.17 ft. to a westerly extension of the north boundary fence of the Badger Army Ammunition Plant; THENCE S89°01′57″ E along said boundary fence extension, 121.59 ft. to a ¾″ solid round iron rod on the east right-of-way line of said United States Highway ''12''; THENCE S89°01′57″ E along said boundary fence, 3,730.27 ft. to the top of a 5″ diameter iron pipe at a fence corner in the Badger Army Ammunition Plant perimeter fence; THENCE N01°49′33″ E along said boundary fence, 231.54 ft. to the top of a 5″ diameter iron pipe at a fence corner in the Badger Army Ammunition Plant perimeter fence; THENCE N37°02′42″ E along said boundary fence, 522.84 ft. to a ¾″ solid round iron rod; THENCE N32°56′27″ E along said boundary fence, 349.60 ft. to the top of a 5″ diameter iron pipe at a fence corner in the Badger Army Ammunition Plant perimeter fence; THENCE S85°35′58″ E along said boundary fence, 116.31 ft. to the top of a 5″ diameter iron pipe at a fence corner in the Badger Army Ammunition Plant perimeter fence; THENCE N79°40′05″ E along said boundary fence, 88.90 ft. to a ¾″ solid round iron rod; THENCE N89°42′24″ E along said boundary fence, 107.92 ft. to the top of a 5″ diameter iron pipe at a fence corner in the Badger Army Ammunition Plant perimeter fence; THENCE S03°55′57″ E along said boundary fence, 538.07 ft. to the top of a 5″ diameter iron pipe at a fence corner in the Badger Army Ammunition Plant perimeter fence; THENCE S01°03′37″ W along said boundary fence, 427.20 ft. to the top of a 5″ diameter iron pipe at a fence corner in the Badger Army Ammunition Plant perimeter fence; THENCE S89°02′38″ E along said boundary fence, 1,057.00 ft. to the top of a 5″ diameter iron pipe at a fence corner in the Badger Army Ammunition Plant perimeter fence; THENCE S89°02′38″ E, 107.85 ft. to a ¾″ solid round iron rod; THENCE S29°57′32″ E, 110.60 ft. to a ¾″ solid round iron rod; THENCE S45°35′28″ E, 645.15 ft. to a ¾″ solid round iron rod at the point of curvature of a curve to the right having a central angle of 45°34′28″ and a radius of 280.00 ft.; thence southerly along the arc of said curve, 222.72 ft. to the east line of the SW¼ of the SE¼ of Section 35, T11N, R6E and the point of tangency thereof, said curve having a long chord bearing S22°48′14″ E, 216.89 ft.; THENCE S00°01′00″ E along the east line of said SW¼ of the SE¼, 983.91 ft. to a ¾″ solid round iron rod; thence N88°28′32″ W, 358.22 ft. to a ¾″ solid round iron rod on the north line of the NW¼ of the NE¼ of Section 2, T10N, R6E; thence S89°57′01″ W along said north line, 353.00 ft. to a ¾″ solid round iron rod; thence S0°17′43″ W, 316.48 ft. to a ¾″ solid round iron rod; thence N89°57′01″ E, 353.00 ft. to a ¾″ solid round iron rod; thence N0°17′43″ E, 316.48 ft. to a ¾″ solid round iron rod on the north line of the NW¼ of the NE¼ of Section 2, T10N, R6E; thence S88°28′32″ E, 358.22 ft. to a ¾″ solid round iron rod; THENCE N89°47′45″ E, 1,770.12 ft. to a ¾″ solid round iron rod at the point of curvature of a curve to the right having a central angle of 18°28′58″ and a radius of 656.00 ft.; thence easterly along the arc of said curve, 211.61 ft. to a ¾″ solid round iron rod at the point of compound curvature thereof, said curve having a long chord bearing S80°57′46″ E, 210.70 ft.; said compound curvature being the beginning of a curve to the right having a central angle of 51°35′40″ and a radius of 541.22 ft.; thence southeasterly along the arc of said curve, 487.36 ft. to a ¾″ solid round iron rod at the end of the curve thereof, said curve having a long chord bearing S30°08′16″ E, 471.06 ft. THENCE S04°19′32″ E, 186.91 ft. to a ¾″ solid round iron rod; THENCE S02°46′22″ W, 2,101.76 ft. to a ¾″ solid round iron rod; THENCE S02°46′15″ W, 1,005.40 ft. to a ¾″ solid round iron rod at the point of curvature of a curve to the right having a central angle of 58°50′20″, and a radius of 695.87 ft.; thence southwesterly along the arc of said curve, 714.61 ft. to a ¾″ solid round iron rod at point of reverse curvature thereof, said curve having a long chord bearing S32°57′32″ W, 683.62 ft.; the point of reverse curvature being in a curve to the left having a central angle of 57°26′32″ and a radius of 1,277.16 ft.; thence southeasterly along the arc of said curve, 1,280.42 ft. to a ¾″ solid round iron rod at the end of the curve thereof, said curve having a long chord bearing S34°25′24″ W, 1,227.47 ft.; THENCE S84°20′38″ E, 30.01 ft. to a ¾″ solid round iron rod at the point of curvature of a curve to the left having a central angle of 02°26′12″ and a radius of 2,425.57 ft.; thence southerly along the arc of said curve, 103.16 ft. to a ¾″ solid round iron rod at the end of the curve thereof, said curve having a long chord bearing S03°19′53″ W, 103.15 ft.; THENCE S00°57′46″ W, 380.83 ft. to a ¾″ solid round iron rod; THENCE N88°49′29″ W, 29.99 ft. to a ¾″ solid round iron rod; THENCE S00°57′44″ W, 913.21 ft. to a ¾″ solid round iron rod; THENCE N89°08′47″ W, 70.75 ft. to a ¾″ solid round iron rod at the point of curvature of a curve to the right having a central angle of 28°51′22″ and a radius of 274.99 ft.; thence southerly along the arc of said curve, 138.50 ft. to a ¾″ solid round iron rod at the point of tangency thereof, said curve having a long chord bearing S15°16′53″ W, 137.04 ft.; THENCE S29°42′34″ W, 91.44 ft. to a ¾″ solid round iron rod at the point of curvature of a curve to the left having a central angle of 04°06′24″, and a radius of 1,902.00 ft.; thence southerly along the arc of said curve, 136.33 ft. to a ¾″ solid round iron rod at the point of tangency thereof, said curve having a long chord bearing S27°39′22″ W, 136.30 ft.; THENCE S25°36′10″ W, 336.07 ft. to a ¾″ solid round iron rod; THENCE N89°00′17″ W, 2,293.93 ft. to a ¾″ solid round iron rod at the point of curvature of a curve to the left having a central angle of 32°47′08″ and a radius of 171.64 ft.; thence westerly along the arc of said curve, 98.21 ft. to a ¾″ solid round iron rod at the point of tangency

thereof, said curve having a long chord bearing S74°36′09″ W, 96.88 ft.; THENCE S58°12′35″ W, 4.12 ft. to a ¾″ solid round iron rod at the point of curvature of a curve to the right having a central angle of 32°29′28″ and a radius of 180.00 ft.; thence westerly along the arc of said curve, 102.07 ft. to a ¾″ solid round iron rod at the point of tangency thereof, said curve having a long chord bearing S74°27′19″ W, 100.71 ft.; THENCE N89°17′57″ W, 380.98 ft. to a ¾″ solid round iron rod; THENCE N86°54′50″ W, 831.39 ft. to a ¾″ solid round iron rod; THENCE N89°53′10″ W, 96.40 ft. to a ¾″ solid round iron rod at the point of curvature of a curve to the left having a central angle of 64°36′08″ and a radius of 189.00 ft.; thence southwesterly along the arc of said curve, 213.10 ft. to a ¾″ solid round iron rod at the point of tangency thereof, said curve having a long chord bearing S57°48′46″ W, 201.99 ft.; THENCE S25°30′42″ W, 24.98 ft. to a ¾″ solid round iron rod at the point of curvature of a curve to the right having a central angle of 66°27′44″ and a radius of 63.00 ft.; thence westerly along the arc of said curve, 73.08 ft. to a ¾″ solid round iron rod at the point of tangency thereof, said curve having a long chord bearing S58°44′34″ W, 69.05 ft.; THENCE N88°01′34″ W, 214.61 ft. to a ¾″ solid round iron rod at the point of curvature of a curve to the left having a central angle of 90°21′06″ and a radius of 72.00 ft.; thence southerly along the arc of said curve, 113.54 ft. to a ¾″ solid round iron rod at the point of tangency thereof, said curve having a long chord bearing S46°47′53″ W, 102.14 ft; THENCE S01°37′20″ W, 148.74 ft. to a ¾″ solid round iron rod at the point of curvature of a curve to the right having a central angle of 89°03′28″ and a radius of 61.00 ft.; thence westerly along the arc of said curve, 94.82 ft. to a ¾″ solid round iron rod at the point of tangency thereof, said curve having a long chord bearing S46°09′04″ W, 85.55 ft.; THENCE N89°19′12″ W, 791.47 ft. to a ¾″ solid round iron rod; THENCE N01°18′03″ E, 405.32 ft. to a ¾″ solid round iron rod at the point of curvature of a curve to the left having a central angle of 02°45′20″ and a radius of 1,629.00 ft.; thence northerly along the arc of said curve, 78.34 ft. to a ¾″ solid round iron rod at the point of tangency thereof, said curve having a long chord bearing N00°04′37″ W, 78.33 ft. THENCE N01°27′17″ W, 241.79 ft. to a ¾″ solid round iron rod at the point of curvature of a curve to the left having a central angle of 28°49′27″ and a radius of 160.00 ft.; thence northwesterly along the arc of said curve, 80.49 ft. to a ¾″ solid round iron rod at the point of tangency thereof, said curve having a long chord bearing N15°52′00.5″ W, 79.65 ft.; THENCE N30°16′44″ W, 103.56 ft. to a ¾″ solid round iron rod at the point of curvature of a curve to the right having a central angle of 31°17′36″ and a radius of 192.00 ft.; thence northerly along the arc of said curve, 104.87 ft. to a ¾″ solid round iron rod at the point of tangency thereof, said curve having a long chord bearing N14°37′56″ W, 103.57 ft.; THENCE N01°00′52″ E, 62.79 ft. to a ¾″ solid round iron rod; THENCE N89°06′24″ W, 380.04 ft. to a ¾″ solid round iron rod; THENCE N00°17′32″ W, 548.93 ft. to a ¾″ solid round iron rod; THENCE N01°03′16″ E, 1,517.93 ft. to a ¾″ solid round iron rod; THENCE N89°55′10″ W, 632.25 ft. to a ¾″ solid round iron rod; THENCE N00°33′46″ E, 93.42 ft. to a ¾″ solid round iron rod at the point of curvature of a curve to the right having a central angle of 07°05′22″ and a radius of 2,794.00 ft.; thence northerly along the arc of said curve, 345.72 ft. to a ¾″ solid round iron rod at the point of tangency thereof, said curve having a long chord bearing N04°06′27″ E, 345.50 ft.; THENCE N07°39′08″ E, 104.02 ft. to a ¾″ solid round iron rod at the point of curvature of a curve to the left having a central angle of 07°14′40″ and a radius of 1,012.00 ft.; thence northerly along the arc of said curve, 127.96 ft. to a ¾″ solid round iron rod at the point of tangency thereof, said curve having a long chord bearing N04°01′48″ E, 127.87 ft.; THENCE N00°24′28″ E, 210.33 ft. to a ¾″ solid round iron rod; THENCE N89°06′46″ W, 1,056.52 ft. to the west line of the NW¼ of the SE¼ of Section 3, T10N, R6E; THENCE N00°36′25″ E along said west line, 970.26 ft. to the southwest corner of the NE¼ of said Section 3; THENCE N00°40′57″ E along the west line of the NE¼ of said Section 3, 2,747.19 ft. to the point of beginning.

Containing 67,650,480 square feet or 1,553.04 acres more or less.

Subject to the Following Easements to the Town of Sumpter Around Existing Cemeteries

Easement ''A''—90 Foot Easement Around Cemetery PARCEL ''O2''

A parcel of land located in the NW¼ of the NE¼ of Section 3, T10N, R6E, Town of Sumpter, Sauk County, Wisconsin more particularly described as follows:

Commencing at a Harrison monument at the northeast corner of said Section 3; thence S89°56′52″ W along the north line of the NE¼ of said Section 3, 2618.20 ft. to the south ¼ corner of Section 34, T11N, R6E; thence N89°53′11″ E along the north line of the NE¼ of said Section 3, 20.16 ft. to the north ¼ corner of said Section 3; thence S52°06′02″ E, 865.88 ft. to a ¾″ solid round iron rod at the point of beginning; thence N85°00′00″ E, 35.00 ft. to a ¾″ solid round iron rod; thence S5°00′00″ E, 35.00 ft. to a ¾″ solid round iron rod; thence S50°00′00″ E, 127.28 ft.; thence S85°00′00″ W, 215.00 ft.; thence N5°00′00″ W, 215.00 ft.; thence N85°00′00″ E, 215.00 ft.; thence S5°00′00″ E, 215.00 ft.; thence N50°00′00″ W, 127.28 ft.; thence S85°00′00″ W, 35.00 ft. to a ¾″ solid round iron rod; thence N5°00′00″ W, 35.00 ft. to the point of beginning.

Easement ''B''—90 Foot Easement Around Cemetery PARCEL ''O6''

A parcel of land located in the NW¼ of the NE¼ of Section 2, T10N, R6E and in the SW¼ of the SE¼ of Section 35, T11N, R6E all in the town of Sumpter, Sauk County, Wisconsin more particularly described as follows:

Commencing at a Harrison monument at the northeast corner of said Section 2; thence S89°57′01″ W along the north line of the NE¼ of the NE¼ and the north line of the NW¼ of the NE¼ of said Section 2, 1667.80 ft. to a ¾″ solid round iron rod at the point of beginning; thence S0°17′43″ W, 316.48 ft. to a ¾″ solid round iron rod; thence S44°52′38″ E, 126.90 ft.; thence N0°17′43″ E, 496.48 ft.; thence S89°57′01″ W, 533.00 ft.; thence S0°17′43″ W, 496.48 ft.; thence N89°57′01″ E, 533.00 ft.; thence N44°52′38″ W, 126.90 ft.; thence S89°57′01″ W, 353.00 ft. to a ¾″ solid round iron rod; thence N0°17′43″ E, 316.48 ft. to a ¾″ solid round iron rod on the north line of the NW¼ of the NE¼ of said Section 2; thence N89°57′01″ E along said north line, 353.00 ft. to the point of beginning.

In addition, pursuant to the Act, federally-owned structures on the property have been transferred to the Ho-Chunk Nation of Wisconsin in fee. The transfer of the property has been recorded at the Land Title Records Office as BIA Land Titles and Records Tract ID #: 439 T 2170.

Authority

This notice publishes the legal description of the property in the **Federal Register**. The Assistant Secretary—Indian Affairs is issuing this publication under authority delegated by the Secretary of the Interior by 209 Departmental Manual 8.1, and with the concurrence of the Secretary of the Army.

Dated: June 26, 2015.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2015–16196 Filed 6–30–15; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–18374; PPWOCRADN0–PCU00RP15.R50000]

Native American Graves Protection and Repatriation Review Committee: Notice of Nomination Solicitation

AGENCY: National Park Service, Interior.

ACTION: Notice of request for nominations.

SUMMARY: The National Park Service is seeking nominations for one member of the Native American Graves Protection and Repatriation Review Committee (Review Committee). The Secretary of the Interior will appoint the member from nominations submitted by Indian tribes, Native Hawaiian organizations, and traditional Native American religious leaders. The nominee need not be a traditional Indian religious leader.

DATES: Nominations must be received by August 31, 2015.

ADDRESSES: Melanie O'Brien, Manager, National NAGPRA Program (2253), National Park Service, 1849 C Street NW., Washington, DC 20240, or via email *nagpra_dfo@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Melanie O'Brien, Manager, National NAGPRA Program (2253), National Park Service, 1849 C Street NW., Washington, DC 20240, or via email *nagpra_dfo@nps.gov.*

SUPPLEMENTARY INFORMATION: The Review Committee was established by the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), at 25 U.S.C. 3006, 5 U.S.C. Appendix 2.

The Review Committee is responsible for:

1. Monitoring the NAGPRA inventory and identification process;

2. Reviewing and making findings related to the identity or cultural affiliation of cultural items, or the return of such items;

3. Facilitating the resolution of disputes;

4. Compiling an inventory of culturally unidentifiable human remains and developing a process for disposition of such remains;

5. Consulting with Indian tribes and Native Hawaiian organizations and museums on matters within the scope of the work of the Review Committee affecting such tribes or organizations;

6. Consulting with the Secretary of the Interior in the development of regulations to carry out NAGPRA; and

7. Making recommendations regarding future care of repatriated cultural items.

The Review Committee consists of seven members appointed by the Secretary of the Interior. The Secretary may not appoint Federal officers or employees to the Review Committee. Three members are appointed from nominations submitted by Indian tribes, Native Hawaiian organizations, and traditional Native American religious leaders. At least two of these members must be traditional Indian religious leaders. Three members are appointed from nominations submitted by national museum or scientific organizations. One member is appointed from a list of persons developed and consented to by all of the other members.

Members serve as Special Governmental Employees, which requires completion of annual ethics training. Members are appointed for 4-year terms and incumbent members may be reappointed for 2-year terms. The Review Committee's work takes place during public meetings. The Review Committee normally meets in person two times per year, normally for two or three days. The Review Committee may also hold one or more public teleconferences of several hours duration.

Review Committee members serve without pay but shall be reimbursed for each day the member participates in Review Committee meetings. Review Committee members are reimbursed for travel expenses incurred in association with Review Committee meetings (25 U.S.C. 3006(b)(4)). Additional information regarding the Review Committee, including the Review Committee's charter, meeting protocol, and dispute resolution procedures, is available on the National NAGPRA Program Web site, at *www.nps.gov/NAGPRA/REVIEW/.*

Individuals who are federally registered lobbyists are ineligible to serve on all FACA and non-FACA boards, committees, or councils in an individual capacity. The term ''individual capacity'' refers to individuals who are appointed to exercise their own individual best judgment on behalf of the government, such as when they are designated Special Government Employees, rather than being appointed to represent a particular interest.

Nominations should:

1. Be submitted on the official letterhead of the tribe or organization.

2. Affirm that the signatory is the official authorized by the tribe or organization to submit the nomination.

3. Nominations by a traditional religious leader must explain that he or she is a traditional religious leader.

4. Include the nominee's full legal name, home address, home telephone number, and email address.

5. Include the nominee's resume or a brief biography of the nominee, in which the nominee's NAGPRA experience and ability to work as a member of a Federal advisory committee are addressed.

Dated: June 19, 2015.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2015–16103 Filed 6–30–15; 8:45 am]

BILLING CODE 4310–EE–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–18569; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before May 30, 2015. Pursuant to § 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by July 16, 2015. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 4, 2015.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

CALIFORNIA

Los Angeles County

University of Southern California Historic District, Roughly bounded by W. Jefferson & W. Exposition Blvds., S. Figueroa St. & McClintock Ave., Los Angeles, 15000408

COLORADO

Logan County

Pantall Elementary School, 1215 N. 5th St., Sterling, 15000409

CONNECTICUT

Fairfield County

Rowayton Depot Historic District, 1–23 Cudlipp, 5–15 Dibble, 5–28 Hunt, 12,19 Jacob & 7–11 Thomes Sts., 1–44 Arnold Ln., 6–12 Belmont Pl., Norwalk, 15000410

GEORGIA

Elbert County

Elberton Commercial Historic District (Boundary Increase and Additional Documentation), N. McIntosh, Thomas, Church, & S. Oliver Sts., Elberton, 15000411

Fulton County

Lindridge—Martin Manor Historic District, Roughly bounded by Armand Rd., NE., Lindridge, Melante, & Cardova Drs., NE., Armand Ct., NE., Atlanta, 15000412

KENTUCKY

Fayette County

Young, Charles, Park and Community Center, 540 E. 3rd St., Lexington, 15000413

LOUISIANA

Caddo Parish

Washington, Booker T., High School, 2104 Milam St., Shreveport, 15000414

MAINE

Androscoggin County

Lewiston Mills and Water Power System Historic District, Bounded by Androscoggin R., Lisbon, Locust & Bates Sts., Lewiston, 15000415

Cumberland County

Great Chebeague Golf Club, 16 Stone Wharf Rd., Chebeague Island, 15000416

Kennebec County

Hodgkins, Ella R., Intermediate School, 17 Malta St., Augusta, 15000417

Piscataquis County

Norton's Corner School, 2373 Elliotsville Rd., Willimantic, 15000418

MISSOURI

St. Louis County

Jefferson Barracks VA Hospital, (United States Second Generation Veterans Hospitals MPS) 1 Jefferson Barracks Dr., St. Louis, 15000419

NEW JERSEY

Cumberland County

Remington, John and Elizabeth, House, 689 Roadstown Rd., Hopewell Township, 15000420

NORTH CAROLINA

Carteret County

HMT BEDFORDSHIRE (shipwreck and remains), (World War II Shipwrecks along the East Coast and Gulf of Mexico MPS) Offshore Beaufort, Beaufort, 15000421

NORTH DAKOTA

Dunn County

Independence Congregational Church, BIA Rd. 13, Mandaree, 15000422

OHIO

Hamilton County

United States Playing Card Company Complex, 4590 Beech St., Norwood, 15000044

VERMONT

Windham County

Vermont Academy Campus Historic District, (Educational Resources of Vermont MPS) 10 Long Walk, Rockingham, 15000423

WISCONSIN

Dane County

Holy Name Seminary, 702 S. High Point Rd., Madison, 15000424

Rock County

Goodrich, Ezra and Elizabeth, House, 742 E. Madison Ave., Milton, 15000425

Sauk County

Spellman Granite Works, 615 Phillips Blvd., Sauk City, 15000426

A request to move has been received for the following resource:

COLORADO

El Paso County

Rio Grande Engine No. 168, 9 S. Sierra Madre, Colorado Springs, 79000601

A request for removal has been received for the following resources:

MAINE

Androscoggin County

Bradford House, 54–56 Pine St., Lewiston, 78000154

Aroostook County

McElwain House, 2 Main St., Caribou, 82000739

Cumberland County

First Baptist Church, 353 Congress St., Portland, 78000170

Franklin County

New Sharon Bridge, S. of ME 2 over Sandy River, New Sharon, 99001189

Knox County

Crockett, Knott, House, 750 Main St., Rockland, 93001112

Piscataquis County

Burgess, Walter and Eva, Farm, 79 Shaw Rd., Macomber Corner, 97000312

NORTH DAKOTA

Eddy County

Myhre, Jens, Round Barn, (North Dakota Round Barns TR) ND 30, New Rockford, 86002749

La Moure County

Rodman Octagonal Barn, (North Dakota Round Barns TR) ND 30, Edgeley, 86002753

McIntosh County

Wishek City Hall, Old, 21 Centennial St., Wishek, 05001141

Stark County

Gerhardt Octagonal Pig House, (North Dakota Round Barns TR) ND 38, Gladstone, 86002758

[FR Doc. 2015–16162 Filed 6–30–15; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–PWR–TUSK–18335: PX.XLKTUSK15.00.1]

Tule Springs Fossil Beds National Monument Advisory Council

AGENCY: National Park Service, Interior.

ACTION: Establishment.

SUMMARY: The National Park Service, U.S. Department of the Interior, is establishing the Tule Springs Fossil Beds National Monument Advisory Council (Council). The purpose of the Council is to provide the Secretary of the Interior (Secretary) and National Park Service (NPS) guidance for the management of the Monument.

FOR FURTHER INFORMATION CONTACT: Christie Vanover, Public Affairs Officer, Tule Springs Fossil Beds National Monument, 601 Nevada Way, Boulder City, Nevada 89005, telephone (702) 293–8691, or email *tusk_information@nps.gov.*

SUPPLEMENTARY INFORMATION: The NPS is establishing the Tule Springs Fossil Beds National Monument Advisory Council in accordance with Section 3092 (a)(6) of Public Law 113–291, and in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. Appendix 2.

The Council provides the Secretary and the NPS with guidance for the management of the Monument, including advice on the preparation and implementation of the management plan.

The Council is composed of 10 members appointed by the Secretary, as

follows: (a) One member appointed among individuals recommended by the County Commission; (b) one member appointed among individuals recommended by the city council of Las Vegas, Nevada; (c) one member appointed among individuals recommended by the city council of North Las Vegas, Nevada; (d) one member appointed among individuals recommended by the tribal council of the Las Vegas Paiute Tribe; (e) one member of the conservation community in southern Nevada; (f) one member appointed among individuals recommended by Nellis Air Force Base; (g) one member appointed among individuals recommended by the State of Nevada; (h) one member who resides in Clark County and has a background that reflects the purposes for which the Monument was established; and (i) two members who reside in Clark County or adjacent counties, both of whom shall have experience in the field of paleontology, obtained through higher education, experience, or both. Members will be appointed by the Secretary for a term of three years.

Certification Statement: I hereby certify that the establishment of the Tule Springs Fossil Beds National Monument Advisory Council is necessary and in the public interest in connection with the performance of duties imposed on the Department of the Interior under Public Law 113–291, The Carl Levin and Howard ''Buck'' McKeon National Defense Authorization Act for Fiscal Year 2015.

Dated: June 16, 2015.

Sally Jewell,

Secretary of the Interior.

[FR Doc. 2015–16109 Filed 6–30–15; 8:45 am]

BILLING CODE 4310–EE–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–613 Remand]

Certain 3G Mobile Handsets and Components Thereof; Commission Decision to Review in Part a Final Initial Determination on Remand; Request for Written Submissions

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the presiding administrative law judge's (''ALJ'') final initial determination on remand (''RID'') issued on April 27, 2015, making findings concerning whether there is a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337'').

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2301. 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 at *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 Inv. No. 337–TA–613 on September 11, 2007, based on a complaint filed by InterDigital Communications Corp. of King of Prussia, Pennsylvania and InterDigital Technology Corp. of Wilmington, Delaware (collectively, ''InterDigital'') on August 7, 2007. 72 FR 51838 (Sept. 11, 2007). The complaint, as amended, 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 3G mobile handsets and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 7,117,004 (''the '004 patent''); 7,190,966 (''the '966 patent''); 7,286,847 (''the '847 patent''); and 6,693,579 (''the '579 patent). The Notice of Investigation named Nokia Corporation of Espoo, Finland (''Nokia'') and Nokia Inc. of Irving, Texas (''Nokia Inc.'') as respondents. The Office of Unfair Import Investigations (''OUII'') was named as a participating party. The Commission later amended the Notice of Investigation to substitute complainant InterDigital Communications, Inc. for InterDigital Communications Corp. Notice (Feb. 15, 2015); Order No. 53 (Jan. 14, 2015). The Commission also later amended the Notice of Investigation to add Microsoft Mobile OY (''MMO'') as a party. 79 FR 43068–69 (July 24, 2014).

On February 13, 2009, InterDigital moved for summary determination that a domestic industry exists because its licensing activities in the United States satisfy the domestic industry requirement under 19 U.S.C. 1337(a)(3)(C). On March 10, 2009, the presiding Administrative Law Judge (''ALJ'') issued an initial determination (''ID'') (Order No. 42) granting the motion. On April 9, 2009, the Commission determined not to review the ID. Notice (Apr. 9, 2009).

On August 14, 2009, the ALJ issued his final ID, finding no violation of section 337. In particular, he found that the asserted claims of the patents-in-suit are not infringed and that they are not invalid. The ALJ further found no prosecution laches relating to the '004, '966, and '847 patents and that the '579 patent is not unenforceable.

On October 16, 2009, the Commission determined to review the final ID in part. 74 FR 55068–69 (Oct. 26, 2009) (''Notice of Review''). In particular, although the Commission affirmed the ID's determination of no violation of section 337 and terminated the investigation, the Commission reviewed and modified the ID's claim construction of the term ''access signal'' found in the asserted claims of the '847 patent. The Commission also reviewed, but took no position on, the ID's construction of the term ''synchronize'' found in the asserted claims of the '847 patent. The Commission further reviewed, but took no position on, validity with respect to all of the asserted patents. The Commission did not review the ID's construction of the claim limitations ''code'' and ''increased power level'' in the asserted claims of the '966 and '847 patents.

InterDigital timely appealed the Commission's final determination of no violation of section 337 as to claims 1, 3, 8, 9, and 11 of the '966 patent and claim 5 of the '847 patent to the Federal Circuit. Specifically, InterDigital appealed the final ID's unreviewed constructions of the claim limitations ''code'' and ''increased power level'' in the '966 and '847 patents. Respondent Nokia, the intervenor on appeal, raised as an alternate ground of affirmance the issue of whether the Commission correctly determined that InterDigital has a license-based domestic industry.

On August 1, 2012, the Federal Circuit reversed the Commission's construction of the claim limitations ''code'' and ''increased power level'' in the '966 and '847 patents, reversed the Commission's determination of non-infringement as to the asserted claims of those patents, and remanded to the Commission for further proceedings.

InterDigital Commc'ns, LLC v. *Int'l Trade Comm'n.,* 690 F.3d 1318 (Fed. Cir. 2012). In particular, the Court rejected the final ID's construction of the ''code'' limitation as being limited to ''a spreading code or a portion of a spreading code'' and, instead, construed ''code'' as ''a sequence of chips'' and as ''broad enough to cover both a spreading code and a non-spreading code.'' Id. at 1323–27. The Court affirmed the Commission's determination that InterDigital has a domestic industry. Id. at 1329–30. Nokia subsequently filed a combined petition for panel rehearing and rehearing en banc on the issue of domestic industry. On January 10, 2013, the Court denied the petition and issued an additional opinion addressing several issues raised in Nokia's petition for rehearing. *InterDigital Commc'ns, LLC* v. *Int'l Trade Comm'n,* 707 F.3d 1295 (Fed. Cir. 2013). The Court's mandate issued on January 17, 2013, returning jurisdiction to the Commission.

On February 4, 2013, the Commission issued an Order directing the parties to submit comments regarding what further proceedings must be conducted to comply with the Federal Circuit's remand. Commission Order (Feb. 4, 2013). On February 12, 2014, the Commission issued an Order and Opinion deciding certain aspects of the investigation and remanding other aspects to the Chief ALJ. 79 FR 9277–79 (Feb. 18, 2014); see also Comm'n Op. Remanding Investigation (Feb. 12, 2014); Comm'n Order Remanding Investigation (Feb. 12, 2014). On February 24, 2014, Nokia petitioned for reconsideration of the Commission's remand Order and Opinion. On March 24, 2014, the Commission granted in part the petition for reconsideration and issued a revised remand notice, order, and opinion. 79 FR 17571–73 (Mar. 28, 2014).

On April 27, 2015, the ALJ issued the RID. The ALJ found that the accused Nokia handsets meet the limitations ''generated using a same code'' and ''the message being transmitted only subsequent to the subscriber unit receiving the indication'' recited in the asserted claims of the '966 and '847 patents. The ALJ also found that the pilot signal (P–CPICH) in the 3GPP standard practiced by the accused Nokia handsets satisfies the limitation ''synchronize to the pilot signal'' recited in the asserted claim of the '847 patent. The ALJ further found that the currently imported Nokia handsets, which contain chips that were not previously adjudicated, infringe the asserted claims of the '966 and '847 patents. The ALJ also found that there is no evidence of patent hold-up by InterDigital, but that there is evidence of reverse hold-up by the respondents. The ALJ found that the public interest does not preclude issuance of an exclusion order. The ALJ did not issue a Recommended Determination on remedy or bonding.

On May 11, 2015, MMO and Nokia Inc. (collectively, ''MMO'') filed a petition for review of certain aspects of the RID, including infringement, domestic industry, and the public interest. Also on May 11, 2015, Nokia filed a petition for review of the RID with respect to infringement, domestic industry, and whether the Commission has jurisdiction over Nokia following the sale of its handset business to MMO. Further on May 11, 2015, the Commission investigative attorney (''IA'') filed a petition for review of the RID's finding of infringement.

On May 19, 2015, InterDigital filed a response to MMO's and the IA's petitions for review. Also on May 19, 2015, MMO filed a response to the IA's petition for review. Further on May 19, 2015, the IA filed a response to MMO's and Nokia's petitions for review.

On June 3, 2015, InterDigital filed a statement on the public interest pursuant to Commission Rule 210.50(a)(4). Also on June 3, 2015, several non-parties filed responses to the Commission Notice issued on May 4, 2015, including: United States Senator Robert Casey, Jr. of Pennsylvania; Microsoft Corporation; Intel Corporation, Cisco Systems, Inc., Dell Inc., and Hewlett-Packard Company; Innovation Alliance; and Ericsson Inc. See 80 FR 26295–96 (May 7, 2015). On June 24, 2015, United States Senator Patrick J. Toomey of Pennsylvania also filed a response to the Commission's May 4, 2015, notice.

On June 15, 2015, Respondents filed a motion for leave to file a reply in support of their petition for review. Respondents Microsoft Mobile Oy and Nokia Inc.'s Motion for Leave to File Reply of Respondents Microsoft Mobile Oy and Nokia Inc. in Support of Petition for Review (June 15, 2015). On June 17, 2015, the IA filed a response, opposing Respondents' motion. Office of Unfair Import Investigation's Response to Respondents Microsoft Mobile Oy and Nokia, Inc.'s Motion for Leave to File Reply in Support of Petition to Review (June 17, 2015). On June 19, 2015, InterDigital filed a response, opposing Respondents' motion. InterDigital's Response to Respondents MMO and Nokia, Inc.'s Motion for Leave to File a Reply in Support of Petition for Review (June 19, 2015). The motion is denied.

Having examined the record of this investigation, including the RID, the petitions for review, and the responses thereto, the Commission has determined to review the RID in part.

Specifically, the Commission has determined to review the RID's findings concerning the application of the Commission's prior construction in Certain Wireless Devices with 3G Capabilities and Components Thereof, Inv. No. 337–TA–800 (''the 800 investigation'') and Certain Wireless Devices with 3G and/or 4G Capabilities and Components Thereof, Inv. No. 337–TA–868 (''the 868 investigation'') of the claim limitation ''successively [transmits/transmitted] signals.'' The Commission has also determined to review the RID with respect to whether the accused products satisfy the claim limitation ''successively [transmits/transmitted] signals'' as construed by the Commission in the 800 and 868 investigations. The Commission has further determined to review the RID's public interest findings.

The Commission has determined not to review the remaining issues decided in the RID.

The parties are requested to brief their positions on the issues under review with reference to the applicable law and the evidentiary record. In connection with its review, the Commission requests responses to the following questions:

1. Have Respondents waived any reliance on the application of the Commission's construction in the 800 and 868 investigations of the limitation ''successively [transmits/transmitted] signals?''

2. Do the Commission's determinations in the 800 and/or 868 investigation constitute an intervening change of controlling legal authority such that the Commission should apply the construction of ''successively [transmits/transmitted] signals'' as found in those investigations in determining infringement in this investigation?

3. What evidence exists in the record of this investigation with respect to whether the accused products satisfy the ''successively [transmits/transmitted] signals'' limitation as construed by the Commission in the 800 and 868 investigations?

4. Please state and explain your position on whether, for purposes of the Commission's consideration of the statutory public interest factors, InterDigital has in effect asserted that the patents in question are FRAND-encumbered, standard-essential patents.

5. Please state and explain your position on whether InterDigital has offered Respondents licensing terms that reflect the value of its own patents.

6. What portion of the accused devices is allegedly covered by the asserted claims? Do the patents in question relate to relatively minor features of the accused devices?

7. Please state and explain your position on the legal significance of InterDigital's alleged willingness to accept an arbitral determination of FRAND terms with respect to the patents in question.

8. Please state and explain your position on the legal significance of InterDigital's alleged unwillingness to obtain a judicial determination of FRAND terms with respect to the patents in question.

9. Please state and explain your position on whether Respondents have shown themselves willing to take licenses to the patents in question on FRAND terms.

10. Do Respondents' alleged delaying tactics in negotiating with InterDigital provide sufficient evidence of reverse hold-up, regardless of Respondents' offers to license only InterDigital's U.S. patent portfolio?

11. Do Respondents' licensing counteroffers satisfy the requirements of the ETSI IPR Policy?

12. Please state and explain your position on whether the RID equates patent infringement and reverse hold-up.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent(s) being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843 (Dec. 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation are requested to file written submissions on the issues identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding issued in the original investigation on August 14, 2009. Complainant and OUII are requested to submit proposed remedial orders for the Commission's consideration and to provide identification information for all importers of the subject articles. Complainant and OUII are also requested to state the dates that the patents expire and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than close of business on July 10, 2015. Initial submissions are limited to 125 pages, not including any attachments or exhibits related to discussion of the public interest. Reply submissions must be filed no later than the close of business on July 20, 2015. Reply submissions are limited to 75 pages, not including any attachments or exhibits related to discussion of the public interest. The parties may not incorporate by reference their prior filings before the ALJ or the Commission. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–613 REMAND'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). 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. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

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: June 25, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–16116 Filed 6–30–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1163 (Review)]

Woven Electric Blankets From China; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping

duty order on woven electric blankets from China would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is July 31, 2015. Comments on the adequacy of responses may be filed with the Commission by September 15, 2015.

DATES: *Effective Date:* July 1, 2015.

FOR FURTHER INFORMATION CONTACT: Michael Szustakowski (202–2205–3169), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On August 18, 2010, the Department of Commerce issued an antidumping duty order on imports of woven electric blankets from China (75 FR 50991). The Commission is conducting a review pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR parts 201, subparts A and B and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determination, the Commission defined a single *Domestic Like Product* comprising finished, semi-finished, and unassembled woven electric blankets including woven electric blankets commonly referred to as throws, of all sizes and fabric types, whether made of man-made fiber, natural fiber or a blend of both, as is coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined a single *Domestic Industry* to include the known domestic producer of the *Domestic Like Product*.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is August 18, 2010.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list. Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule § 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 15–5–338, expiration date June 30, 2017. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Written submissions. Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 31, 2015. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule § 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is September 15, 2015. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to filing have changed. The most recent amendments took effect on July 25, 2014. *See* 79 FR 35920 (June 25, 2014), and the revised Commission Handbook on E-filing, available from the Commission's Web site at *http://edis.usitc.gov.* Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Inability to provide requested information. Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information To Be Provided In Response To This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2014, except as noted (report quantity data in units and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2014 (report quantity data in units and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of

Subject Merchandise imported from the *Subject Country*.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2014 (report quantity data in units and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: June 25, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–16006 Filed 6–30–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1059 (Second Review)]

Hand Trucks From China; Scheduling of an Expedited Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty order on hand trucks from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: *Effective Date:* June 5, 2015.

FOR FURTHER INFORMATION CONTACT: Keysha Martinez (202–205–2136), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On June 5, 2015, the Commission determined that the domestic interested party group response to its notice of institution (80 FR 11226, March 2, 2015) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report. A staff report containing information concerning the subject matter of the review was placed in the nonpublic record on June 19, 2015, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions. As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before July 6, 2015, and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by July 6, 2015. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

[2] The Commission has found the responses submitted by Gleason Industrial Products, Inc. and Precision Products, Inc. to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to filing have changed. The most recent amendments took effect on July 25, 2014. *See* 79 FR 35920 (June 25, 2014), and the revised Commission Handbook on E-filing, available from the Commission's Web site at *http://edis.usitc.gov.*

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: June 25, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–16115 Filed 6–30–15; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On June 24, 2015, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Eastern District of Washington in the lawsuit entitled *United States* v. *Intalco Aluminum Corporation,* Civil Action No. 2:15-cv-00161 SAB, Dkt # 2.

The United States of America, by its undersigned counsel, brought this complaint and proposed consent decree on behalf of the United States Environmental Protection Agency (EPA) and the United States Department of Agriculture Forest Service (''USFS'') (collectively, ''United States''), against Intalco Aluminum Corporation (''Intalco'' or ''Defendant'').

The United States brings this civil action under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607, to recover past response costs incurred by the United States in connection with releases and threatened releases of hazardous substances from the Holden Mine Site in Chelan County, Washington (the ''Site''). Intalco is incorporated under the laws of Delaware and is a successor to Howe Sound Company, a former operator of the Holden Mine.

The Site is located in north-central Washington state, within the Okanogan-Wenatchee National Forest, and consists of National Forest System land and adjoining private land. The Site is in a remote area approximately twelve miles northwest of Lake Chelan, and is accessible only by Lake Chelan ferry. The Howe Sound Company (''Howe Sound'') operated the Holden Mine at the Site from 1938–1957, extracting copper, zinc, silver, and gold from approximately sixty miles of underground workings. The Holden Mine ceased operations in 1957. Subsequently, Howe Sound's interest in the Site was transferred to Holden Village, Inc., which has operated an interdenominational retreat at the Site since 1961 under a Special Use Permit issued by the USFS. The Holden Village has 5,000 to 6,000 visitors each year, and is home to approximately 50 year-round residents. Defendant is the legal successor to Howe Sound.

During the period of mining operations, metals were recovered from the ore taken from Holden Mine in an on-Site mill. Approximately 10 million tons of mill tailings were left on-Site after mining operations ceased, placed in three piles spread over approximately 120 acres. Additionally, approximately 250,000–300,000 cubic yards of rock that did not contain mineral concentrations sufficient to mill were placed in two large waste rock piles on the Site. There have been, and continue to be, releases and threatened releases of hazardous substances to the environment from the tailings and waste rock piles that have caused the United States to incur response costs under CERCLA. The subject Consent Decree resolves the United States' claims for reimbursement of a portion of those costs.

The publication of this notice opens a period for public comment on the Proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Intalco Aluminum Corporation,* Civil Action No. 2:15-cv-00161 SAB, D.J. Ref. No. 90–11–2–1135/3. 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 email	*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 Proposed Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed 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 $6.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–16119 Filed 6–30–15; 8:45 am]

BILLING CODE 4410–15–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–0010; NRC–2013–0251]

Proposed License Renewal of License No. SNM–2506 for the Prairie Island Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering the renewal of License No. SNM–2506, issued in 1993 and held by Northern States Power Company, a Minnesota Corporation (NSPM) (doing business as Xcel Energy) for the operation of the Prairie Island Nuclear Generating Plant (PINGP) site-specific Independent Spent Fuel Storage Installation (ISFSI), for an additional 20 years.

ADDRESSES: Please refer to Docket ID NRC–2013–0251 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–2013–0251. Address questions about NRC dockets to Ms. Carol Gallagher; telephone: 301–415–3463; 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 (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: Jean Trefethen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0867, email: *Jean.Trefethen@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering issuance of a renewal of License No. SNM–2506 to Northern States Power Company (NSPM) for the operation of the Prairie Island Nuclear Generating Plant (PINGP) site-specific Independent Spent Fuel Storage Installation (ISFSI) located within the city limits of Red Wing in Goodhue County, Minnesota for an additional 40 years. Therefore, as required by part 51 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' which implement the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq*), the NRC prepared an environmental assessment (EA) (ADAMS Accession No. ML15098A026). Based on the results of the EA, the NRC has determined that an environmental impact statement is not required for the proposed license renewal, and is issuing a finding of no significant impact (FONSI).

In 1993, the NRC issued a 20-year license to NSPM to receive, possess, store, and transfer spent nuclear fuel generated at the PINGP, Units 1 and 2, in the Prairie Island (PI) ISFSI. License SNM–2506 currently allows NSPM to store up to 48 transnuclear-40 (TN–40) casks and TN–40 high thermal (TN–40HT) casks at the PI ISFSI. The PI ISFSI is located within the facility boundary of the PINGP, which is located within the city limits of Red Wing in Goodhue County, Minnesota, approximately 45 kilometers (km) [28 miles (mi)] southeast of the Minneapolis–St. Paul metropolitan area.

On October 20, 2011, the licensee submitted their application for a 40-year license renewal for the PI ISFSI (ADAMS Accession No. ML113140518). This application was supplemented by letter(s), dated February 29, 2012 (ADAMS Accession No. ML12065A073) and dated April 26, 2012 (ADAMS Accession No. ML121170406).

In October 2012, the NRC and the Prairie Island Indian Community (PIIC) entered into a Memorandum of Understanding (MOU) (ADAMS Accession No. ML12284A456). The MOU acknowledges the PIIC's special expertise in the areas of historic and cultural resources, socioeconomics, land use, and environmental justice as they relate to license renewal for the PI ISFSI, and establishes a cooperating agency relationship between the NRC and the PIIC. The MOU also defines the roles and responsibilities of both entities and the process used to prepare an EA that incorporates and reflects the PIIC's views in the areas of special expertise.

In November 2013 (78 FR 69460), to further the environmental review process, the NRC published the draft EA and the draft FONSI for the proposed PI ISFSI license renewal in the **Federal Register** for public review and comment). Comments were received from the applicant (NSPM), the Minnesota Department of Natural Resources, the City of Red Wing, and the PIIC. Appendix B of the final EA contains the NRC's responses to those comments.

II. Environmental Assessment

The proposed action is whether to renew the site-specific ISFSI license for an additional 40 years provided that NRC requirements are met. If approved, NSPM would continue to possess and store the PINGP, Units 1 and 2, spent fuel at the PI ISFSI for an additional 40 years under the requirements in 10 CFR part 72, ''Licensing Requirements for the Independent Storage of Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste.''

The PI ISFSI is needed to provide additional spent fuel storage capacity so that the PINGP Units 1 and 2 can continue to operate. The PINGP Units 1 and 2 operate under separate NRC licenses (DPR–42 and DPR–60, respectively) that will expire in 2033 and 2034, respectively. Spent fuel assemblies from PINGP Units 1 and 2 not already stored at the PI ISFSI are currently stored onsite in a spent fuel pool. The PINGP spent fuel pool does not have the needed capacity to store all the spent nuclear fuel that the PINPG Units 1 and 2 would generate through the end of their license term. The PI ISFSI provides additional spent fuel storage capacity necessary for NSPM to continue to operate the PINGP Units 1 and 2 until a permanent facility (or facilities) is available for offsite disposition of the spent fuel.

In the EA, the NRC staff describes the affected environment and evaluates the potential environmental impacts from the proposed 40-year renewal of license SNM–2506 on land use; transportation; socioeconomics; climatology, meteorology and air quality; geology and soils; water resources; ecology and threatened and endangered species; visual and scenic resources; noise; historic and cultural resources; public and occupational health and safety; waste management; and environmental justice. The EA also discusses the alternatives to the proposed action, including the no-action alternative. The NRC staff also evaluated the potential environmental impacts from decommissioning of the PI ISFSI, taking into consideration an additional 40 years of operation. Additionally, the NRC staff analyzed the cumulative impacts from past, present, and reasonably foreseeable future actions when combined with the potential environmental impacts of the proposed action.

The NRC staff evaluated potential environmental impacts and categorized the impacts as follows:

• SMALL-environmental effects are not detectable or are so minor that they will neither destabilize nor noticeably alter any important attribute of the resource.

• MODERATE-environmental effects are sufficient to alter noticeably, but not to destabilize important attributes of the resource.

• LARGE-environmental effects are clearly noticeable and are sufficient to destabilize important attributes of the resource.

The NRC staff finds that the impacts from the proposed action would be small for all environmental resource areas. In addition, the NRC staff

concludes that there would be no disproportionately high and adverse impacts to minority and low-income populations and that federally listed threatened and endangered species would not be affected by the continued operation of the PI ISFSI during the proposed license renewal period.

The NRC staff is also performing a detailed safety analysis of the NSPM's license renewal application to assess compliance with 10 CFR part 20, ''Standards for Protection Against Radiation,'' and 10 CFR part 72, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste.'' The NRC staff's analysis will be documented in a separate safety evaluation report (SER). The NRC staff's decision whether to renew the NSPM's PI ISFSI license as proposed will be based on the results of the NRC staff's review as documented in the final EA, the final FONSI, and in the SER.

Based on its review of the proposed action in the EA relative to the requirements set forth in 10 CFR part 51, the NRC staff has determined that renewal of NRC license SNM–2506, which would authorize continued operation of the PI ISFSI in Goodhue County, Minnesota, for a an additional 40 years, will not significantly affect the quality of the human environment. No significant changes in NSPM's authorized operations for the PI ISFSI were requested as part of the license renewal application. Approval of the proposed action would not result in any new construction or expansion of the existing ISFSI footprint beyond that previously approved. The ISFSI is a passive facility that produces no liquid or gaseous effluents. No significant radiological or nonradiological impacts are expected from continued normal operations. Occupational dose estimates from routine monitoring activities and transfer of spent fuel for disposal are expected to be at as low as reasonably achievable levels and are expected to be within the limits of 10 CFR 20.1201. The estimated annual dose to the nearest potential member of the public from ISFSI activities is 0.02 millisieverts/year (mSv/yr) [2.20 millirem/year (mrem/yr)], which is below the 0.25 mSv/yr [25 mrem/yr] limit specified in 10 CFR 72.104(a) and the 1 mSv/yr (100 mrem/yr) limit in 10 CFR 20.1301(a)(1).

III. Finding of No Significant Impact

Based on its review of the proposed action, in accordance with the requirements in 10 CFR part 51, the NRC staff has concluded that the proposed action, amendment of NRC Special Nuclear Materials License No. SNM–2506 for the PI ISFSI located in Goodhue County, Minnesota, will not significantly affect the quality of the human environment. Therefore, the NRC staff has determined, pursuant to 10 CFR 51.31, that preparation of an environmental impact statement is not required for the proposed action and a FONSI is appropriate.

Dated at Rockville, Maryland, this 25th day of June, 2015.

For the Nuclear Regulatory Commission.

Marissa G. Bailey,

Director, Division of Fuel Cycle Safety and Environmental Review, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2015–16238 Filed 6–30–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–275 and 50–323; NRC–2009–0552]

Diablo Canyon Power Plant, Units 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of intent to prepare an environmental impact statement and conduct the scoping process; reopening of scoping process, public meetings, and request for comment.

SUMMARY: On January 27, 2010, the U.S. Nuclear Regulatory Commission (NRC) notified the public of its opportunity to participate in the scoping process associated with the preparation of an environmental impact statement (EIS) related to the review of the license renewal application submitted by Pacific Gas and Electric Company (PG&E) for the renewal of Facility Operating Licenses DPR–80 and DPR–82 for an additional 20 years of operation at Diablo Canyon Power Plant (DCPP), Units 1 and 2. The current operating licenses for DCPP, Units 1 and 2 expire on November 2, 2024, and August 26, 2025, respectively. The scoping period closed on April 12, 2010. The NRC has decided to reopen the scoping process and allow members of the public an additional opportunity to participate.

DATES: The comment period for the environmental scoping process published on January 27, 2010 (75 FR 4427) has been reopened. Comments should be filed no later than August 31, 2015. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

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

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2009–0552. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: OWFN–12 H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Michael Wentzel, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6459, email: *Michael.Wentzel@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2009–0552 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document by the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2009–0552.
- 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 (if it available in ADAMS) is provided the first time that a document is referenced. The application for renewal of the DCPP licenses can be found in ADAMS under Package Accession No. ML093340125.

• NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2009–0552 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Discussion

On January 27, 2010 (75 FR 4427), the NRC notified the public of its opportunity to participate in the scoping process associated with the preparation of an EIS related to the review of the license renewal application submitted by PG&E for the renewal of the operating licenses for an additional 20 years of operation at DCPP. The application for license renewal, which included an environmental report (ER), dated November 23, 2009 (ADAMS Package No. ML093340125), was submitted pursuant to part 54 of Title 10 of the *Code of Federal Regulations* (10 CFR). A separate notice of receipt and availability of the application was published in the **Federal Register** on December 11, 2009 (74 FR 65811). A notice of acceptance for docketing of the application and opportunity for hearing regarding renewal of the facility operating license was published in the **Federal Register** on January 21, 2010 (75 FR 3493). The scoping period closed on April 12, 2010. By letter dated April 10, 2011 (ADAMS Accession No. ML111010592), PG&E requested the NRC to delay final processing of the license renewal application to allow time for the completion of certain seismic studies to address concerns raised during the State of California's Coastal Zone Management Act consistency review. On May 31, 2011 (ADAMS Accession No. ML11138A315), the NRC delayed all further milestones associated with the safety and environmental reviews of the DCPP license renewal application.

On December 22, 2014 (ADAMS Package No. ML14364A259), and February 25, 2015 (ADAMS Package No. ML15057A102), PG&E amended its ER to provide additional information identified by NRC staff as necessary to complete the review of the DCPP license renewal application. By letter dated April 28, 2015 (ADAMS Accession No. ML15104A509), the NRC staff issued a schedule for the remainder of the DCPP license renewal review. The purpose of this notice is to (1) inform the public that the NRC has decided to reopen the scoping process, as defined in 10 CFR 51.29, ''Scoping-environmental impact statement and supplement to environmental impact statement,'' and (2) allow members of the public an additional opportunity to participate. The comments already received by the NRC will be considered; reopening of the scoping process provides additional opportunity for the public to comment on issues that may have emerged since completion of the last scoping period.

As outlined in § 800.8 of Title 36 of the *Code of Federal Regulations* (36 CFR), ''Coordination With the National Environmental Policy Act,'' the NRC plans to coordinate compliance with Section 106 of the National Historic Preservation Act (NHPA) in meeting the requirements of the National Environmental Policy Act of 1969 (NEPA). Under § 800.8(c) the NRC intends to use its process and documentation for the preparation of the EIS on the proposed action to comply with Section 106 of the NHPA in lieu of the procedures set forth in § 800.3 through 800.6.

In accordance with 10 CFR 51.53(c) and 10 CFR 54.23, PG&E submitted the ER as part of the application. The ER was prepared pursuant to 10 CFR part 51 and is publicly available in ADAMS under Accession No. ML093340123 (original) and Package Nos. ML14364A259 (amendment 1) and ML15057A102 (amendment 2). The ER may also be viewed on the NRC Web site at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications/diablo-canyon.html.* In addition, paper copies of the ER are available for public review near the site at the San Luis Obispo County Library, 995 Palm Street, San Luis Obispo, California 93403 and at the Paso Robles City Library, 1000 Spring Street, Paso Robles, California 93446.

This document advises the public that the NRC intends to gather the information necessary to prepare a plant specific supplement to the NRC's ''Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants'' (NUREG–1437, Revision 1), related to the review of the application for renewal of the DCPP operating licenses for an additional 20 years.

Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources. The NRC is required by 10 CFR 51.95 to prepare a supplement to the GEIS in connection with the renewal of an operating license. This notice is being published in accordance with NEPA and the NRC's regulations found at 10 CFR part 51.

The NRC will first conduct a scoping process for the supplement to the GEIS and, as soon as practicable thereafter, will prepare a draft supplement to the GEIS for public comment. Participation in the scoping process by members of the public and local, State, Tribal, and Federal government agencies is encouraged. The scoping process for the supplement to the GEIS will be used to accomplish the following:

a. Define the proposed action, which is to be the subject of the supplement to the GEIS;

b. Determine the scope of the supplement to the GEIS and identify the significant issues to be analyzed in depth;

c. Identify and eliminate from detailed study those issues that are peripheral or that are not significant;

d. Identify any environmental assessments and other ElSs that are being or will be prepared that are related to, but are not part of, the scope of the supplement to the GEIS being considered;

e. Identify other environmental review and consultation requirements related to the proposed action;

f. Indicate the relationship between the timing of the preparation of the environmental analyses and the Commission's tentative planning and decision-making schedule;

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the supplement to the GEIS to the NRC and any cooperating agencies; and

h. Describe how the supplement to the GEIS will be prepared and include any contractor assistance to be used.

The NRC invites the following entities to participate in scoping:

a. The applicant, PG&E;

b. Any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce relevant environmental standards;

c. Affected State and local agencies, including those authorized to develop and enforce relevant environmental standards;

d. Any affected Indian tribe;

e. Any person who has requested an opportunity to participate in the scoping process; and

f. Any person who has petitioned for leave to intervene in the proceeding or who has been admitted as a party to the proceeding.

III. Public Scoping Meeting

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC has decided to hold public meetings for the DCPP license renewal supplement to the GEIS. The scoping meetings will be held on August 5, 2015, and there will be two sessions to accommodate interested persons. The first session will convene at 1:30 p.m. and will continue until 4:30 p.m., as necessary. The second session will convene at 7:00 p.m. with a repeat of the overview portions of the meeting and will continue until 10:00 p.m., as necessary. Both sessions will be held at the Courtyard by Marriott San Luis Obispo, 1605 Calle Joaquin Road, San Luis Obispo, CA 93405. Both meetings will be transcribed and will include: (1) An overview by the NRC staff of the NEPA environmental review process, the proposed scope of the supplement to the GEIS, and the proposed review schedule; and (2) the opportunity for interested government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the supplement to the GEIS. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the same location. Written comments on the proposed scope of the supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meetings or in writing, as discussed above.

Persons may register to attend or present oral comments at the meetings on the scope of the NEPA review by contacting the NRC Project Manager, Michael Wentzel, by telephone at 1–800–368–5642, extension 6459, or by email at *Michael.Wentzel@nrc.gov,* no later than July 31, 2015. Members of the public may also register to speak at the meeting within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak if time permits. Public comments will be considered in the scoping process for the supplement to the GEIS. Michael Wentzel will need to be contacted no later than July 22, 2015, if special equipment or accommodations are needed to attend or present information at the public meeting so that the NRC staff can determine whether the request can be accommodated.

Participation in the scoping process for the supplement to the GEIS does not entitle participants to become parties to the proceeding to which the supplement to the GEIS relates. Matters related to participation in any hearing are outside the scope of matters to be discussed at this public meeting.

At the conclusion of the scoping process, the NRC will prepare a concise summary of the determination and conclusions reached; including the significant issues identified, and will send a copy of the summary to each participant in the scoping process. The summary will also be available for inspection in ADAMS and the Federal Rulemaking Web site. The NRC staff will then prepare and issue for comment the draft supplement to the GEIS, which will be the subject of a separate notice and separate public meetings. Copies will be available for public inspection at the addresses listed in the **ADDRESSES** section of this **Federal Register** notice. After receipt and consideration of the comments, the NRC will prepare a final supplement to the GEIS, which will also be available for public inspection.

Dated at Rockville, Maryland, this 22nd day of June, 2015.

For the Nuclear Regulatory Commission.

Brian Wittick,

Chief, Projects Branch 2, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2015–15921 Filed 6–30–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0153]

Acceptance of Commercial-Grade Design and Analysis Computer Programs for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG–1305, ''Acceptance of Commercial-Grade Design and Analysis Computer Programs for Nuclear Power Plants.'' This DG provides new (*i.e.,* not preceded by earlier guidance on the same subject) guidance that describes acceptance methods that the staff of the NRC considers acceptable in meeting regulatory requirements for acceptance and dedication of commercial-grade design and analysis computer programs for nuclear power plants.

DATES: Submit comments by August 31, 2015. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

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

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0153. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: George Lipscomb, Office of New

Reactors, 301–415–6838, email: *George.Lipscomb@nrc.gov,* or Steve Burton, Office of Nuclear Regulatory Research, 301–415–7000, email: *Stephen.Burton@nrc.gov.* U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0153 when contacting the NRC about the availability of information regarding this document. You may obtain publically-available information related to this document, by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0153.
- 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 (if available in ADAMS), is provided the first time that a document is referenced. The DG is electronically available in ADAMS under Accession No. ML14119A286.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2015–0153 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enters the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific issues or postulated events, and data that the staff needs in its review of applications for permits and licenses.

The DG, entitled, ''Acceptance of Commercial-Grade Design and Analysis Computer Programs for Nuclear Power Plants,'' is temporarily identified by its task number, DG–1305. This DG provides new guidance that describes acceptance methods that the staff of the NRC considers acceptable in meeting regulatory requirements for acceptance and dedication of commercial-grade design and analysis computer programs for nuclear power plants.

II. Backfitting and Issue Finality

Draft Guide-1305 describes acceptable methods for meeting the dedication requirements in part 21 of title 10 of the *Code of Federal Regulations* (10 CFR) and 10 CFR 50.55(e) with respect to design and analysis computer programs for nuclear power plants. The draft regulatory guide, if finalized, would not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52, ''Licenses, Certifications and Approvals for Nuclear Power Plants.'' This regulatory guide, if finalized, represents the first NRC guidance on this subject. Issuance of new guidance, by itself, does not represent backfitting unless the NRC intends to impose the guidance on existing licensees and currently-approved design certification rules issued under part 52. The NRC does not have such an intention. Existing licensees and applicants of final design certification rules will not be required to comply with the positions set forth in this draft regulatory guide, unless the licensee or design certification rule applicant seeks a voluntary change to its licensing basis with respect to safety-related power operated valve actuators, and where the NRC determines that the safety review must include consideration of the qualification of the valve actuators. Further information on the staff's use of the draft regulatory guide, if finalized, is contained in the draft regulatory guide under Section D. Implementation.

Applicants and potential applicants are not, with certain exceptions, afforded protection by either the Backfit Rule or any issue finality provisions under part 52. Neither the Backfit Rule nor the issue finality provisions under part 52—with certain exclusions discussed below—were intended to apply to every NRC action which substantially changes the expectations of current and future applicants. Therefore, the positions in any final draft regulatory guide, if imposed on applicants, would not represent backfitting (except as discussed below). The exceptions to the general principle are applicable whenever a combined license applicant references a part 52 license (*i.e.,* an early site permit or a manufacturing license) and/or part 52 regulatory approval (*i.e.,* a design certification rule or design approval. The staff does not, at this time, intend to impose the positions represented in the draft regulatory guide in a manner that is inconsistent with any issue finality provisions in these part 52 licenses and regulatory approvals. If, in the future, the staff seeks to impose a position in this regulatory guide in a manner which does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described applicable issue finality provision.

Dated at Rockville, Maryland, this 24th day of June, 2015.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2015–16131 Filed 6–30–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee On Reactor Safeguards

Notice of Meeting

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the

Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on July 8–10, 2015, 11545 Rockville Pike, Rockville, Maryland.

Wednesday, July 8, 2015, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–11:00 a.m.: Digital Instrumentation & Control (DI&C) Probabilistic Risk Analyses (PRA) (Open)—The Committee will hear presentations by and hold discussions with representatives of the staff and EPRI regarding the overview of all the topics discussed during the November 2014 joint DI&C and PRA Subcommittee meeting, including a high-level status of significant future activities planned under the next revision to the 5-year research plan related to PRA.

11:15 a.m.–11:45 p.m.: Assessment of the Quality of Selected Research Projects (Open)—The Committee will hold a discussion of the quality of selected NRC research projects.

1:00 p.m.–3:00 p.m.: Nine Mile Point Unit 2 MELLLA+ Application (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Constellation Energy Nuclear Group regarding the safety evaluation associated with the Nine Mile Point Unit 2 MELLLA+ Application. [**Note:** A portion of this meeting may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4).]

3:15 p.m.–6:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting. [**Note:** A portion of this meeting may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4).]

Thursday, July 9, 2015, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–9:45 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS Meetings, and matters related to the conduct of ACRS business, including anticipated workload and member assignments. [**Note**: A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

10:00 a.m.–10:15 a.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

12:00 p.m.–6:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports on matters discussed during this meeting. [**Note:** A portion of this meeting may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4).]

Friday, July 10, 2015, Conference Room T2–B1, 11545 Rockville Pike, Rockville, Maryland

8:30 a.m.–11:30 a.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [**Note:** A portion of this meeting may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4).]

11:30 a.m.–12:00 p.m.: Miscellaneous (Open)—The Committee will continue its discussion related to the conduct of Committee activities and specific issues that were not completed during previous meetings.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 2014 (79 FR 59307). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff (Telephone: 301–415–5844, Email: *Quynh.Nguyen@nrc.gov*), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS Staff if such rescheduling would result in major inconvenience.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) of Public Law 92–463 and 5 U.S.C. 552b(c), certain portions of the June 8th through 10th meeting dates may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agendas, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/ACRS/.*

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated at Rockville, Maryland, this 25th day of June 2015.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2015–16235 Filed 6–30–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0146]

Information Collection: Export and Import of Nuclear Equipment and Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Export and Import of Nuclear Equipment and Material.''

DATES: Submit comments by August 31, 2015. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID: NRC–2015–0146. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Tremaine Donnell, Office of Information Services, Mail Stop: T–5 F53, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Tremaine Donnell, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6258; email: *INFOCOLLECTS.Resource@NRC.GOV.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0146 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0146.
- *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 supporting statement and NRC Forms 830, 830A, 831 and 831A are available in ADAMS under Accession Nos.: ML15126A252, ML15163A007, ML15163A010, ML15163A011 and ML15163A013.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, Tremaine Donnell, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6258; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

Please include Docket ID NRC–2015–0146 in your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* 10 CFR part 110, ''Export and Import of Nuclear Equipment and Material.''
2. *OMB approval number:* 3150–0036.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* NRC Forms 830, 830A, 831, and 831A.
5. *How often the collection is required or requested:* On occasion and annually.
6. *Who will be required or asked to respond:* Any person in the U.S. who wishes to export or import nuclear material or equipment subject to the requirements of a general or specific license.
7. *The estimated number of annual responses:* 2,973.
8. *The estimated number of annual respondents:* 150.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 957.
10. *Abstract:* Persons in the U.S. whom export or import nuclear material or equipment under a general or specific authorization must comply with certain reporting and recordkeeping requirements under part 110 of Title 10 of the *Code of Federal Regulations* (10 CFR).

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the estimate of the burden of the information collection accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 25th day of June 2015.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2015–16133 Filed 6–30–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on July 7, 2015, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Tuesday, July 7, 2015—12:00 p.m. Until 1:00 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Quynh Nguyen (Telephone 301–415–5844 or Email: *Quynh.Nguyen@nrc.gov*) five days prior to the meeting, if possible, so that arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 2014 (79 FR 59307).

Information regarding changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the DFO if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (240–888–9835) to be escorted to the meeting room.

Dated: June 24, 2015.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2015–16236 Filed 6–30–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Fukushima; Notice of Meeting

The ACRS Subcommittee on Fukushima will hold a meeting on July 7, 2015, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Tuesday, July 7, 2015—8:30 a.m. Until 12:00 p.m.

The Subcommittee will review the draft regulatory basis for the Containment Protection and Release Reduction rulemaking for Mark I and Mark II boiling water reactors. The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Weidong Wang (Telephone 301–415–6279 or Email: *Weidong.Wang@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 2014 (79 FR 59307).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: June 24, 2015.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2015–16237 Filed 6–30–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0120]

Selection of Material Balance Areas and Item Control Areas

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; reopening of comment period.

SUMMARY: On May 14, 2015, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on DG 5057, ''Special Nuclear Material Control and Accounting Systems for Non-Fuel Cycle Facilities. The public comment period closed on June 15, 2015. The NRC has decided to reopen the public comment period to allow more time for members

of the public to develop and submit their comments.

DATES: The comment period for the document published on May 14, 2015 (80 FR 27709) has been reopened. Comments should be filed no later than July 31, 2015. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

• *Federal rulemaking Web site*: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0120. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to*: Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Tom Pham, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–7254, email address: *Tom.Pham@nrc.gov,* and Mekonen Bayssie, Office of Nuclear Regulatory Research, telephone: 301–415–1699, email address: *Mekonen.Bayssie@nrc.gov;* U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0120 when contacting the NRC about the availability of information for this action. You may obtain publically-available information related to this action by any of the following methods:

• Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0120.

• 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 (if it is available in ADAMS) is provided the first time that a document is mentioned. The draft regulatory guide is available electronically under ADAMS accession number ML15015A271. The regulatory analysis may be found in ADAMS under Accession No. ML15015A294.

Regulatory guides are not copyrighted and NRC approval is not required to reproduce them.

• NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2015–0120 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Discussion

On May 14, 2015, the NRC solicited comments on Selection of Material Balance Areas and Item Control Areas.

The purpose of This DG provides guidance to licensees and applicants on the NRC's regulations concerning the material control and accounting of special nuclear material. The public comment period closed on June 15, 2015. The NRC has decided to reopen the public comment period on this document until July 31, 2015, to allow more time for members of the public to submit their comments.

Dated at Rockville, Maryland, this 24th day of June 2015.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2015–16130 Filed 6–30–15; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2015–86; Order No. 2552]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 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:

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II. Notice of Commission Action
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I. Introduction

On June 23, 2015, the Postal Service filed notice that it has entered into an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, 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] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, June 23, 2015 (Notice).

II. Notice of Commission Action

The Commission establishes Docket No. CP2015–86 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 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 July 2, 2015. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Cassie D'Souza to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2015–86 for consideration of the matters raised by the Postal Service's Notice.
2. Pursuant to 39 U.S.C. 505, Cassie D'Souza is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).
3. Comments are due no later than July 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. 2015–16050 Filed 6–30–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

International Product Change—Global Expedited Package Services—Non-Published Rates

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add Global Expedited Package Services—Non-Published Rates 7 (GEPS—NPR 7) to the Competitive Products List.

DATES: *Effective date:* July 1, 2015.

FOR FURTHER INFORMATION CONTACT: Sylvia Baylis, 202–268–6464.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642, on June 19, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to add Global Expedited Package Services—Non-Published Rates 7 (GEPS—NPR 7) to the Competitive Products List,* and *Notice of Filing GEPS—NPR 7 Model Contract and Application for Non-public Treatment of Materials Filed Under Seal.* Documents are available at *www.prc.gov,* Docket Nos. MC2015–55 and CP2015–83.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2015–16142 Filed 6–30–15; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75297; File No. SR–EDGX–2015–18]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Establish Rules Governing the Trading of Options on the EDGX Options Exchange

June 25, 2015.

On April 30, 2015, EDGX Exchange, Inc. (''EDGX'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt rules to govern the trading of options on the EDGX Options Exchange. The proposed rule change was published for comment in the **Federal Register** on May 19, 2015.[3] The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is July 3, 2015. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change. The proposed rule change, if approved, would adopt rules in connection with EDGX Options, which would be a facility of the Exchange. EDGX Options would operate an electronic trading system developed to trade options.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates August 17, 2015, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–EDGX–2015–18).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–16086 Filed 6–30–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75300; File No. SR–Phlx–2014–66]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Disapproving a Proposed Rule Change, as Modified by Amendment No. 2, To Adopt New Exchange Rule 1081, Solicitation Mechanism, To Introduce a New Electronic Solicitation Mechanism

June 25, 2015.

I. Introduction

On October 14, 2014, NASDAQ OMX PHLX LLC (''Exchange'' or ''Phlx'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt new Exchange Rule 1081, Solicitation Mechanism, to introduce a new electronic solicitation mechanism pursuant to which a member can electronically submit all-or-none orders of 500 contracts or more (or, in the case of mini options, 5000 contracts or more) that the member represents as agent against contra orders that the member solicited. The proposed rule change was published for comment in the **Federal Register** on October 31, 2014.[3] On December 8, 2014, the Commission extended the time period

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 74949 (May 13, 2015), 80 FR 28745.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 73441 (October 27, 2014), 79 FR 64862 (''Notice'').

in which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to January 29, 2015.[4] On January 28, 2015, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act [5] to determine whether to approve or disapprove the proposed rule change.[6] The Commission received two comment letters from the same commenter regarding the proposal,[7] as well as a response from the Exchange to the commenter's first letter.[8] On April 9, 2015, the Exchange filed Amendment No. 2 to the proposed rule change.[9] The proposed rule change, as modified by Amendment No. 2, was published for comment in the **Federal Register** on April 22, 2015, on which date the Commission also designated a longer period for Commission action on the proposed rule change.[10]

This Order disapproves the proposed rule change, as modified by Amendment No. 2.

II. Description of the Proposal

The Exchange proposes to adopt new Rule 1081, Solicitation Mechanism, to introduce a new electronic solicitation mechanism pursuant to which a member would be able to electronically submit all-or-none orders of 500 contracts or more (or, in the case of mini options, 5000 contracts or more) that the member represents as agent against contra orders that the member had solicited. Currently, under Phlx Rule 1080(c)(ii)(C)(2), Order Entry Firms [11] must expose orders they represent as agent for at least one second before such orders may be automatically executed, in whole or in part, against orders solicited from members and non-member broker-dealers to transact with such orders.[12] The proposed rule change would provide an alternative method, to enable a member to electronically execute orders it represents on behalf of a public customer, broker-dealer, or any other entity (an ''Agency Order'') [13] against solicited limit orders of a public customer, broker-dealer, or any other entity (a ''Solicited Order'') through a solicitation mechanism designed for this purpose.[14]

The proposed mechanism would be a process by which a member (the ''Initiating Member'') would be able to electronically submit an all-or-none Agency Order of 500 contracts or more (or, in the case of mini options,[15] 5000 contracts or more) against a Solicited Order, and to initiate an auction (the ''Solicitation Auction'').[16] As noted below, at the end of the Solicitation Auction, allocation would occur with all contracts of the Agency Order trading at an improved price against non-solicited contra-side interest or at the stop price, defined below, against the Solicited Order. The solicitation mechanism would accommodate both simple orders and Complex Orders.[17] Prior to the first time a member enters an Agency Order into the solicitation mechanism on behalf of a customer, the member would be required to deliver to the customer a written notification informing the customer that its Agency Orders may be executed using Phlx's solicitation mechanism. Such written notification would be required to disclose the terms and conditions contained in proposed Rule 1081 and to be in a form approved by the Exchange.[18]

Solicitation Auction Eligibility Requirements

All options traded on the Exchange, including mini options, would be eligible for the Solicitation Auction. Proposed Rule 1081(i) describes the circumstances under which an Initiating Member would be permitted to initiate a Solicitation Auction.

Proposed Rule 1081(i)(A) provides that the Agency Order and the Solicited Order must each be limit orders for at least 500 contracts (or, in the case of mini options, at least 5000 contracts) and must be designated as all-or-none. The orders must match in size, and their limit prices must match or cross in price.[19] If the orders cross in price, the price at which the Agency Order and the Solicited Order would be considered for submission pursuant to proposed Rules 1081(i)(B) and (C) would be the limit price of the Solicited Order.[20] The orders would not be able to be stop or stop limit orders; would need to be marked with a time in force of day, good

[4] *See* Securities Exchange Act Release No. 73791 (December 8, 2014), 79 FR 73924 (December 12, 2014).

[5] 15 U.S.C. 78s(b)(2)(B).

[6] *See* Securities Exchange Act Release No. 74167 (January 28, 2015), 80 FR 5865 (February 3, 2015) (''Order Instituting Proceedings'').

[7] *See* Letters from Michael J. Simon, Secretary and General Counsel, International Securities Exchange LLC (''ISE''), dated February 25, 2015 (''ISE Letter'') and dated June 15, 2015 (''Second ISE Letter''). The Second ISE Letter notes that ISE reiterates its original comments.

[8] *See* Letter from Carla Behnfeldt, Associate General Counsel, Nasdaq, dated March 11, 2015 (''Phlx Response Letter'').

[9] The Exchange filed Amendment No. 1 on April 1, 2015. Amendment No. 1 was withdrawn on April 8, 2015. Amendment No. 2 amends and replaces the original filing in its entirety. In Amendment No. 2, the Exchange: (1) Makes certain changes to Exchange Rule 1080(n) regarding the PIXL auction process; (2) clarifies that the trading system does not currently accept all-or-none Complex Orders; (3) provides that the side of the Agency Order will be disseminated at the commencement of an auction; (4) clarifies the treatment of responsive all-or-none interest in the auction; (5) adds examples regarding the operation of the solicitation mechanism; and (6) makes certain other technical and clarifying changes.

[10] *See* Securities Exchange Act Release No. 74746 (April 16, 2015), 80 FR 22569 (April 22, 2015) (''Notice of Amendment No. 2''). The comment period for the Notice of Amendment No. 2 closed on May 7, 2015.

[11] Rule 1080(c)(ii)(A)(1) defines ''Order Entry Firm'' as a member organization of the Exchange that is able to route orders to AUTOM. (AUTOM is the Exchange's electronic quoting and trading system, which has been denoted in Exchange rules as XL II, XL and AUTOM.)

[12] According to the Exchange, Section (c), Solicited Orders, of Exchange Rule 1064, Crossing Facilitation and Solicited Orders, governs execution of solicited orders by open outcry, on the Exchange's trading floor, and would not be affected by proposed Rule 1081. The Exchange states that many aspects of the functionality of the proposed solicitation mechanism are similar to those provided for in Rule 1080(n), PIXL, and certain of the proposed rules correspond to the existing PIXL rules. For information about specific provisions of proposed Rule 1081 that correspond to the PIXL rule and that have been omitted in the description of the proposal herein, *see* Notice of Amendment No. 2, *supra* note 10.

[13] The Exchange notes that the capitalized and defined term ''Agency Order'' as used in proposed Rule 1081 differs from the term ''agency order'' as used in Phlx Rule 1080(b)(i)(A). *See* Notice of Amendment No. 2, *supra* note 10, 80 FR at 22570 n. 17.

[14] The Exchange states that participants would be required to ensure that their records adequately demonstrate the solicitation of an order that is entered into the mechanism for execution against an Agency Order as a Solicited Order prior to entry of such order into this mechanism.

[15] A given Solicitation Auction could be for options contracts exclusively or for mini options contracts exclusively, but could not be used for a combination of both options contracts and mini options contracts.

[16] The Exchange notes that similar electronic functionality is offered today by other option exchanges. *See* Chicago Board Options Exchange (''CBOE'') Rule 6.74B, Solicitation Auction Mechanism, and ISE Rule 716(e), Solicited Order Mechanism.

[17] A Complex Order is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced at a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. A Complex Order may also be a stock-option order, which is an order to buy or sell a stated number of units of an underlying stock or exchange-traded fund (''ETF'') coupled with the purchase or sale of options contract(s). Complex Orders on Phlx are discussed in Commentary .07 to Rule 1080.

[18] *See* proposed Rule 1081(i)(H). The rule would require delivery of this disclosure only prior to the first submission of an Agency Order on behalf of a customer rather than prior to the submission of each and every Agency Order on behalf of such customer.

[19] In the case of Complex Orders, the underlying components of both Complex Orders would also need to match. Additionally, all the option legs of each Complex Order would need to consist entirely of options or entirely of mini options.

[20] As noted below, under Rule 1081(i)(B), the limit price of the Solicited Order must also be equal to or better than the National Best Bid/Offer.

'til cancelled or immediate or cancel; and would not be routed regardless of routing strategy indicated on the order.[21]

Pursuant to proposed Rule 1081(i)(B), the Initiating Member would need to stop the entire Agency Order at a price (the ''stop price'') that is equal to or better than the National Best Bid/Offer (''NBBO'') on both sides of the market, provided that such price would need to be at least $0.01 better than any public customer non-contingent limit order on the Phlx order book and would need to be equal to the Agency Order's limit price or provide the Agency Order with a better price than its limit price. Stop prices could be submitted in $0.01 increments, regardless of the applicable Minimum Price Variation (the ''MPV''). Contingent orders (including all-or-none, stop or stop-limit orders) on the order book would not be considered when checking the acceptability of the stop price. The Exchange states that contingent orders are not represented as part of the Exchange Best Bid/Offer since they may only be executed if specific conditions are met. Given that these orders are not represented as part of the Exchange Best Bid/Offer, they are not included in the NBBO and thus would not be considered when checking the acceptability of the stop price.[22]

Orders that are submitted but that do not comply with the eligibility requirements set forth in proposed Rule 1081(i)(A) through (C) would be rejected upon receipt and would be ineligible to initiate a Solicitation Auction.[23] In addition, Agency Orders submitted at or before the opening of trading would not be eligible to initiate a Solicitation Auction and would be rejected.[24] Agency Orders that are not Complex Orders received while another electronic auction (including any Solicitation Auction, PIXL auction, or any other kind of auction) involving the same option series is in progress would not be eligible to initiate a Solicitation Auction and would be rejected.[25] Similarly, a Complex Agency Order received while another auction in the same Complex Order strategy is in progress would not be eligible to initiate a Solicitation Auction and would be rejected.[26]

Finally, a solicited order may not be for the account of any Exchange specialist, streaming quote trader (''SQT''), remote streaming quote trader (''RSQT'') or non-streaming registered options trader (''ROT'') assigned in the affected series.[27] The Exchange believes that in order to maintain fair and orderly markets, a market maker assigned in an option should not be solicited for participation in a Solicitation Auction by an Initiating Member. The Exchange believes that a market maker interested in participating in transactions on the Exchange should do so by way of his or her quotations, and should respond to Solicitation Auction notifications rather than create them by having an Initiating Member submitting Solicited Orders on the market maker's behalf.

Solicitation Auction Process

Pursuant to proposed Rule 1081(ii)(A)(1), to begin the Solicitation Auction process, the Initiating Member would need to mark the Agency Order and the Solicited Order for Solicitation Auction processing, and specify the stop price at which it seeks to cross the Agency Order with the Solicited Order. The system would determine the stop price based upon the submitted limit prices, if such prices for the Agency Order and Solicited Order do not match as discussed above.[28] Once the Initiating Member has submitted an Agency Order and Solicited Order for processing in the Solicitation Auction, the Agency Order and the Solicitation Order could not be modified or cancelled.[29]

Crossing Two Public Customer Orders Without a Solicitation Auction

As noted above, the proposed rule change would enable a member to electronically execute an Agency Order, which is an order it represents on behalf of a public customer, broker-dealer, or any other entity, against a Solicited Order, which is a solicited limit order

[21] According to the Exchange, whether an order is marked with a time in force of day as opposed to, for example, good till cancelled or immediate or cancel is irrelevant to the manner in which they would be treated once they are entered into the solicitation mechanism.

[22] Proposed Rule 1081(i)(B) would not apply if the Agency Order is a Complex Order (a ''Complex Agency Order''). Rather, proposed Rule 1081(i)(C) would apply to Complex Agency Orders and would require them to be of a conforming ratio, as defined in Commentary .07(a)(ix) to Rule 1080. A Complex Agency Order which is not of a conforming ratio would be rejected. The Exchange represents that PIXL operates in the same manner. *See* Amendment No. 2, *supra* note 9 (citing Rule 1080(n)(i)(C)). Proposed Rule 1081(i)(C) would require all component option legs of the order to be for at least 500 contracts (or, in the case of mini options, at least 5000 contracts). It also would provide that the Initiating Member must stop the entire Complex Agency Order at a price that is better by at least $0.01 than the best net price (debit or credit) (i) available on the Complex Order book regardless of the Complex Order book size; and (ii) achievable from the best Phlx bids and offers for the individual options (an ''improved net price'') regardless of size, provided in either case that such price is equal to or better than the Complex Agency Order's limit price. Stop prices for Complex Agency Orders would be submitted in $0.01 increments, regardless of MPV, and contingent orders on the order book would not be considered when checking the acceptability of the stop price. *See* proposed Rule 1081(i)(C).

[23] *See* proposed Rule 1081(i)(D).

[24] *See* proposed Rule 1081(i)(E). Orders submitted during a specified period of time, as determined by the Exchange and communicated to Exchange membership on the Exchange's Web site, prior to the end of the trading session in the affected series (including, in the case of Complex Orders, in any series that is a component of the Complex Order) also would not be eligible to initiate a Solicitation Auction and would be rejected. *See* proposed Rule 1081(i)(F).

[25] The Exchange notes that a similar restriction currently applies with respect to PIXL auctions. *See* PIXL Rule 1080(n)(ii), which provides that ''[o]nly one Auction may be conducted at a time in any given series or strategy.'' The Exchange proposes to revise this provision to make clear that only one electronic auction may be conducted at a time in any given series or strategy. The Exchange proposes to amend the PIXL rule by adding Rule 1080(n)(i)(H) to provide that PIXL Orders that are received while another electronic auction involving the same option series or the same Complex Order strategy is in progress would not be eligible to initiate a PIXL Auction and would be rejected. *See* Amendment No. 2, *supra* note 9.

[26] According to the Exchange, a simple Agency Order in one series that is submitted while an electronic auction is already in process with respect to a Complex Agency Order that includes the same series would not be rejected. Instead, a Solicitation Auction would be initiated for that incoming Agency Order offering each unique strategy or individual series the same opportunity to initiate an auction. Any Legging Orders would automatically be removed from the order book upon receipt of an Agency or Complex Agency Order that consists of a component in which there is a Legging Order (whether a buy order or a sell order) that initiates a Solicitation Auction. *See* Amendment No. 2, *supra* note 9, 80 FR at 22571, n. 34 (noting that this feature of proposed Rule 1081 comports with a feature of PIXL). Complex Orders submitted during normal trading hours in a strategy that has not yet opened under Commentary .07 of Rule 1080 would cause the strategy to immediately open and permit a Solicitation Auction to be initiated. *See* proposed Rule 1081(i)(E). In addition, neither a Solicitation Auction for a simple Agency Order or for Complex Agency Order may be initiated prior to the regular opening of the individual option in the case of a simple Agency Order, or the regular opening of all individual components in the case of a Complex Agency Order. *See* Notice of Amendment No. 2, *supra* note 10, 80 FR at 22571 n. 34.

[27] *See* proposed Rule 1081(i)(G). *See also* Notice of Amendment No. 2, *supra* note 10, 80 FR at 22571 n. 35, for a description of each of these types of market participants.

[28] *See* Notice of Amendment No. 2, *supra* note 10, 80 FR at 22571, n 36.

[29] Rule 1081(ii)(A)(l) would not apply to Complex Agency Orders. Rather, a parallel provision, proposed Rule 1081(ii)(A)(2) would provide that to initiate a Solicitation Auction in the case of a Complex Agency Order and Complex Solicited Order (a ''Complex Solicitation Auction''), the Initiating Member would need to mark the orders for Solicitation Auction processing, and specify the price (''stop price'') at which it seeks to cross the Complex Agency Order with the Complex Solicited Order. The system would determine the stop price based upon the submitted limit prices if such prices do not match as discussed above. *See* Notice of Amendment No. 2, *supra* note 10, 80 FR at 22571, n. 36. Once the Initiating Member has submitted the Complex Agency Order and the Complex Solicited Order for processing pursuant to proposed Rule 1081(ii)(A)(1)–(2), the Complex Agency Order and Complex Solicited Order could not be modified or cancelled.

of a public customer, broker-dealer, or any other entity through the solicitation mechanism.[30]

However, pursuant to proposed Rule 1081(v), if a member were to enter an Agency Order for the account of a public customer paired with a Solicited Order for the account of public customer and if the paired orders adhered to the eligibility requirements of proposed Rule 1081(i), such paired orders would be executed automatically without a Solicitation Auction.[31] The execution price for such paired public customer orders (except if they are Complex Orders) would need to be expressed in the minimum quoting increment applicable to the affected series.[32] Such an execution would not be permitted to trade through the NBBO or at the same price as any resting public customer order. If all-or-none orders are on the order book in the affected series, the public customer-to-public customer order may not be executed at a price at which the all-or-none order would be eligible to trade based on its limit price and size.[33]

In the case of a Complex Order, a public customer-to-public customer cross would be permitted to occur only at a price that would improve the calculated Phlx Best Bid/Offer or ''cPBBO'' and would improve upon the net limit price of any Complex Orders (excluding all-or-none) on the Complex Order book in the same strategy.[34] If all-or-none Complex Orders [35] are on the Complex Order book in the same strategy, the public customer-to-public customer Complex Order would not be permitted to be executed at a price at which the all-or-none Complex Order would be eligible to trade based on its limit price and size.

The Exchange believes that permitting public customer to public customer crosses for simple orders and Complex Orders through use of the solicitation mechanism would benefit public customers on both sides of the crossing transaction by providing speedy and efficient executions to public customer orders in this circumstance while maintaining the priority of public customer interest on the book.

Solicitation Auction Notification

Pursuant to proposed Rule 1081(ii)(A)(3), when the Exchange receives an order for Solicitation Auction processing, a Request for Response with the option details (name of security, strike price, and expiration date), size, side,[36] and stop price of the Agency Order and the Solicitation Auction start time would then be sent over the PHLX Orders data feed and Specialized Quote Feed (''SQF'').[37] The Exchange believes that providing option details, size, side, and stop price is sufficient information for participants to determine whether to submit responses to the Solicitation Auction.[38]

Solicitation Auction

The proposed Solicitation Auction process is described in proposed Rules 1081(ii)(A)(4) through 1081(ii)(A)(10). Following the issuance of the Request for Response, the Solicitation Auction would last for a period of 500 milliseconds,[39] unless the auction was concluded as the result of any of the circumstances of early termination described below.[40]

Any person or entity would be permitted to submit Responses to the Request for Response, provided each such Response is properly marked specifying the price, size and side of the market at which it would be willing to participate in the execution of the Agency Order.[41] The Exchange believes that permitting any person or entity to submit Responses to the Request for Response should attract Responses from all sources, maximizing the potential for liquidity in the Solicitation Auction and thus affording the Agency Order the best opportunity for price improvement. Responses would not be visible to Solicitation Auction participants, and would not be disseminated to the Options Price Reporting Authority (''OPRA''). A Response would be permitted to be for any size up to the size of the Agency Order.[42] The

[30] However, the Solicited Order may not be for the account of any Exchange specialist, SQT, RSQT or ROT assigned in the affected series. *See* note 27, *supra* and accompanying text.

[31] Rule 1080(c)(ii)(C)(2), which states that Order Entry Firms must expose orders they represent as agent for at least one second before such orders may be automatically executed against solicited orders, would be amended to clarify that it would not apply to Rule 1081, Solicitation Mechanism. *See also* Rule 1081(ii)(A)(4).

[32] The execution price for a Complex Order would be permitted to be in $.01 increments.

[33] All-or-none orders can be submitted on the Exchange only for non-broker-dealer customers. As stated above, the mechanism would not consider all-or-none orders when checking the acceptability of the stop price of an Agency Order.

[34] The term ''cPBBO'' means the best net debit or credit price for a Complex Order Strategy based on the PBBO for the individual options components of such Complex Order Strategy, and, where the underlying security is a component of the Complex Order, the National Best Bid and/or Offer for the underlying security. *See* Rule 1080.07(a)(iv).

[35] According to the Exchange, its trading system is capable of accepting all-or-none Complex Orders, but such orders are not affirmatively permitted to be submitted under Exchange rules. Rule 1080.07(b)(v) provides in part that ''Complex Orders may be submitted as: All-or-none orders—to be executed in its [sic] entirety or not at all.'' *See* Securities Exchange Act Release No. 72351 (June 9, 2014), 79 FR 33977 (June 13, 2014) (SR–Phlx–2014–39). The Exchange states, however, that all-or-none Complex Orders may not be submitted at this time. To make this clear, the Exchange proposes to add a sentence at the end of Rule 1080.07(b)(v) stating that ''[n]otwithstanding the above, the trading system does not currently accept all-or-none Complex Orders.'' *See* Amendment No. 2, *supra* note 9, 80 FR at 22571, n. 40. The Exchange states that it anticipates that it will file a proposed rule change to provide for the handling and execution of all-or-none Complex Orders and thereafter permit the trading system to accept them. The Exchange therefore states that it intends to delete this new sentence to be added to Rule 1080.07(b)(v) if the Exchange submits, and the Commission approves, a proposed rule change that provides for all-or-none Complex Orders to be submitted through the trading system. *See id.* The proposed rule change describes how the solicitation mechanism would handle all-or-none Complex Orders once they are permitted under Exchange rules. According to the Exchange, the Complex Agency Orders and Complex Solicited Orders that would be permitted to be entered into the Solicitation Auction, however, are unique to the mechanism and their acceptability is mandated by it, despite the requirement that these orders must be entered with an all-or-none contingency. Thus, the Exchange states that it would not need to file a proposed rule change in order to allow Complex Agency Orders and Complex Solicited Orders to be submitted into the system.

[36] *See* Notice of Amendment No. 2, *supra* note 10, 80 FR at 22572.

[37] SQF is an interface that allows specialists and market makers to connect and send quotes into Phlx XL and assists them in responding to auctions and providing liquidity to the market.

[38] *See* Notice of Amendment No. 2, *supra* note 10, 80 FR at 22572. In the case of a Complex Agency Order, the Request for Response will include the strategy, side, size, and stop price of the Agency Order, as well as the Solicitation Auction start time. *See id.*

[39] In April/May 2014, to determine whether the proposed Solicitation Auction timer would provide sufficient time to respond to a Request for Response, the Exchange polled all Phlx market makers, 20 of which responded. Of those that responded to the survey, 15 are currently responding to auctions on Phlx or intend to do so. 100% of those respondents indicated that their firm could respond to auctions with a duration of at least 50 milliseconds. Thus, the Exchange states that it believes that the proposed Solicitation Auction duration of 500 milliseconds would provide a meaningful opportunity for participants on Phlx to respond to a Solicitation Auction, whether initiated by an Agency Order or a Complex Agency Order, while at the same time facilitating the prompt execution of orders. The Exchange notes that both ISE and Miami International Securities Exchange LLC (''MIAX'') rules provide for a 500 millisecond response time. *See* ISE Rule 716, Supplementary Material .04 and MIAX Rule 515A(b)(2)(i)(C).

[40] Rule 1080(c)(ii)(C)(2), which states that Order Entry Firms must expose orders they represent as agent for at least one second before such orders may be automatically executed against solicited orders, would be amended by the proposed rule change to clarify that it would not apply to proposed Rule 1081, Solicitation Mechanism. *See also* proposed Rule 1081(ii)(A)(4).

[41] In the case of a Complex Agency Order, the Response would need to specify the price, size and side of the market at which the person submitting the Response would be willing to participate in the execution of the Complex Agency Order. *See* Notice of Amendment No. 2, *supra* note 10.

[42] The Exchange's proposal would not permit Responses to be submitted with an all-or-none contingency. The Exchange states that an all-or-

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minimum price increment for Responses would be $0.01. A Response would need to be equal to or better than the NBBO on both sides of the market at the time of receipt of the Response. A Response with a price that is outside the NBBO at the time of receipt would be rejected.[43] Multiple Responses at different prices from the same member would be permitted during the Solicitation Auction.[44] Responses would be permitted to be modified or cancelled during the Solicitation Auction.

Conclusion of the Solicitation Auction

Proposed Rules 1081(ii)(B)(1) through (B)(4) describe a number of circumstances that would cause the Solicitation Auction to conclude. Generally, it would conclude at the end of the Solicitation Auction period, except that it would conclude earlier: (i) Any time the Phlx Best Bid/Offer (''PBBO'') on the same side of the market as the Agency Order crosses the stop price[45] (because, the Exchange states, further price improvement would be unlikely and any Responses offering improvement would likely be cancelled);[46] or (ii) any time there is a trading halt on the Exchange in the affected series (or, in the case of a Complex Solicitation Auction, any time there is a trading halt on the Exchange in any component of a Complex Agency Order).[47]

Pursuant to proposed Rule 1081(ii)(C), if the Solicitation Auction concluded before the expiration of the Solicitation Auction period because of the PBBO, cPBBO or Complex Order book (excluding all-or-none Complex Orders) crossed the stop price, as described above, the entire Agency Order would be executed using the allocation algorithm set forth in proposed Rule 1081(ii)(E). The algorithm is described below under the heading ''Order Allocation''.

In addition, pursuant to proposed Rule 1081(ii)(C), if the Solicitation Auction concluded before the expiration of the Solicitation Auction period as the result of a trading halt, the entire Agency Order or Complex Agency Order would be executed solely against the Solicited Order or Complex Solicited Order at the stop price and any unexecuted Responses would be cancelled.[48] Responses and other interest present in the system would not be considered for trading against the Agency Order in the case of a trading halt. The Exchange believes that this result is appropriate since the participants representing tradable interest in the Solicitation Auction have not ''stopped'' the Agency Order in its entirety and would have no means after the auction executions occur to offset the trading risk that they otherwise would incur because the market is halted, if they were permitted to execute against the Agency Order in this instance. By contrast, the Solicited Order ''stopped'' the Agency Order when the order was submitted into the Solicitation Auction and, in the Exchange's view, therefore should execute against the Agency Order, if the Solicitation Auction concludes before the expiration of the Solicitation Auction period as the result of a trading halt.

Furthermore, the Exchange notes, when an Agency Order and Solicited Order are submitted into the Solicitation Auction, the stop price would need to be equal to or improve the NBBO and be at least $0.01 better than any public customer non-contingent limit orders on the Phlx order book. The Exchange believes that public customer interest submitted to Phlx after submission of the Agency Order and Solicited Order but prior to the trading halt should not prevent the Agency Order from being executed at the stop price since such public customer interest was not present at the time the Agency Order was ''stopped'' by the Solicited Order.

Entry of an unrelated market or marketable limit order on the opposite side of the market from the Agency Order received during the Solicitation Auction would not cause the Solicitation Auction to end early. Rather, the unrelated order would execute against interest outside the Solicitation Auction (if marketable against the PBBO) or would post to the order book and then route if eligible for routing (in the case of an order marketable against the NBBO but not against the PBBO), pursuant to proposed Rule 1081(ii)(D). If contracts remain from such unrelated order at the time the Solicitation Auction ends, the total unexecuted volume of such unrelated interest would be considered for participation in the order allocation process set forth in proposed Rule 1081(ii)(E) (described below), regardless of the number of contracts in relation to the Solicitation Auction size.[49] The

none contingency included as a Response is not available for any type of auction in the Phlx market because all-or-none orders may be submitted only for Customer accounts under Exchange rules, and Customers typically do not respond to auctions in any event. *See* Notice of Amendment No. 2, *supra* note 10, 80 FR at 22572. (However, all-or-none orders entered and present on the Exchange book at the end of the Solicitation Auction would be considered for execution, as discussed below.)

[43] Similarly, in the case of Complex Order Responses, the Response would need to be equal to or better than the cPBBO on both sides, as defined in Commentary .07(a)(iv) of Rule 1080, at the time of receipt of the Complex Order Response. However, the Responses would not need to improve upon the limit of orders on the Complex Order book because, the Exchange states, the Complex Order book is not displayed on OPRA and would not necessarily be known to the responding participant. If a Complex Order Response was received that was equal to or crossed the limit of orders on the Complex Order book, the Response would only be executed at a price that improves the resting order's limit price by at least $0.01. *See* proposed rule 1081(ii)(H). *See also* Notice of Amendment No. 2, *supra* note 10, 80 FR at 22572, n. 50. A Complex Order Response submitted with a price that is outside the cPBBO at the time of receipt would be rejected. *See* proposed Rule 1081(ii)(A)(9).

[44] *See* Notice of Amendment No. 2, *supra* note 10, 80 FR at 22572.

[45] *See* proposed Rule 1081(ii)(B)(2).

[46] In the case of a Complex Solicitation Auction, the auction would end any time the cPBBO or the Complex Order book, excluding all-or-none Complex Orders, on the same side of the market as the Complex Agency Order, crosses the stop price. *See* proposed Rule 1081(ii)(B)(3). The Exchange believes that, when either the cPBBO or Complex Order interest, excluding all-or-none interest, is present on the Exchange on the same side as the Complex Agency Order and crosses the stop price, further price improvement would be unlikely and Responses offering improvement would likely be cancelled. The Exchange also states that an all-or-none Complex Order crossing the stop price should not end the Complex Solicitation Auction since the order would be contingent and might not actually be able to trade based on its size contingency. The Exchange believes that continuing to run the Complex Solicitation Auction in this instance for the duration of the auction timer would benefit the Agency Order in allowing interest that may offer price improvement over the stop price to continue to be collected. This approach would be consistent with the proposed rules for Solicitation Auctions involving simple orders. Under the proposal, Simple Solicitation Auctions would conclude early when the PBBO on the same side of the market as the Agency Order crossed the stop price. All-or-none orders are not part of the PBBO as they are contingent and not displayed on OPRA. *See* Amendment No. 2, *supra* note 9, 80 FR at 22572, n.52.

[47] *See* proposed Rule 1081(ii)(B)(4). Trading on the Exchange in any option contract is halted whenever trading in the underlying security has been paused or halted by the primary listing market. *See* Rule 1047(e). *See also* Securities Exchange Act Release No. 62269 (June 10, 2010), 75 FR 34491 (June 17, 2010) (SR–Phlx–2010–82). The Exchange states that any executions that occur during any latency between the pause or halt in the underlying security and the processing of the halt on the Exchange would be nullified pursuant to Exchange Rule 1092(c)(iv)(B).

[48] Pursuant to Exchange Rule 1080(n)(ii)(C), in the case of a trading halt on the Exchange in the affected series, a PIXL Order will be executed solely against the Initiating Order at the stop price and any unexecuted PAN responses will be cancelled.

[49] Similarly, pursuant to proposed Rule 1081(ii)(D), in the case of a Complex Solicitation Auction, an unrelated market or marketable limit Complex Order on the opposite side of the market from the Complex Agency Order as well as orders for the individual components of the unrelated Complex Order received during the Complex Solicitation Auction would not cause the Complex Solicitation Auction to end early and would execute against interest outside of the Complex Solicitation Auction. If contracts remain from such unrelated Complex Order at the time the Complex Solicitation Auction ends, the total unexecuted

Exchange states that unrelated opposite side interest received during the Solicitation Auction is handled in this manner because participants submitting such unrelated interest may not be aware that an auction is in progress and should therefore be able to access firm quotes that comprise the NBBO without delay. The Exchange further believes that considering such unrelated interest that remains unexecuted upon receipt for participation in the order allocation process would increase the number of contracts against which an Agency Order could be executed, and should therefore create more opportunities for the Agency Order to be executed at better prices.

Order Allocation

The allocation of orders executed upon the conclusion of a Solicitation Auction would depend upon whether the Solicitation Auction has yielded sufficient improving interest to improve the price of the entire Agency Order. As noted above, all contracts of the Agency Order would trade at an improved price against non-solicited contra-side interest or, in the event of insufficient improving interest to improve the price of the entire Agency Order, at the stop price against the Solicited Order.

Consideration of All-or-None Interest. The Exchange states that the treatment of all-or-none interest in assessing the presence of sufficient improving interest would not always be the same for Complex Solicitation Auctions as it would be for simple Solicitation Auctions. In all Solicitation Auctions, whether simple or complex, the system would not consider an all-or-none order when determining if there is sufficient size to execute the Agency Order (or Complex Agency Order) at a price(s) better than the stop price if it would not be possible to satisfy the all-or-or none contingency in the execution.[50] However, in the case of simple Solicitation Auctions, all-or-none interest of a size that could potentially be executed consistent with its all-or-none contingency would be considered when determining whether there is sufficient size to execute the Agency Orders at a price(s) better than the stop price.[51]

By contrast, in the case of Complex Solicitation Auctions, pursuant to proposed Rule 1081(ii)(E)(5), when determining if there is sufficient size to execute the Complex Agency Orders at a price(s) better than the stop price, no all-or-none interest of any size would be considered. Phlx states that this difference is due to a system limitation relating to all-or-none Complex Orders.[52] The Exchange believes that the difference in the treatment of all-or-none Complex Orders would not be impactful since, according to a study it made of the matter, all-or-none Complex Orders are rare.[53] Moreover, the Exchange notes, if sufficient size exists in other non-solicited interest to execute the entire Complex Agency Order at an improved price, the all-or-none Complex Order would be considered for trade and executed if possible.[54]

In both simple Solicitation Auctions and Complex Solicitation Auctions, once a determination is made that sufficient improving interest exists, all-or-none interest would be executed at the auction's conclusion pursuant to normal priority rules, except in a case where the all-or-none contingency could not be satisfied. If an execution that can adhere to the all-or-none contingency would not be possible, the all-or-none interest would be ignored and would remain on the order book.[55]

Solicitation Auction with Sufficient Improving Interest. Pursuant to the proposed Rule 1081(ii)(E)(1) algorithm, if there is sufficient size (considering all resting orders, quotes and Responses) to execute the entire Agency Order at a price or prices better than the stop price, the Agency Order would be executed against such better priced interest, with public customers having priority in the allocation at each price level. After public customer interest at a particular price level has been satisfied, including all-or-none orders with a size which can be satisfied, remaining contracts would be allocated among all Exchange quotes, orders and Responses in accordance with Phlx Rules 1014(g)(vii)(B)(1)(b) and (d), and the Solicited Order would be cancelled.[56] The Exchange provided an example of allocation in a Solicitation Auction with sufficient improving interest.[57]

volume of such unrelated interest would be considered for participation in the order allocation process, regardless of the number of contracts in relation to the Complex Solicitation Auction size, described in proposed Rule 1081(ii)(E).

[50] *See* Amendment No. 2, *supra* note 9.

[51] The Exchange provided an example of assessing the sufficiency of improving interest in a simple Solicitation Auction. *See* Notice of Amendment No. 2, *supra* note 10, 80 FR at 22574.

[52] Phlx explains that all-or-none simple orders reside with simple orders on the book. By contrast, all-or-none Complex Orders reside in a separate book, in a different part of the trading system. According to the Exchange, the aggregation of all-or-none Complex Orders with other Complex Orders in order to determine the presence of sufficient improving interest would be a more difficult process than aggregation of all-or-none simple orders with other simple orders. *See also* Amendment No. 2, *supra* note 9.

[53] The Exchange reviewed six months of data which showed that all-or-none Complex Orders represented only 0.12% of all Complex Orders. *See* Notice of Amendment No. 2, *supra* note 10.

[54] The Exchange provided the following example of assessing the sufficiency of improving interest in a Complex Solicitation Auction. Assume a Complex Agency Order to buy 1000 contracts that was stopped by a Complex Solicited Order at $2.00 is entered when the cPBBO is $1.90–$2.10. Assume that during the Solicitation Auction a Response is received to sell 900 contracts at $1.98 and an all-or-none Complex Order is received to sell 100 contracts at $1.99. At the end of the Solicitation Auction involving a Complex Order, the system would not consider all-or-none interest in determining whether it can execute the Complex Agency Order at a better price than the stop price. In this example, by excluding the all-or-none Complex Order, only 900 contracts would be available to sell at a better price than the stop price. Therefore, the Complex Agency Order would trade against the Solicited Order at the $2.00 stop price. *See* Notice of Amendment No. 2, *supra* note 10.

[55] As discussed above, however, if without the size of the all-or-none order there would be insufficient interest to satisfy the Agency Order at an improved price, the Agency Order would be executed against the Solicited Order, and the responding interest would be cancelled.

[56] Similarly, pursuant to proposed Rule 1081(ii)(E)(3), in the case of a Complex Solicitation Auction, if there is sufficient size (considering resting Complex Orders and Responses) to execute the entire Complex Agency Order at a price(s) better than the stop price, the Complex Agency Order would be executed against better priced Complex Orders, Responses, as well as quotes and orders which comprise the cPBBO at the end of the Complex Solicitation Auction. (The Exchange states that the cPBBO is not considered in determining whether there is sufficient improving size because the market and/or size of the individual components can change between the calculation of sufficient size and the actual execution.) Such interest would be allocated at a given price in the following order: (i) To public customer Complex Orders and Responses in time priority; (ii) to SQT, RSQT, and non-SQT ROT Complex Orders and Responses on a size pro-rata basis; (iii) to non-market maker off-floor broker-dealer Complex Orders and Responses on a size pro-rata basis, and (iv) to quotes and orders that comprise the cPBBO at the end of the Complex Solicitation Auction with public customer interest being satisfied first in time priority, then to SQT, RSQT, and non-SQT ROT interest satisfied on a size pro-rata basis, and lastly to non-market maker off-floor broker-dealers on a size pro-rata basis. This allocation methodology is consistent with the allocation methodology utilized for a Complex Order executed in PIXL. In addition, providing public customer's with priority over SQT, RSQT, and non-SQT ROTs, who in turn have priority over non-market maker off-floor broker-dealers is the same priority scheme used for regular orders. *See* Rule 1014(g).

When determining if there would be sufficient size to execute the entire Complex Agency Order at a price(s) better than the stop price, if the short sale price test in Rule 201 of Regulation SHO would be triggered for a covered security, Complex Orders and Responses marked ''short'' would not be considered because of the possibility that a short sale price restriction may apply during the interval between assessing for adequate size and the execution of the Complex Agency Order. However, if there was sufficient size to execute the entire Complex Agency Order at a price(s) better than the stop price irrespective of any covered securities for which the price test would be triggered that might be present, then all Complex Orders and Responses marked ''short'' would be considered for allocation in accordance with proposed Rule 1081(ii)(J)(3).

[57] *See* Notice of Amendment No. 2, *supra* note 10, at 80 FR 22574. The Exchange also provided an example of allocation in a Complex Solicitation Auction with sufficient improving interest. *See*

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Solicitation Auction with Insufficient Improving Interest. Pursuant to proposed Rule 1081(ii)(E)(2), if there was not sufficient size (considering all resting orders, quotes and Responses) to execute the entire Agency Order at a price(s) better than the stop price, the Agency Order would be executed against the Solicited Order at the stop price, provided such price is better than the limit of any public customer order (excluding all-or-none) on the limit order book, on either the same side as or the opposite side of the Agency Order, and equal to or better than the contra-side PBBO.[58] Otherwise, both the Agency Order and Solicited Order would be cancelled without a trade occurring.[59] The Exchange believes that this proposed provision would ensure that non-contingent public customer orders on the limit order book would maintain priority. The Exchange notes that ''at least one other solicitation mechanism offered by another exchange considers public customer orders on the limit order book at the stop price when determining if there is sufficient improving interest to satisfy the Agency Order . . . .'' [60] In contrast, the Exchange points out that the proposed solicitation mechanism offered on Phlx would not consider such interest.[61] The Exchange states that requiring the stop price to be at least $0.01 better than any public customer interest on the limit order book would ensure public customer priority of existing interest and in turn provide the Solicited Order participant certainty that if an execution occurs at the stop price, such execution would represent the Solicited Order and not interest that arrived after the Solicited Order participant stopped the Agency Order for its entire size.

Proposed Rule 1081(ii)(E)(6) would provide that a single quote, order or Response may not be allocated a number of contracts that is greater than its size.

Finally, proposed Rule 1081(ii)(E)(7) provides that a Complex Agency Order consisting of a stock/ETF component would not execute against interest comprising the cPBBO at the end of the Complex Solicitation Auction.[62] Legging of a stock/ETF component would introduce the risk of a participant not receiving an execution on all components of the Complex Order and would therefore not be considered as a means of executing a Complex Order that includes a stock/ETF component. The Exchange states that introducing the risk of inability to fully execute a complex strategy is counterproductive to, and inconsistent with, the effort to allow Complex Orders in the solicitation mechanism.

Miscellaneous Provisions

Proposed Rules 1081(ii)(F) through (I) would address the handling of the Agency Order and other orders, quotes and Responses when certain conditions are present. Pursuant to proposed Rule 1081(ii)(F), if the market moves following the receipt of a Response, such that there are Responses that cross the then-existing NBBO (provided such NBBO is not crossed) at the time of the conclusion of the Solicitation Auction, such Responses would be executed, if possible, at their limit price(s). Although Exchange Rule 1084, Order Protection, generally prohibits trade-throughs, the Exchange notes that an exception to the prohibition exists, pursuant to Rule 1084(b)(x), when the transaction that constituted the trade-through was the execution of an order that was stopped at a price that did not trade-through at the time of the stop.[63]

In addition, the Exchange believes that, since the proposal would permit Responses to be cancelled at any time prior to the conclusion of the Solicitation Auction, Responses being executed at a price trading through the market is, at best, highly unlikely as participants would cancel Responses when better priced interest that they could trade against is present in the marketplace.

Proposed Rule 1081(ii)(G) would provide that if, the Solicitation Auction price when trading against non-solicited interest (except if it was a Complex Solicitation Auction), would be the same as or would cross the limit of an order (excluding an all-or-none order) resting on the limit order book on the same side of the market as the Agency Order, the Agency Order could be executed only at a price that is at least $0.01 better than the resting order's limit price.[64] However, if such execution price would be equal to or would not improve the stop price, the Agency Order would be executed against the non-solicited interest at a price that is $0.01 better for the Agency Order than the stop price, provided the price would not equal or cross a public customer order and would be equal to or improved upon the PBBO on the opposite side of the Agency Order.[65] If

Notice of Amendment No. 2, *supra* note 10, 80 FR 22575 n.62.

[58] Proposed Rule 1081(ii)(E)(2) would not apply to Complex Solicitation Auctions. Rather, a parallel provision, proposed Rule 1081(ii)(E)(4), would provide that, in a Complex Solicitation Auction, if there is not sufficient size (considering resting Complex Orders and Responses) to execute the entire Complex Agency Order at a price(s) better than the stop price, the Complex Agency Order would be executed against the Solicited Order at the stop price, provided such stop price was better than the limit of any public customer Complex Order (excluding all-or-none) on the Complex Order book, better than the cPBBO when a public customer order (excluding all-or-none) is resting on the book in any component of the Complex Agency Order, and equal to or better than the cPBBO on the opposite side of the Complex Agency Order. The Exchange states that this proposed behavior would ensure that non-contingent public customers on the limit order book maintain priority. Otherwise, both the Complex Agency Order and the Solicited Order would be cancelled with no trade occurring.

[59] The Exchange provided examples of allocation in a Solicitation Auction with insufficient improving interest. With respect to simple Solicitation Auctions, *see* Notice of Amendment No. 2, *supra* note 10, 80 FR at 22575. With respect to Complex Solicitation Auctions, *see* Notice of Amendment No. 2, *supra* note 10, 80 FR at 22575 n.63.

[60] *See* Notice of Amendment No. 2, *supra* note 10, at 80 FR 22575.

[61] *See* ISE Rule 716(e)(2)(i) which provides in part that in the case of insufficient improving interest ''[i]f there are Priority Customer Orders on the Exchange on the opposite side of the Agency Order at the proposed execution price and there is sufficient size to execute the entire size of the Agency Order, the Agency Order will be executed against the bid or offer, and the solicited order will be cancelled.''

[62] The Exchange states that this provision, which parallels Phlx Rule 1080(n)(ii)(E)(2)(g) concerning Complex Orders in its PIXL auction, is being proposed for the same reasons explained in its File No. SR-Phlx- 2013–46 with respect to that rule. *See* Securities Exchange Act Release No. 69845 (June 25, 2013), 78 FR 39429 (July 1, 2013) (Order Granting Approval To Proposed Rule Change, as Modified by Amendment No. 1, Regarding Complex Order PIXL) (for purposes of this Order, the ''Complex PIXL Filing''). The Exchange states that this limitation is also consistent with the handling of Complex Orders that include a stock/ETF component and are entered into the Phlx XL system, noting that Commentary .08(a)(i) to Phlx Rule 1080 states, for example, that stock-option orders can only be executed against other stock-option orders and cannot be executed by the System against orders for the individual components.

[63] *See* Notice of Amendment No. 2, *supra* note 10, at 80 FR at 22575.

[64] The system would not consider the origin of the resting order but would seek to ensure the priority of all resting orders on the order book by requiring that any execution occur at a price which would improve upon the limit of a resting order by at least $0.01, if possible. If an execution could not occur at least $0.01 better than the limit of a resting order on the book, the system would permit the Solicited Order to trade against the Agency Order at the resting limit order price provided the resting order is not for a public customer. *See* Notice of Amendment No. 2, *supra* note 10, at 80 FR at 22576.

[65] *See also* Phlx Rule 1080(n)(ii)(H). Proposed Rule 1081(ii)(G) would not apply to Complex Solicitation Auctions. Rather, a parallel provision, proposed Rule 1081(ii)(H), would provide that if the Complex Solicitation Auction price when trading against non-solicited interest was the same as or would cross the limit of that of a Complex Order (excluding all-or-none) on the Complex Order book on the same side of the market as the Complex Agency Order, the Complex Agency Order would be permitted to be executed only at a price that improves the resting order's limit price by at least $0.01, provided such execution price would improve the stop price. If such execution price would be equal to or would not improve the stop price, the Agency Order would be executed $0.01 better than the stop price provided the price does

such price is not possible, the Agency Order and Solicited Order would be cancelled with no trade occurring.[66] The Exchange states that the system would permit only the Solicited Order and no other interest to trade against the Agency Order at the stop price since the Solicited Order stopped the entire size Agency Order at a price which was required upon receipt to be equal to or improve the NBBO and to be at least $0.01 improvement over any public customer orders resting on the order book, thereby establishing priority at the stop price. The Exchange further states that this system logic ensures that the Agency Order would receive a better priced execution than the stop price when trading against interest other than the Solicited Order.

Proposed Rule 1081(ii)(I) would provide that any unexecuted Responses or Solicited Orders would be cancelled at the end of the Solicitation Auction. The Exchange notes that because both Responses and Solicited Orders would be specifically entered into the Solicitation Auction to trade against the Agency Order, and then cancelling the unexecuted portion of Responses and Solicited Orders would be consistent with the expected behavior of such interest by the submitting participants.

Complex Agency Orders With Stock/ETF Components

Proposed Rule 1081(ii)(J) deals with Complex Agency Orders with stock or ETF components. Proposed Rule 1081(ii)(J)(1) provides that member organizations would be permitted to submit Complex Agency Orders, Complex Solicited Orders, Complex Orders and/or Responses with a stock/ETF component only if such orders/Responses comply with the Qualified Contingent Trade Exemption from Rule 611(a) of Regulation NMS[67] pursuant to the Act. Member organizations submitting such orders with a stock/ETF component represent that such orders comply with the Qualified Contingent Trade Exemption.[68] Members of FINRA or the NASDAQ Stock Market (''NASDAQ'') are required to have a Uniform Service Bureau/Executing Broker Agreement (''AGU'') with Nasdaq Execution Services LLC (''NES'') in order to trade orders containing a stock/ETF component; firms that are not members of FINRA or NASDAQ are required to have a Qualified Special Representative (''QSR'') arrangement with NES in order to trade orders containing a stock/ETF component.

Proposed Rule 1081(ii)(J)(2) provides that where one component of a Complex Agency Order, Complex Solicited Order, Complex Order or Response is the underlying stock or ETF share,[69] the Exchange would be required to electronically communicate the underlying security component of the Complex Agency Order (together with the Complex Solicited Order, Complex Order or Response, as applicable) to NES, its designated broker-dealer, for immediate execution. The Exchange states that such execution and reporting would occur otherwise than on the Exchange and would be handled by NES pursuant to applicable rules regarding equity trading.

Finally, proposed Rule 1081(ii)(J)(3) states that when the short sale price test in Rule 201 of Regulation SHO[70] would be triggered for a covered security, NES would not execute a short sale order in the underlying covered security component of a Complex Agency Order, Complex Solicited Order, Complex Order or Response if the price was equal to or below the current national best bid.[71] However, NES would execute a short sale order in the underlying covered security component of a Complex Agency Order, Complex Solicited Order, Complex Order or Response if such order was marked ''short exempt,'' regardless of whether it was at a price that was equal to or below the current national best bid.[72] If NES could not execute the underlying covered security component of a Complex Agency Order, Complex Solicited Order, Complex Order or Response in accordance with Rule 201 of Regulation SHO, the Exchange would cancel back the Complex Agency Order, Complex Solicited Order, Complex Order or Response to the entering member organization. For purposes of proposed Rule 1081(ii)(J)(3), the term ''covered security'' would have the same meaning as in Rule 201(a)(1) of Regulation SHO.[73]

The Exchange states that this approach is consistent with Rule 201 of Regulation SHO. Under this proposal, the Exchange and NES, as trading centers, would prevent the execution or display of a short sale of the stock/ETF component of a Complex Order priced at or below the current national best bid when the short sale price test restriction is triggered. Specifically, while the Exchange and NES are determining, respectively, the prices of the options component and of the stock or ETF component of the Complex Order, as described above, NES would check the current national best bid of the stock or ETF component at the time of execution. The execution of one component is contingent upon the execution of all other components and once a Complex Order is accepted and validated by the Phlx trading System, the entire package would be processed as a single transaction and both the option leg and stock/ETF components would be simultaneously processed.[74]

Regulatory Issues

The proposed rule change contains two paragraphs describing prohibited practices when participants use the solicitation mechanism.

Proposed Rule 1081(iii) states that the Solicitation Auction could be used only where there is a genuine intention to execute a bona fide transaction. It would be considered a violation of proposed Rule 1081 and would be deemed conduct inconsistent with just and equitable principles of trade and a

not equal or cross a non-all-or-none public customer Complex Order or a non-all-or-none public customer order present in the cPBBO on the same side as the Complex Agency Order in a component of the Complex Order Strategy and would be equal to or better than the cPBBO on the opposite side of the Complex Agency Order. If such price would not be possible, the Agency Order and Solicited Order would be cancelled with no trade occurring. The Exchange noted that this functionality is consistent with the operation of PIXL auctions.

[66] The Exchange provided an example of the operation of proposed Rule 1081(ii)(G). *See* Notice of Amendment No. 2, *supra* note 10 (adding clarifying language to the example).

[67] 17 CFR 242.611(a).

[68] *See, e.g.,* Securities Exchange Act Release No. 54389 (August 31, 2006), 71 FR 52829 (September 7, 2006) (order granting an exemption for each NMS stock component of certain qualified contingent trades from Rule 611(a) of Regulation NMS).

[69] *See* text of proposed Rule 1081(ii)(J)(2), Amendment No. 2, *supra* note 9.

[70] 17 CFR 242.201. *See* Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010). *See also* Division of Trading and Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, January 20, 2011 (''SHO FAQs'') at *www.sec.gov/divisions/marketreg/mrfaqregsho1204.htm.*

[71] The term ''national best bid'' is defined in SEC Rule 201(a)(4). 17 CFR 242.201(a)(4).

[72] The Exchange notes that a broker or dealer may mark a sell order ''short exempt'' only if the provisions of SEC Rule 201(c) or (d) are met. 17 CFR 242.200(g)(2). Since NES and the Exchange do not display the stock or ETF portion of a Complex Order, however, a broker-dealer should not mark the short sale order ''short exempt'' under Rule 201(c). *See* SHO FAQs Question and Answer Nos. 4.2, 5.4, and 5.5. *See also* Securities Exchange Act Release No. 63967 (February 25, 2011), 76 FR 12206 (March 4, 2011) (SR–Phlx–2011–27) (discussing, among other things, Complex Orders marked ''short exempt'') and the Complex PIXL Filing. The system would handle short sales of the orders and Responses described herein the same way it handles the short sales discussed in the Complex PIXL Filing.

[73] 17 CFR 242.201(a)(4).

[74] *See* Notice of Amendment No. 2, *supra* note 10, at 80 FR 22577.

violation of Rule 707 [75] if an Initiating Member submitted an Agency Order (thereby initiating a Solicitation Auction) and also submitted its own Response in the same Solicitation Auction. The Exchange states that the purpose of this provision is to prevent Solicited Members from submitting an inaccurate or misleading stop price or trying to improve their allocation entitlement by participating with multiple expressions of interest.

Proposed Rule 1081(iv) states that a pattern or practice of submitting unrelated orders or quotes that cross the stop price causing a Solicitation Auction to conclude before the end of the Solicitation Auction period would be deemed conduct inconsistent with just and equitable principles of trade and a violation of Rule 707.

Definition of Professional in Rule 1000(b)(14)

In addition to proposing Rule 1081, the Exchange also proposes an amendment to Rule 1000(b)(14). In 2010, the Exchange amended its priority rules to give certain non-broker-dealer orders the same priority as broker-dealer orders. In so doing, the Exchange adopted a new defined term, the ''professional,'' for certain persons or entities.[76] Rule 1000(b)(14) defines professional as a 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). A professional account is treated in the same manner as an off-floor broker-dealer for purposes of Phlx Rule 1014(g), to which the trade allocation algorithm described in proposed Rule 1081(ii)(E)(1) refers. However, Rule 1000(b)(14) also currently states that all-or-none professional orders are to be treated like customer orders. The Exchange proposes to amend Rule 1000(b)(14) by (i) specifying that orders submitted pursuant to Rule 1081 for the accounts of professionals be treated in the same manner as off-floor broker-dealer orders for purposes of Rule 1014(g), and (ii) adding proposed Rule 1081 to the list of rules for the purpose of which a professional would be treated in the same manner as an off-floor broker-dealer. The effect of these proposed changes to Rule 1014 would be that professionals would not receive the same priority afforded to public customers in a Solicitation Auction under proposed Rule 1081, and instead would be treated as broker-dealers in this regard. Therefore, an Agency Order or Solicited Order submitted for a professional would not be considered a public customer order eligible to be paired with a public customer order or another professional order and these would not be automatically executed without a Solicitation Auction pursuant to Rule 1081(v), discussed above. In addition, unrelated professional orders, excluding all-or-none orders, or Responses for the account of a professional would be treated under the proposed rule as broker-dealer orders for purposes of execution priority. Unrelated professional all-or-none orders would continue to receive customer priority as stipulated in Rule 1000(b)(14).[77]

III. Discussion and Commission Findings

Under Section 19(b)(2)(C) of the Act, the Commission shall approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder that are applicable to such organization.[78] The Commission shall disapprove a proposed rule change if it does not make such a finding.[79] The Commission's Rules of Practice, under Rule 700(b)(3), state that the ''burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization that proposed the rule change'' and that a ''mere assertion that the proposed rule change is consistent with those requirements . . . is not sufficient.'' [80]

After careful consideration, the Commission does not find that the proposed rule change, as modified by Amendment No. 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission does not find that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Act, which, among other things, requires that the rules of a national securities exchange be designed ''to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest . . . .'' [81] Because this determination under the Act necessitates disapproving the proposed rule change, as modified by Amendment No. 2, the Commission does so.[82]

The Commission recognizes that it has previously approved rules of other national securities exchanges that provide for solicited order mechanisms.[83] Phlx's proposed solicitation mechanism rules, however, would deviate from the solicited order mechanism rules of other exchanges that previously were approved by the Commission.

In the Order Instituting Proceedings, the Commission invited the views of interested persons concerning whether the Exchange's proposal is consistent with Section 6 or any other provision of the Act, or the rules and regulations thereunder. The Commission also highlighted specific features of the Exchange's proposal and requested the views of interested persons on those features.[84] In particular, the Commission noted that, under the Exchange's proposal, if at the conclusion of the Solicitation Auction period there is a public customer order on the order book at the stop price, the auction would be cancelled.[85] The Commission stated that this result is consistent with the rule of another exchange's solicited order mechanism.[86] The Commission remarked that the Exchange's proposed rule differs from

[75] Phlx Rule 707 states, ''[a] member, member organization, or person associated with or employed by a member or member organization shall not engage in conduct inconsistent with just and equitable principles of trade.''

[76] *See* Securities Exchange Act Release No. 61802 (March 30, 2010), 75 FR 17193 (April 5, 2010) (approving SR–Phlx–2010–05).

[77] *See* Amendment No. 2, *supra* note 9.

[78] *See* 15 U.S.C. 78s(b)(2)(C)(i).

[79] *See* 15 U.S.C. 78s(b)(2)(C)(ii); and *see also* 17 CFR 201.700(b)(3).

[80] *See* 17 CFR 201.700(b)(3). ''The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding. Any failure of a self-regulatory organization to provide the information elicited by Form 19b-4 may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder that are applicable to the self-regulatory organization.'' *Id. See also* General Instructions to Form 19b-4, Item 3(b), 17 CFR 249.819.

[81] 15 U.S.C. 78f(b)(5).

[82] The Commission notes that, other than as discussed below, this order makes no findings with respect to whether other aspects of the proposed rule change are consistent with the Act.

[83] *See, e.g.,* ISE Rule 716(e), Solicited Order Mechanism; CBOE Rule 6.74B, Solicitation Auction Mechanism; BOX Rule 7270(b), Solicitation Auction; and MIAX Rule 515A(b), PRIME Solicitation Mechanism.

[84] *See* Order Instituting Proceedings, *supra* note 6, 80 FR at 5874–5875.

[85] *See* Order Instituting Proceedings, *supra* note 6, 80 FR at 5874.

[86] *See id.,* citing to ISE Rule 716(e), Solicited Order Mechanism.

the other exchange's rule in a case where, in addition to the public customer order at the stop price, there is sufficient price-improving interest along with the public customer order at the stop price to fill the Agency Order.[87] The Commission pointed out that, on the other exchange, the public customer order at the stop price and the price-improving interest would trade against the Agency Order.[88] The Commission noted that, under Phlx's proposal, the Agency Order and the Solicited Order would be cancelled.[89]

The Commission also sought comment on a similar feature of the Exchange's proposal.[90] The Commission noted that, under Phlx's proposal, generally, if, upon the conclusion of an auction, a public customer order is resting on the book opposite the Agency Order at the Solicited Order's stop price, both the Solicited Order and the Agency Order are canceled. However, if the public customer order was an all-or-none order, the proposal provides that the execution of the Solicited Order against the Agency Order can take place.[91] The Commission understands this result to apply even if the size of the all-or-none public customer order was such that it otherwise would be eligible to trade against the Agency Order.[92]

The Commission further sought comment on another feature of the Exchange's proposal.[93] The Commission noted that, under Phlx's proposal, in the case of a Solicitation Auction for simple orders, all interest on the opposite side of the Agency Order would be considered in determining whether the price can be improved for the full size of the Agency Order.[94] The Commission noted that, in the case of a Complex Order Solicitation Auction, all-or-none interest would not be considered.[95] The Commission pointed to the Exchange's explanation that this difference was due to a system limitation relative to all-or-none Complex Orders: ''All-or-none simple orders reside with simple orders on the book. By contrast, all-or-none Complex Orders reside in a separate book, in a different part of the trading system. Thus aggregation of all-or-none Complex Orders with other Complex Orders in order to determine the presence of sufficient improving interest is a more difficult process than aggregation of all-or-none simple orders with other simple orders.'' [96]

As noted above, the Commission received two comment letters, each letter from ISE, on the proposed rule change and a response from the Exchange to ISE's first comment letter.[97] The Commission below discusses the issues raised in ISE's comment letters and the Exchange's response to ISE's first comment letter and sets forth the Commission's consideration of the arguments made by both the ISE and the Exchange.

A. Cancellation of the Solicitation Auction when the Agency Order Could Be Satisfied by a Public Customer Order at the Stop Price and Improving Interest

In its first letter, ISE notes that it operates a solicitation mechanism. ISE expresses concern that the Phlx proposal would not contain appropriate safeguards to ensure that customer orders on the book would be protected and that agency orders would be adequately exposed to all potential price improvement.[98] ISE states that Phlx's proposed solicitation mechanism would not serve the public interest and the protection of investors, maintaining that it ''fails to provide important protections guaranteed by competing markets.'' [99] In its response, Phlx states that it strongly disagrees with ''ISE's negative characterization'' of its proposed rule change,[100] and concludes that ISE's concerns are ''misguided and raised no valid concerns.'' [101]

ISE notes that Phlx would cancel a solicitation auction if there was customer interest on the order book at the stop price that, combined with other available price improving interest, would be of sufficient size to trade with the Agency Order.[102] ISE states that Phlx does not provide any policy justification for this ''change from established customer protections.'' [103] ISE also states that Phlx's ''weakened protections'' would enable regulatory arbitrage by broker-dealers seeking to reduce the likelihood that their crosses will be broken up.[104] ISE suggests that ISE and other competing exchanges ''would be forced to match these changes in order to maintain competitive standing.'' [105] ISE urges that the Commission hold Phlx to ''the same standards guaranteed by other options exchanges,'' maintaining that the Commission would thereby uphold ''principles of customer protection that were central to the approval of solicitation mechanisms operated by ISE and other markets.'' [106]

In response, Phlx states that ISE's argument is ''without merit.'' [107] Phlx notes that it ''*will not* allow a solicitation auction to be initiated at a price where there is non-contingent customer interest on the PHLX book and will continue to prevent customers from being traded through.'' [108] In addition, Phlx notes, customer interest that arrives after an order is submitted into the solicitation mechanism would still be protected, ''but in a different manner than on ISE.'' [109]

Phlx states that its protection of customer interest at the stop price would not result in regulatory arbitrage. Rather, Phlx argues, its proposal would represent ''merely a different process for customer protection.'' Phlx points out that its proposal ''would not permit trading through the customer, nor would it allow trading ahead of the customer.'' [110] Phlx describes its proposal as ''simply not providing customer interest (or any other interest)'' that arrives after the solicited order is stopped with the unfair advantage of trading against the agency order ahead of the solicited contra order at a price that does not offer price improvement,[111] adding that ''there is no justification for permitting *any* market participant to step ahead of the solicited contra order at a price which does not offer price improvement.'' [112]

Phlx notes that ISE cancels a solicitation auction with no trade resulting when there is a customer order at the stop price that, together with any improving interest, cannot satisfy the agency order. ''Whether ISE 'protects' a customer order at the stop price,'' Phlx

[87] *See* Order Instituting Proceedings, *supra* note 6, 80 FR at 5874.

[88] *See* Order Instituting Proceedings, *supra* note 6, 80 FR at 5875, citing to proposed Rule 1081(ii)(E)(1).

[89] *See* Order Instituting Proceedings, *supra* note 6, 80 FR at 5875.

[90] *See* Order Instituting Proceedings, *supra* note 6, 80 FR at 5874.

[91] *See id.*

[92] *See id.*

[93] *See* Order Instituting Proceedings, *supra* note 6, 80 FR at 5874.

[94] *See* Order Instituting Proceedings, *supra* note 6, 80 FR at 5874, citing to proposed Rule 1081(ii)(E)(1).

[95] *Id.,* citing to proposed Rule 1081(ii)(E)(5).

[96] *See* Order Instituting Proceedings, *supra* note 6, 80 FR at 5870 n.48 and accompanying text.

[97] *See supra* notes 7 and 8.

[98] *See* ISE Letter at 1.

[99] *See* ISE Letter at 2.

[100] *See* Phlx Response Letter at 1.

[101] *See* Phlx Response Letter at 4.

[102] *See* ISE Letter at 1. ISE noted that other options exchanges, including ISE, would execute the agency order against the customer order and the other price improving interest, thereby providing an execution for the customer on the book as well as an improved price for the agency order. *Id.*

[103] *See* ISE Letter at 1.

[104] *Id.*

[105] *Id.*

[106] *See* ISE Letter at 1–2.

[107] *See* Phlx Response Letter at 2.

[108] *Id.* (emphasis in original).

[109] *Id.*

[110] *Id.*

[111] *Id.*

[112] *See* Phlx Response Letter at 2 (emphasis in original).

asserts, ''evidently depends upon the size of that customer order (or the absence of other orders sufficient to aggregate into a size sufficient for the agency order to execute against),'' arguing that ISE's approach ''cannot really be considered customer 'protection.' '' [113]

Further, Phlx observes that, in its PIXL auction mechanism, customers rarely submit interest priced at the stop price after the auction has been initiated, with that interest being executed in the auction.[114] Phlx states that there is ''no reason to expect that customer orders would be received at the stop price more frequently in solicitation auctions than in PIXL Auctions.'' Specifically, Phlx represents that in February 2015, customer executions at the stop price occurred only 70 times out of 474,388 PIXL auctions, or approximately .015% of the time. The Exchange observes that cancellations caused by customer orders arriving at the stop price after a Solicitation Auction was initiated might occur only roughly 0.015% more often in its solicitation mechanism than in ISE's solicitation mechanism.[115] Phlx states that, ''[g]iven how rarely a customer order can be expected to be received during a solicitation auction at the stop price, the PHLX's proposal to cancel a solicitation order with no trade occurring when a customer order is received at the stop price during the auction does not pose a significant risk to the protection of customer interest nor to the opportunity for price improvement.'' [116]

The Second ISE Letter reiterates the comments that ISE made in its initial letter.[117] ISE states that ''Phlx should instead be held to the same high standard required of other markets that guarantee an execution for the customer order by allowing the solicitation auction to be broken up. This remains the case even when dealing with customer orders that are received after an auction has been initiated, and regardless of how rare Phlx anticipates such orders may be.'' [118]

The Commission notes that solicited order mechanisms generally are designed to enable a member firm to assist a customer that wishes to buy or sell 500 or more contracts (*i.e.,* an agency order) by finding a counterparty (*i.e.,* a solicited order) to execute against the full size of the customer's interest at the NBBO or better.[119] The agency order must be exposed to the broader market in a solicitation auction so that it has the possibility of obtaining a better price, before the solicited order is permitted to be crossed with the agency order.[120] In a solicited order mechanism, the trading crowd to which the agency order is exposed does not have the right to trade against the agency order at the price proposed by the solicited party.[121] Unless the trading crowd provides (i) a better price and (ii) enough interest at that better price for the entire size of the order, the solicited order is permitted to trade against the agency order for its full size, with all other participants excluded.[122]

The exchanges that currently feature a solicited order mechanism include provisions that address, among other scenarios, the circumstance where there is a public customer order on the order book at the stop price that, when combined with price-improving interest that otherwise could not fill the agency order on its own, would be able to fill the agency order.[123] In that circumstance, those exchanges' rules provide that the public customer order and the available price-improving interest would be executed against the agency order. By contrast, under its proposal, Phlx would cancel the Agency Order rather than permit it to be executed against a public customer at the stop price that, when combined with available price-improving interest, would be of sufficient size to fill the Agency Order.

In view of the fact that the purpose of the Phlx's proposed solicitation mechanism is to enable the Agency Order to be executed, the Commission believes that the Agency Order should be given the opportunity to receive an execution in the above-described circumstance. Moreover, to the extent that the Agency Order could execute against the customer order at the stop price, along with available price-improving interest that otherwise could not fill the Agency Order on its own, the composite price that the Agency Order would receive would be at a better price than the Solicited Order's stop price. In addition, the public customer order and any available price-improving interest that arrived on the order book after the auction's commencement also would receive an execution, rather than simply remaining on the book.

In explaining its approach, Phlx notes that, under its proposal, at the initiation of the auction, the stop price must be at least $0.01 better than any public customer interest on the limit order book at that time. According to Phlx, this ''ensures public customer priority of existing interest and in turn provides the Solicited Order participant certainty that if an execution occurs at the stop price, it will be against the Solicited Order rather than against interest (including public customer orders) that arrived after the solicited party had already stopped the Agency Order for its entire size at that price.'' [124] Phlx also states that it is ''simply not providing customer interest (or any other interest) which arrives *after* the solicited order is stopped with the unfair advantage of trading against the solicited agency order ahead of the solicited contra order at a price which does not offer price improvement.'' [125]

The Commission does not view a public customer order at the stop price that arrives after the auction has commenced as trading ''ahead of'' the Solicited Order and thereby as receiving an ''unfair advantage'' when the Solicited Order would be required to be cancelled in any event under the Phlx's proposal. On the contrary, the Commission believes that the Agency Order should be given the opportunity to execute against the later-arriving public customer interest at the stop price, together with sufficient price-improving interest to satisfy the size of the Agency Order, and thus benefit from a measure of price improvement, rather than being cancelled as under the Exchange's proposal.

In making the argument that its proposal ''does not pose a significant risk to the protection of customer interest nor to the opportunity for price improvement,'' Phlx cites to data from its PIXL auction showing that public customer orders arrive on the order book at the stop price very infrequently.[126] The Commission notes that this data also could be cited to argue, on the other side of the issue, that the incentive for solicited parties to provide liquidity through the proposed solicitation mechanism would be little affected by later-arriving public customer orders. In any event, the Commission believes that data showing the potential infrequency of a situation should not be dispositive of the Commission's consideration regarding

[113] *See* Phlx Response Letter at 2.

[114] *Id.*

[115] *Id.*

[116] *See* Phlx Response Letter at 2.

[117] *See* Second ISE Letter at 1.

[118] *See* Second ISE Letter at 2.

[119] *See supra* note 83.

[120] *Id.*

[121] *Id.*

[122] *Id.*

[123] *Id.*

[124] *See* Notice of Amendment No. 2, *supra* note 10, 80 FR at 22575.

[125] *See* Phlx Response Letter at 2 (emphasis in original).

[126] *See* Phlx Response Letter at 2.

the Exchange's proposed treatment of public customer orders at the stop price that arrive during the auction and that otherwise could satisfy the size of the Agency Order when combined with price-improving interest.

For the reasons stated above, the Commission believes that Phlx's proposed approach not to execute the Agency Order against a public customer order at the stop price, that when combined with price-improving interest could fulfill the Agency Order, would result in an outcome that does not appear to be consistent with the Act. Specifically, cancelling the Agency Order and leaving the public customer order on the order book unexecuted would disadvantage both of these orders. It would also disadvantage any price-improving interest that arrived on the book during the auction (but was insufficient in size to trade against the Agency Order without taking into account the public customer order), which, under the other exchanges' rules, also would receive an execution. While such a result may be expedient for the firm that entered the Agency Order and Solicited Order into the Solicitation Auction and for the solicited party, it would raise concerns under Section 6(b)(5) of the Act, which, among other things, requires that the rules of a national securities exchange be designed ''to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest . . .'' [127] In light of these observations, the Commission cannot find that the proposed rule change is consistent with the Act.

B. Execution of the Solicitation Auction at the Stop Price When There Is a Contingent Public Customer Order at the Stop Price

In addition, ISE expresses a concern regarding Phlx's handling of all-or-none customer orders on the book. ISE notes that the Exchange's proposal would allow a Solicited Order to cross with the Agency Order when there is a resting customer all-or-none order at the stop price of the Solicited Order, even if the customer order is eligible to trade based on its size contingency.[128] ISE maintains that customer protection was ''a central principle in the approval of solicitation mechanisms of other markets.'' [129] ISE does not believe that Phlx should be permitted to ''eliminate this protection'' without providing a policy rationale.[130]

In response, Phlx notes that all-or-none orders ''continue to be protected from being traded through when their all-or-none contingency can be satisfied.'' However, Phlx explains, due to the contingency, such orders are offered a ''less robust protection'' than non-contingent orders.[131] Phlx states that a customer seeking the same protection could submit the order without this contingency, since the contingency is within the discretion and control of the customer.[132] Further, Phlx notes that ISE does not provide priority to all-or-none orders on ISE's book [133] and cited to ISE Rule 713.

The Commission believes that Phlx's proposed approach to permit the Agency Order and Solicited Order to cross when an all-or-none customer order at the stop price exists on Phlx's order book would result in an outcome that is not consistent with the Act. Specifically, rather than protecting the all-or-none public customer order at the stop price, Phlx's proposal to allow the Solicited Order to execute against the Agency Order and leave the all-or-none public customer order on the order book would disadvantage the public customer order. While such a result may be expedient for the firm that entered the Agency Order and Solicited Order into the Solicitation Auction and for the solicited party, it would raise concerns under Section 6(b)(5) of the Act, which, among other things, requires that the rules of a national securities exchange be designed ''to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest . . .'' [134] In light of these observations, the Commission cannot find that the proposed rule change is consistent with the Act.

C. No Consideration of All-or-None Complex Orders When Determining Whether the Price Has Been Improved for the Full Size of the Agency Order

The ISE Letter expresses a concern regarding the provision of the Phlx proposal that would allow all-or-none orders in the Complex Order Book to be ignored when determining whether there would be sufficient interest to execute the Agency Order at a better price.[135] ISE states that Phlx does not cite any relevant policy considerations to justify this provision, but ''simply reasons that it should be exempted from providing this functionality due to 'systems limitations' that make it more difficult to aggregate complex orders with all-or-none orders.'' [136] ISE contends that other options exchanges ''have spent the necessary time and resources to overcome such obstacles in the interest of maintaining a fair and orderly market where agency orders are adequately exposed to potential price improvement.'' [137] ISE remarks that ''Phlx should not be singled out for favorable treatment simply because it was unwilling to invest in appropriate safeguards offered by its competitors.'' [138]

In response, Phlx reiterates its position that aggregation of all-or-none complex orders with other complex orders was a more difficult process than aggregation of all-or-none simple orders with other simple orders, because all-or-none complex orders reside in a separate book that is in a different part of the trading system.[139] Citing data that it had reviewed to demonstrate that all-or-none complex orders are rare,[140] Phlx responds that it must carefully weigh the costs and benefits of changes to its trading system and deploy resources in the manner it determines most beneficial to its market participants.[141] In this case, Phlx states that it has elected to ''enhance the efficiency and effectiveness of its markets'' rather than to ''overhaul the trading system to include a mere 0.12% of all Complex Orders in the calculation of sufficiency of improving interest.'' [142] Phlx does not believe that such an overhaul would advance the interests of market participants.[143]

The Second ISE Letter states that ''[b]y ignoring all-or-none complex orders, Phlx would allow the execution of an agency order against the solicited order at a worse price than available from other market participants.'' [144] ISE notes that ''Phlx attempts to equate their proposal with ISE's rules regarding the priority of all-or-none orders. To clarify this here, all-or-none orders on ISE have

[127] 15 U.S.C. 78f(b)(5).

[128] *See* ISE Letter at 2; The Second ISE Letter reiterates comments ISE included in its first letter.

[129] *Id.*

[130] *Id.*

[131] *See* Phlx Response Letter at 3.

[132] *Id.*

[133] *Id.*

[134] 15 U.S.C. 78f(b)(5).

[135] *See* ISE Letter at 2.

[136] *Id.*

[137] *Id.*

[138] *Id.*

[139] *See* Phlx Response Letter at 3.

[140] *Id.* The Exchange noted that it had reviewed six months of data which showed that all-or-none complex orders represented only 0.12% of all Complex Orders. *Id.*

[141] *Id.*

[142] *See* Phlx Response Letter at 3–4.

[143] *See* Phlx Response Letter at 4.

[144] *See* Second ISE Letter at 2.

no priority over other orders *at the same price* (emphasis in original). Our rules make clear, however, that all-or-none orders are available for execution after other trading interest at the same price has been exhausted. All-or-none orders on ISE decidedly may not be ignored when such orders would result in a better price for the other side of the trade.'' [145] ISE further remarks that ''[i]t is fundamental to the solicitation process that the agency order be fully exposed to all other price improving interest, including all-or-none orders.'' [146]

As described above, under Phlx's proposal, at the conclusion of a Solicitation Auction involving Complex Orders, the Exchange's system would not consider all-or-none complex interest in determining whether such interest could execute against the Complex Agency Order at a better price than the stop price. Therefore, when the determination of whether there is sufficient improving interest to execute against the Complex Agency Order otherwise would require the inclusion of such all-or-none complex interest, the Complex Agency Order simply would trade against the Solicited Order at the stop price, rather than against the sufficient improving interest that could be available on the Exchange at a better price.

The Commission notes that the solicited order mechanisms of other exchanges that accommodate complex orders provide for the consideration of all-or-none complex order interest in determining whether there is sufficient improving interest.[147] ISE Rule 722 Supplementary Material .08 permits complex orders in ISE's solicited order mechanism and provides no carve-out for the consideration of all-or-none complex orders.[148] CBOE Rule 6.74B Interpretation .01 permits complex orders in CBOE's solicited order mechanism and provides no carve-out for the consideration of all-or-none complex orders.[149]

Similar to these other exchanges' solicitation mechanisms, under Phlx's proposal, when there is sufficient improving interest that is not all-or-none interest to satisfy a Complex Agency Order at a better price than the stop price, any resting all-or-none Complex Orders would participate in the execution pursuant to normal priority rules, so long as the all-or-none contingency can be satisfied. However, Phlx's proposal differs when there is sufficient improving interest to satisfy the Complex Agency Order at a better price than the stop price only when all-or-none Complex Order interest is included. In those circumstances, Phlx's proposal would deny the all-or-none Complex Order resting elsewhere on the Exchange a potential execution and it would not provide the Complex Agency Order with an execution at a better price than the stop price, even though there was, in fact, sufficient improving interest available.

Phlx has provided data indicating that participants infrequently submit all-or-none Complex Orders. However, Phlx has not provided sufficient information in its proposal to overcome the Commission's fundamental concerns about the impact that the proposal could have on exchanges' incentives to maintain a fair and orderly market where agency orders are adequately exposed to potential price improvement. The Commission believes that data showing the infrequency of a situation should not be dispositive of the Commission's consideration regarding whether the Exchange has met its burden to demonstrate that its proposal is consistent with the Act.

Further, Phlx has stated that it must weigh the costs and benefits of changes to its trading system, and has determined not to overhaul the trading system to include infrequently submitted all-or-none Complex Orders in the calculation of assessing the extent of price-improving interest that could interact with the Complex Agency Order. The Commission notes that other exchanges have overcome such obstacles in the interest of maintaining a fair and orderly market where agency orders are adequately exposed to potential price improvement.[150]

The Commission believes that Phlx's failure to provide a potential execution to all-or-none Complex Orders and to provide meaningful opportunity for price improvement to Complex Agency Orders would result in an execution allocation that is inconsistent with Section 6(b)(5) of the Act,[151] which requires that the rules of an exchange must be designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, rather than including all-or-none Complex Order interest in its consideration of whether there is sufficient improving Complex Order interest, Phlx's proposal, by ignoring all-or-none Complex Orders on one of its systems, would disadvantage both the resting all-or-none Complex Orders and the Complex Agency Order. As discussed above, the Commission does not believe the Exchange has sufficiently demonstrated why its proposal, which fails to take into account interest available in its market, would satisfy the requirements of Section 6(b)(5) of the Act.[152] Accordingly, the Commission cannot find that the proposed rule change is consistent with the Act.

D. Efficiency, Competition and Capital Formation

In analyzing the proposed rule change, as modified by Amendment No. 2, and in making its determination to disapprove the rule change, the Commission has considered whether the action will promote efficiency, competition, and capital formation,[153] but, as discussed above, the Commission does not find that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Act.

IV. Conclusion

For the foregoing reasons, the Commission does not believe that Phlx has met its burden to demonstrate that the proposed rule change, as modified by Amendment No. 2, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with Section 6(b)(5) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–Phlx–2014–66), as modified by Amendment No. 2, be, and hereby is, disapproved.

[145] *Id.*

[146] See Second ISE Letter at 3.

[147] *See* ISE Rule 716(e) and Supplementary Material .08 and CBOE Rule 6.74B, Solicitation Auction Mechanism. Neither BOX Rule 7270(b), Solicitation Auction, or MIAX Rule 515A(b), PRIME Solicitation Mechanism, permit solicitation auctions for complex orders.

[148] *See* ISE Rule 716(e) and Supplementary Material .08; *see also* ISE Rule 722(b)(4) (permitting complex orders to be entered as all-or-none).

[149] *See* CBOE Rule 6.74B and Interpretation .01; *see also* CBOE Rule 6.53C(b) (permitting complex orders to be entered as all-or-none).

[150] *See supra* notes 151–153.

[151] 15 U.S.C. 78f(b)(5).

[152] 15 U.S.C. 78f(b)(5).

[153] Whenever pursuant to the Act the Commission is engaged in rulemaking or the review of a rule of a self-regulatory organization, and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall also consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[154]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–16088 Filed 6–30–15; 8:45 am]

BILLING CODE 8011–01–P

[154] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–9854; 34–75303; File No. 265–27]

Advisory Committee on Small and Emerging Companies

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting.

SUMMARY: The Securities and Exchange Commission Advisory Committee on Small and Emerging Companies is providing notice that it will hold an open, public telephone meeting on Wednesday, July 15, 2015, beginning at 1:00 p.m. EDT. Members of the public may attend the meeting by listening to the webcast accessible on the Commission's Web site at *www.sec.gov.* Persons needing special accommodations to access the meeting because of a disability should notify the contact person listed below. The agenda for the meeting includes a continuation of discussions started at the Committee's meeting on June 3, 2015, including regarding public company disclosure effectiveness and the treatment of ''finders.'' The public is invited to submit written statements to the Committee.

DATES: The public meeting will be held on Wednesday, July 15, 2015. Written statements should be received on or before Monday, July 13, 2015.

ADDRESSES: Written statements may be submitted by any of the following methods:

Electronic Statements

- Use the Commission's Internet submission form (*http://www.sec.gov/info/smallbus/acsec.shtml*); or
- Send an email message to *rule-comments@sec.gov.* Please include File Number 265–27 on the subject line; or

Paper Statements

- Send paper statements to Brent J. Fields, Federal Advisory Committee Management Officer, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. 265–27. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method. The Commission will post all statements on the Advisory Committee's Web site at *http://www.sec.gov./info/smallbus/acsec.shtml.*

Statements also will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Room 1580, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All statements received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Julie Z. Davis, Senior Special Counsel, at (202) 551–3460, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–3628.

SUPPLEMENTARY INFORMATION: In accordance with Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C.–App. 1, and the regulations thereunder, Keith F. Higgins, Designated Federal Officer of the Committee, has ordered publication of this notice.

Dated: June 25, 2015.

Brent J. Fields,

Committee Management Officer.

[FR Doc. 2015–16108 Filed 6–30–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75302; File No. SR–CBOE–2015–062]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Front-End Order Entry and Management Tools in Connection With Purchase of Livevol Assets

June 25, 2015.

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 June 23, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') 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 Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The purpose of this filing is to describe the functionality and adopt fees for the use of two new front-end order entry and management applications. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission.

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 describe the functionality and adopt fees for the use of two new front-end order entry and management applications. On June 1, 2015, CBOE IV, LLC (''Newco'') (a wholly owned subsidiary of CBOE's parent company, CBOE Holdings, Inc.) entered into a definitive asset purchase agreement with Livevol[5] pursuant to which Newco agreed to purchase certain software and technology, including Livevol X (''LVX'') and Livevol Core X (''LVCX''

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b 4(f)(6).

[5] Livevol, Inc. has an additional subsidiary, Livevol Securities, Inc. (''LVS''), which is a registered U.S. broker-dealer (but not a Trading Permit Holder of the Exchange). CBOE will not acquire any assets related to this broker-dealer business.

and, together with LVX, the ''applications'').[6]

The applications are front-end order entry and management tools for listed stocks and options that support both simple and complex orders.[7] LVX is a software application that is installed locally on a user's desktop terminal, and LVCX is a web-based application integrated into the application programming interface of the user's proprietary system. The applications provide users with the capability to send option orders to U.S. options exchanges and stock orders to U.S. stock exchanges (and other trading centers [8]). Additionally, the applications allow users to input parameters to control the size, timing and other variables of their trades.[9] Both applications include access to real-time options and stock market data; LVX also includes access to historical data. The applications provide their users with the ability to maintain an electronic audit trail and provide detailed trade reporting.[10] Use of the applications is completely optional.

The applications are designed so that orders entered into an application may be sent to CBOE or other U.S. exchanges (and trading centers) through an ''LV Routing Intermediary.'' An ''LV Routing Intermediary'' is a CBOE Trading Permit Holder that has connectivity to, and is a member of, other options and/or stock exchanges (or trading centers). If a user sends an order through an application to an LV Routing Intermediary, the LV Routing Intermediary will route that order to a market for execution on behalf of the entering user.[11] Users cannot directly route orders through the applications to an exchange or trading center. For users' convenience, CBOE will make available upon request a list of LV Routing Intermediaries that provide third-party routing services for orders entered through LVX or LVCX. The Exchange notes that a firm's decision to function as an LV Routing Intermediary is within that firm's sole discretion.[12]

Certain LV Routing Intermediaries may permit application users to designate a market to which an LV Routing Intermediary is to route an order received from an application. Other LV Routing Intermediaries may employ ''smart router'' functionality, which, generally, determines where to route an order based on pre-set algorithmic logic. LV Routing Intermediaries may also provide users with the ability to either designate a destination market (an order-by-order basis or by default) or use the smart router functionality. Which LV Routing Intermediary a user chooses to use (and thus which type of routing permissions are available to a user) is entirely within a user's discretion.[13]

The Exchange represents that the applications are merely new front-end order entry and management systems that interface to the systems of LV Routing Intermediaries. The applications are not integrated into and have no connectivity to CBOE's trading system (or the trading systems of any other U.S. exchange or trading center). Thus, orders submitted through the applications will ultimately come to CBOE or other exchanges for execution through third-party routing technology. There will be no change to, or impact on, the Exchange's market structure as a result of offering the applications. As a result, the Exchange represents that the applications do not require any changes to the Exchange's surveillance or communications rules.

Use of the applications is completely voluntary. CBOE will make the applications available to users (and in certain cases, their customers, as further described below) as a convenience for entering and managing orders, but neither application is an exclusive means for any user to send orders to CBOE or intermarket. Orders entered into the applications that are ultimately routed to CBOE for execution will receive no preferential treatment as compared to orders electronically sent to CBOE in any other manner. Orders entered into an application that get routed to CBOE will be subject to current trading rules in the same manner as all other orders sent to the Exchange, which is the same as orders that are sent through an application to the Exchange today.

CBOE will begin making the applications available to users following the closing of the acquisition of the applications and other technology products from Livevol.[14] Newco will grant users licenses to use LVX and LVCX. The Exchange notes that a firm or individual does not need to be a Trading Permit Holder to license LVX or LVCX, because, as discussed above, neither application is directly connected to CBOE (or any other U.S. exchange), and orders submitted into either

[6] Pursuant to the asset purchase agreement, Newco will also purchase from Livevol market data analytical products. See infra note 10.

[7] Newco may add functionality to permit users to submit orders for commodity futures, commodity options and other non-security products to be sent to designated contract markets, futures commission merchants, introducing brokers or other applicable destinations of the users' choice.

[8] A ''trading center,'' as provided under Rule 600(b)(78) of Regulation NMS, 17 CFR 242.600(b)(78), means a national securities exchange or national securities association that operates a self-regulatory organization trading facility, an alternative trading system, an exchange market-maker, an over-the-counter market-maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent.

[9] LVX also provides position and risk management capabilities. The LVX risk management functionality allows users to, among other things, set pre-trade customizable risk controls. Users of these risk controls set the parameters for the controls (to the extent a firm sublicenses LVX applications to its customers (see below), the firm will set risk controls on behalf of its customers). Users have the option to instead use other third-party risk control software, including risk control software or technology (LVCX users are responsible for obtaining their own risk control software or technology). The Exchange notes that entering broker-dealers (including Trading Permit Holders) must ensure that any orders that come from the applications to their systems will be subject to all applicable pre-trade risk control requirements in accordance with Rule 15c3–5 of the Securities Exchange Act of 1934 (the ''Act''). See 17 CFR 240.15c3–5. Please note that, in the adopting release for Rule 15c3–5 under the Act, the Securities and Exchange Commission (the ''Commission'') indicated that a broker-dealer relying on risk management technology developed by third parties should perform appropriate due diligence to help assure the controls are reasonably designed, effective, and otherwise consistent with Rule 15c3–5. Mere reliance on representations of the third-party technology developer, even if an exchange or other regulated entity, is insufficient to meet this due diligence standard.

[10] The functionality of the applications that formats users' stock and option orders entered into those applications for broker-dealers, which then submit those orders to exchanges for execution, is the basis for this rule filing. The applications include other functionality. LVCX provides users with certain basic data analysis tools for real-time data, including market scanners, watchlists and alerts. LVX provides users with these tools for both real-time and historical data as well as other advanced analytical tools, including time and sales analytics, charting capabilities, live and historical skews, volatility comparisons, data queries and filtering, and ''Greek'' calculations. The Exchange notes that Newco will also acquire technology products separate from the applications that offer these and other market data and analytical tools to customers, as well as an add-on tool that extracts data from the data analysis products (including the applications) and enters it into a Microsoft Excel spreadsheet. These data analysis tools are not subject to a rule filing requirement.

[11] A user may also be an LV Routing Intermediary if the user is CBOE Trading Permit Holder that has connectivity to, and is a member of, other options and/or stock exchanges (or trading centers).

[12] To the extent a firm sublicenses LVX applications to its customers (see below), the firm will determine which LV Routing Intermediary to use for applications used by the firm and its customers.

[13] Currently, there are seven broker-dealers that are expected to function as LV Routing Intermediaries as of the closing date of the acquisition (LVS will not be one of the LV Routing Intermediaries).

[14] CBOE expects the closing date to be July 31, 2015 and will announce the closing date via press release or its Web site (including via circular). The proposed rule change will be operative on the later of August 1, 2015 (assuming a July 31, 2015 closing date) or the first business day immediately following the closing date (if the closing date occurs later than July 31, 2015).

application for execution must be routed through the connectivity of an LV Routing Intermediary.[15] Newco will also provide technical support, maintenance and user training for the applications. LVX users that pay the standard monthly fee per log-in ID set forth in the standard pricing table below may not sublicense to [sic] LVX to their customers (''LVX Standard Users''). LVX users that pay the monthly enterprise fee set forth in the enterprise pricing table below and commit to licensing LVX for a period of two years (which period will begin on the date on which the user enters into an agreement for an applicable enterprise tier with Newco that permits sublicensing) may sublicense LVX to their customers (''LVX Enterprise Users'').[16]

LVX Standard User Pricing Table

Number of Log-In IDs	Monthly Fee/ Log-In ID
1–15	$500
16 +	$400

LVX Enterprise User Pricing Table

Number of Log-Ins IDs	Monthly Enterprise Fee
1–499	$50,000
500 +	$80,000

• *LVX Standard User Pricing Example:* If a customer wants to license 20 log-ins, it would pay $500 × 15 + $400 × 5, or $9,500 per month for those log-ins. That monthly fee would increase or decrease for each additional or cancelled, respectively, log-in ID by the applicable amount set forth in the above table.

• *LVX Enterprise User Pricing Example:* A firm enters into an agreement with Newco on August 1, 2015, pursuant to which the firm can sublicense these log-ins to its customers. The firm must pay $50,000 each month through July 31, 2017 as long as it has no more than 499 log-in IDs. However, suppose, as of January 1, 2016, the firm wants to increase its log-in ID total to 500. At that time, because the firm would be entering into the next tier, the firm would need to enter into a new two-year commitment (through December 31, 2018) and begin paying $80,000/month. If the firm needed fewer than 500 log-ins during that two-year period, it would continue to pay $80,000 each month for that two-year period. At the end of the two-year commitment, if an LVX Enterprise User wants to continue to license LVX, the firm could either enter into a new two-year commitment to remain an LVX Enterprise User (with the monthly fee to be based on how many log-ins the firm has at that time) or instead go to standard log-in ID pricing without sublicensing rights for its outstanding log-ins.

For LVCX, the Exchange proposes a monthly fee of $100 per log-in ID. CBOE will pass through to the LVCX user its actual costs of any LVCX installation fees, which costs will be determined on a time and materials (per hour) basis. LVCX users may sublicense LVCX to their customers.

Additionally, the Exchange proposes an LV Routing Intermediary fee of $0.02 per executed contract or share equivalent for the first million contracts or share equivalent executed in a month and $0.03 per executed contract or share equivalent for each additional contract or share equivalent executed in the same month. This fee is based on the aggregate number of executions on all markets (including CBOE) from all LVX Standard Users for which an LV Routing Intermediary serves in that capacity. The Exchange notes that this fee will be charged to an LV Routing Intermediary whether it is routing application orders on behalf of itself or on behalf of another application user.[17] There will be no LV Routing Intermediary fee charged for executions from LVX applications of LVX Enterprise Users or from LVCX applications.

The monthly log-in ID fees for standard LVX tier log-in IDs and for LVCX log-in IDs, as well as LV Routing Intermediary fees, will allow for Newco's recoupment of the costs of developing, maintaining, supporting and enhancing the applications and the related Routing Intermediary functionality as well as for income from the value-added services being provided through use of the applications. The Exchange believes the fee structure represents an equitable allocation of reasonable fees because the same monthly log-in ID fees apply to all LVX Standard Users and all LVCX users, and the same LV Routing Intermediary fee applies the same to all broker-dealers that elect to become LV Routing Intermediaries for LVX Standard Users. The Exchange believes these fees are reasonable and appropriate as they are competitive with similar applications available throughout the market and are based on Livevol's costs and fee structure currently in place for the applications. The Exchange believes the LV Routing Intermediary fee is also reasonable in light of the fact that it is small in relation to the total costs typically incurred in routing and executing orders. The Exchange also notes that use of the applications, and the decision to function as an LV Routing Intermediary, are discretionary and not compulsory. Users can choose to route orders without the use of either of the applications. The Exchange is offering the applications as a convenience; they are not an exclusive means available to send orders to CBOE or intermarket.

The Exchange believes the requirement to enter into a two-year commitment to become an LVX Enterprise User (and thus to be able to sublicense LVX to customers) is appropriate, because providing ongoing support for a firm's customer base (which may be large) would likely require the Exchange to expend significant additional resources, including potentially adding personnel to provide training and support for these customers as well as increasing equipment and infrastructure commitments. Without the two-year commitment, Newco would be at significant risk of making these expenditures, only to have the firm no longer need them and not have the opportunity to recoup the costs related to those resources. While the initial cost to add a log-in ID for a customer is smaller as the number of log-ins licensed by a single firm increases due to the scalability of costs, sublicensing to a larger number of customers will generally require Newco to bear these longer-term costs. The Exchange believes other providers in the industry offer certain rights in exchange for longer term commitments for similar

[15] Rule 6.23A provides that only Trading Permit Holders and associated persons with authorized access may directly enter orders into CBOE's trading system.

[16] The Exchange notes that it expects Newco to assume agreements between Livevol and their current LVX and LVCX customers at the closing of the acquisition, provided that the fees those customers pay under those agreements as of the closing date are consistent with the fees for LVX set forth in this rule filing. Additionally, Newco intends to prepare a form license agreement for each application and, no later than three months following the closing of the acquisition, ensure each customer has executed such agreement so that all LVX customers and LVCX customers use the product pursuant to the same terms and conditions. CBOE expects LVS will enter into a license agreement with Newco at the closing of the acquisition and be an LVX Enterprise User. LVS would be responsible for entering into any user agreements with any new customers to whom it sublicenses LVX after the closing in accordance with the terms and conditions in its license agreement, as would be required with respect to any customer that is permitted to sublicense LVX.

[17] The Exchange notes the LV Routing Intermediary fee is the same amount as the routing intermediary fee for PULSe; however, the LV Routing Intermediary fee applies to routing to any market, including CBOE, while the PULSe fee applies to away-market routing only.

sublicensing rights. Additionally, given the high monthly cost and long-term commitment to become an LVX Enterprise User and given that the Exchange charges integration [sic] costs to LVCX users but not LVX Standard Users, because the Exchange understands that LV Routing Intermediaries will generally pass-through the LV Routing Intermediary fee to their customers, the Exchange believes it is reasonable and appropriate to not apply the LV Routing Intermediary fee to orders that come through an LVX Enterprise User's applications or LVCX applications. It is also reasonable for the Exchange to protect its intellectual property related to LVX by requiring payment for the right to sublicense, which could create additional risk as Newco will not control to which users a firm may sublicense LVX. The Exchange believes this commitment requirement represents an equitable allocation of reasonable fees because any user that wants sublicensing rights is subject to the same fees and time commitment.

The Exchange believes the installation fee for LVCX is reasonable because the Exchange believes the related installation work will vary per customer due to the necessity of integration of the software into a customer's own system. The Exchange believes this fee to be equitable because it directly passes through those costs to the user based on a time and materials basis that will apply to all users in the same manner.

The Exchange notes that Newco will provide additional technology products and services and may in the future engage in other business activities, which may include the provision of other technology products and services to broker-dealers and non-broker-dealers in addition to the applications.[18] In this regard:

- There will be procedures and internal controls in place that are reasonably designed so that Newco will not unfairly take advantage of confidential information it receives as a result of its relationship with CBOE in connection with the applications or any other business activities.
- The books, records, premises, officers, directors, agents and employees of Newco, with respect to the products that may be deemed facilities of CBOE, will be deemed to be those of CBOE for purposes of and subject to oversight pursuant to the Act.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[19] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[20] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[21] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Additionally, the Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[22] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

In particular, the Exchange believes that offering the applications to market participants protects investors and is in the public interest, because it will allow the Exchange to directly offer users order entry and management applications in addition to the technology products it currently offers (such as the PULSe workstation), which applications include access to data as well as analytical tools. LVX and LVCX are currently offered and used in the marketplace and compete with similar products offered by other technology providers as well as other exchanges.[23] Additionally, firms can create their own proprietary front-end order entry software and routing technology.

The Exchange believes the proposed rule change does not discriminate among market participants because use of the applications, as well as being an LV Routing Intermediary, is completely voluntary. The Exchange is making the applications available as a convenience to market participants, who will continue to have the option to use any order entry and management system available in the marketplace to send orders to the Exchange and other exchanges; the applications are merely alternatives that will be offered by the Exchange rather than its current owner. Neither application is an exclusive means available to market participants to send orders to CBOE or other markets. Any orders sent through an application to CBOE for execution will receive no preferential treatment. Additionally, the applications will be available to all market participants, and the Exchange expects to license the applications to market participants pursuant to the same terms and conditions.

The Exchange believes the applications remove impediments to and perfect the mechanism of a free and open market and a national market system because users have discretion to determine which LV Routing Intermediary they will use, and thus what type of routing parameters will be available to them (whether it is the ability to designate a destination market or use smart router functionality). Each user must enter into an agreement with an LV Routing Intermediary, which can provide for routing to U.S. options and stock exchanges (and trading centers). Only Trading Permit Holders will continue to be permitted to directly route orders received from an application to CBOE, and only members of other U.S. exchanges will be able to enter orders for execution at those exchanges that they receive from an application. The Exchange also notes that broker-dealers must continue to

[18] See supra note 10. Newco is not and, at least initially, will not be registered as a broker-dealer under Section 15(a) of the Act. In this regard, the Exchange notes the following: (a) CBOE and Newco will be responsible for the marketing of the applications. Newco will be the party to any agreements with customers for these products. (b) CBOE and Newco will be responsible for providing, supporting and maintaining the technology for the applications. CBOE will be responsible for ensuring that Newco's provision of the applications, to the extent they are deemed facilities of CBOE, meets CBOE's self-regulatory organization obligations. (c) Unless it registers as a broker-dealer under Section 15(a) of the Act, Newco will not hold itself out as a broker-dealer, provide advice related to securities transactions, match orders, make decisions about routing orders, facilitate the clearance and settlement of executed trades, prepare or send transaction confirmations, screen counterparties for creditworthiness, hold funds or securities, open, maintain, administer or close brokerage accounts, or provide assistance in resolving problems, discrepancies or disputes related to brokerage accounts. Should Newco seek to register as a broker-dealer in the future, the Exchange represents that the broker-dealer would not perform any operations without first discussing with the Commission staff whether any of the broker-dealer's operations should be subject to an Exchange rule filing required under the Act.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *Id.*

[22] 15 U.S.C. 78f(b)(4).

[23] For example, International Securities Exchange, LLC (''ISE'') offers a front-end order entry workstation called PrecISE to its customers, which the Exchange believes has similar functionality as the applications.

ensure that orders they receive from applications will be subject to applicable pre-trade risk control requirements of the broker-dealer that directly submits the orders to an exchange in accordance with Rule 15c3–5 under the Act.[24]

The standard monthly log-in ID fees for LVX log-in ID and monthly fees for LVCX log-in IDs, as well as LV Routing Intermediary fees, will allow for Newco's recoupment of the costs of developing, maintaining, supporting and enhancing the applications and the related Routing Intermediary functionality as well as for income from the value-added services being provided through use of the applications. The Exchange believes the fee structure represents an equitable allocation of reasonable fees because the same monthly log-in ID fees apply to all LVX Standard Users and all LVCX users, and the same LV Routing Intermediary fee applies the same to all broker-dealers that elect to become LV Routing Intermediaries for LVX Standard Users. The Exchange believes these fees are reasonable and appropriate as they are competitive with similar applications available throughout the market and are based on Livevol's costs and fee structure currently in place for the applications. The Exchange believes the LV Routing Intermediary fee is also reasonable in light of the fact that it is small in relation to the total costs typically incurred in routing and executing orders. The Exchange also notes that use of the applications, and the decision to function as an LV Routing Intermediary, are discretionary and not compulsory. Users can choose to route orders without the use of either of the applications. The Exchange is offering the applications as a convenience; they are not an exclusive means available to send orders to CBOE or intermarket. Additionally, given the high monthly cost and long-term commitment to become an LVX Enterprise User and given that the Exchange charges integration [sic] costs to LVCX users but not LVX Standard Users, because the Exchange understands that LV Routing Intermediaries will generally pass-through the LV Routing Intermediary fee to their customers, the Exchange believes it is reasonable and appropriate to not apply the LV Routing Intermediary fee to orders that come through an LVX Enterprise User's applications or LVCX applications.

The Exchange believes the requirement to enter into a two-year commitment to become an LVX Enterprise User (and thus to be able to sublicense LVX to customers) is appropriate, because providing ongoing support for a firm's customer base (which may be large) would likely require the Exchange to expend significant additional resources, including potentially adding personnel to provide training and support for these customers as well as increasing equipment and infrastructure commitments. Without the two-year commitment, Newco would be at significant risk of making these expenditures, only to have the firm no longer need them and not have the opportunity to recoup the costs related to those resources. While the initial cost to add a log-in ID for a customer is smaller as the number of log-ins licensed by a single firm increases due to the scalability of costs, sublicensing to a larger number of customers will generally require Newco to bear these longer-term costs. The Exchange believes other providers in the industry offer certain rights in exchange for longer term commitments for similar sublicensing rights. It is also reasonable for the Exchange to protect its intellectual property related to LVX by requiring payment for the right to sublicense, which could create additional risk as Newco will not control to which users a firm may sublicense LVX. The Exchange believes this commitment requirement represents an equitable allocation of reasonable fees because any user that wants sublicensing rights is subject to the same fees and time commitment.

The Exchange believes the installation fee for LVCX is reasonable because the Exchange believes the related installation work will vary per customer due to the necessity of integration of the software into a customer's own system. The Exchange believes this fee to be equitable because it directly passes through those costs to the user based on a time and materials basis that will apply to all users in the same manner.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange will make the applications available to market participants on the same terms and conditions, and use of either application will be completely voluntary. Additionally, the decision to act as an LV Routing Intermediary is completely voluntary, and users have discretion to determine which LV Routing Intermediary to use. Market participants will continue to have the flexibility to use any order entry and management technology they choose. The Exchange will merely be directly offering the applications as alternatives to a product that the Exchange currently makes available in the market (PULSe). If market participants believe that other products available in the marketplace are more beneficial than either application, they will simply use those products instead. Orders sent to the Exchange through an application for execution will receive no preferential treatment. The Exchange notes that the applications are already available and used in the marketplace today. This acquisition merely changes the party that will own and license to users the applications going forward.

CBOE believes that the proposed rule change will relieve any burden on, or otherwise promote, competition. CBOE will be offering a type of product that is widely available throughout the industry, including from some exchanges. Market participants can also develop their own proprietary products with the same functionality. ISE currently offers a similar front-end order entry application. CBOE believes that the applications will be additions to its current suite of technology products it offers to market participants to enter and manage orders for routing to U.S. exchanges. Any market participant will be able to use the applications.

The Exchange notes that when Congress charged the Commission with supervising the development of a ''national market system'' for securities, a premise of its action was that prices, products and services ordinarily would be determined by market forces.[25] Consistent with this purpose, Congress and the Commission have repeatedly stated their preference for competition, rather than regulatory intervention, to determine prices, products and services in the securities markets.[26] Many

[24] See 17 CFR 240.15c3–5.

[25] *See, e.g.*, H.R. Rep. No. 94–229, at 92 (1975) (Conf. Rep.) (stating Congress's intent that the ''national market system evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed'').

[26] *See* S. Rep. No. 94–75, 94th Cong., 1st Sess. 8 (1975) (''The objective [in enacting the 1975 amendments to the Exchange Act] would be to enhance competition and to allow economic forces, interacting within a fair regulatory field, to arrive at appropriate variations in practices and services.''); Order Approving Proposed Rule Change Relating to NYSE Arca Data, Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (Dec. 9, 2008) at 74781 (''The Exchange Act and its legislative history strongly support the Commission's reliance on competition, whenever possible, in meeting its regulatory responsibilities for overseeing the SROs and the national market system. Indeed, competition among multiple markets and market participants trading the same

Continued

exchanges and other market participants make technology products, including products similar to the applications, available to the industry. Other market participants that offer these products can adjust pricing or add functionality to attract users to their products to compete with the Exchange-offered products based on all competitive forces in the marketplace, as the Exchange expects these other market participants currently do. The Exchange believes that other market participants that offer these products will continue to remain competitive in the market for order-entry, management and routing products, as they currently are in this market in which at least two exchanges (including CBOE) offer similar technology products. For example, CBOE currently offers PULSe, and ISE currently offers PrecISE. The Exchange believes that many investors will continue to elect to use competing products available from non-exchange technology providers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [27] and Rule 19b–4(f)(6) [28] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2015–062 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2015–062. 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–CBOE–2015–062, and should be submitted on or before July 22, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–16090 Filed 6–30–15; 8:45 am]

BILLING CODE 8011–01–P

products is the hallmark of the national market system.'') (SR–NYSEArca–2006–21); Regulation NMS, 70 FR at 37499 (observing that NMS regulation ''has been remarkably successful in promoting market competition in [the] forms that are most important to investors and listed companies'').

[27] 15 U.S.C. 78s(b)(3)(A).

[28] 17 CFR 240.19b–4(f)(6).

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75295; File No. SR–BOX–2015–23]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 7260 To Extend, Through June 30, 2016, the Pilot Program That Permits Certain Classes To Be Quoted in Penny Increments

June 25, 2015.

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 June 17, 2015, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7260 to extend, through June 30, 2016, the pilot program that permits certain classes to be quoted in penny increments (''Penny Pilot Program''). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the effective time period of the Penny Pilot Program that is currently scheduled to expire on June 30, 2015, for an additional year, through June 30, 2016.[3] The Penny Pilot Program permits certain classes to be quoted in penny increments. The minimum price variation for all classes included in the Penny Pilot Program, except for PowerShares QQQ Trust (''QQQQ'')®, SPDR S&P 500 Exchange Traded Funds (''SPY''), and iShares Russell 2000 Index Funds (''IWM''), will continue to be $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY, and IWM will continue to be quoted in $0.01 increments for all options series.

The Exchange may replace, on a semi-annual basis, any Pilot Program classes that have been delisted on the second trading day following July 1, 2015 and January 1, 2016. The Exchange notes that the replacement classes will be selected based on trading activity for the six month period beginning December 1, 2014 and ending May 31, 2015 for the July 2015 replacements, and the six month period beginning June 1, 2015 and ending November 30, 2015 for the January 2016 replacements. The Exchange will employ the same parameters to prospective replacement classes as approved and applicable under the Pilot Program, including excluding high-priced underlying securities. The Exchange will distribute Regulatory Circulars notifying Participants which replacement classes shall be included in the Penny Pilot Program.

BOX is specifically authorized to act jointly with the other options exchanges participating in the Pilot Program in identifying any replacement class.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[4] in general, and Section 6(b)(5) of the Act,[5] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest.

In particular, the proposed rule change, which extends the Penny Pilot for an additional year through June 30, 2016 and changes the dates for replacing Penny Pilot issues that were delisted to the second trading day following July 1, 2015 and January 1, 2016, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. This is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, this proposal is pro-competitive because it allows Penny Pilot issues to continue trading on the Exchange. Moreover, the Exchange believes that the proposed rule change will allow for further analysis of the Pilot and a determination of how the Pilot should be structured in the future; and will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot is an industry wide initiative supported by all other option exchanges. The Exchange believes that extending the Pilot will allow for continued competition between market participants on the Exchange trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[8] normally does not become operative prior to 30 days after the date of the filing.[9] However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission

[3] The Penny Pilot Program has been in effect on the Exchange since its inception in May 2012. See Securities Exchange Act Release Nos. 66871 (April 27, 2012), 77 FR 26323 (May 3, 2012) (File No.10–206, In the Matter of the Application of BOX Options Exchange LLC for Registration as a National Securities Exchange Findings, Opinion, and Order of the Commission), 67328 (June 29, 2012), 77 FR 40123 (July 6, 2012) (SR–BOX–2012–007), 68425 (December 13, 2012), 77 FR 75234 (December 19, 2013) (SR–BOX–2012–021), 69789 (June 18, 2013), 78 FR 37854 (June 24, 2013) (SR–BOX–2013–31), 71056 (December 12, 2013), 78 FR 76691 (December 18, 2013) (SR–BOX–2013–56), 72348 (June 9, 2014), 79 FR 33976 (June 13, 2014) (SR–BOX–2014–17), 73822 (December 11, 2014), 79 FR 75606 (December 18, 2014) (SR–BOX–2014–29). The extension of the effective date and the revision of the dates to replace issues that have been delisted are the only changes to the Penny Pilot Program being proposed at this time.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[10]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2015–23 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–BOX–2015–23. 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 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2015–23 and should be submitted on or before July 22, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–16084 Filed 6–30–15; 8:45 am]

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[10] 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).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75296; File No. SR–CBOE–2015–052]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 5.3.06

June 25, 2015.

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 June 15, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

CBOE proposes to amend Rule 5.3.06 to allow the listing of options overlying Exchange-Traded Fund Shares (''ETFs'') that are listed pursuant to generic listing standards on equities exchanges for series of portfolio depositary receipts and index fund shares based on international or global indexes under which a comprehensive surveillance agreement is not required. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 5.3.06 to allow the listing of options overlying ETFs (referred to as ''Units'' in Rule 5.3.06) that are listed pursuant to generic listing standards on equities exchanges for series of portfolio depositary receipts and index fund shares based on international or global indexes under which a comprehensive surveillance sharing agreement (''comprehensive surveillance agreement'' or ''CSSA'') is not required.[5] This proposal will enable the Exchange to list and trade options on ETFs without a CSSA provided that the ETF is listed on an equities exchange pursuant to the generic listings standards that do not require a CSSA pursuant to Rule 19b–4(e)[6] of the Exchange Act. Rule 19b–4(e) provides that the listing and trading of a new

[5] *See e.g.,* NYSE MKT Rule 1000 Commentary .03(a)(B); NYSE Arca Equities Rule 5.2(j)(3) Commentary .01(a)(B); NASDAQ Rule 5705(a)(3)(A)(ii); and BATS Rule 14.11(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(e).

derivative securities product by a self-regulatory organization (''SRO'') shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4, if the Commission has approved, pursuant to Section 19(b) of the Exchange Act, the SRO's trading rules, procedures and listing standards for the product class that would include the new derivatives securities product, and the SRO has a surveillance program for the product class.[7] In other words, the proposal will amend the listing standards to allow the Exchange to list and trade options on ETFs based on international or global indexes to a similar degree that they are allowed to be listed on several equities exchanges.[8]

Exchange Traded Funds

The Exchange allows for the listing and trading of options on ETFs (referred to as ''Units'' in Rule 5.3.06). Rule 5.3.06(v)(A)–(C) provide the listings standards for options on ETFs with non-U.S. component securities, such as ETFs based on international or global indexes. Rule 5.3.06(v)(A) requires that any non-U.S. component securities of an index or portfolio of securities on which the Units are based that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio. Rule 5.3.06(v)(B) requires that component securities of an index or portfolio of securities on which the Units are based for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% or more of the weight of the index. Rule 5.3.06(v)(C) requires that component securities of an index or portfolio of securities on which the Units are based for which the primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% or more of the weight of the index.

Generic Listing Standards for Exchange-Traded Funds

The Exchange notes that the Commission has previously approved generic listing standards pursuant to Rule 19b–4(e)[9] of the Exchange Act for ETFs based on indexes that consist of stocks listed on U.S. exchanges.[10] In general, the criteria for the underlying component securities in the international and global indexes are similar to those for the domestic indexes, but with modifications as appropriate for the issues and risks associated with non-U.S. securities.

In addition, the Commission has previously approved the listing and trading of ETFs based on international indexes—those based on non-U.S. component stocks—as well as global indexes—those based on non-U.S. and U.S. component stocks.[11]

In approving ETFs for equities exchange trading, the Commission thoroughly considered the structure of the ETFs, their usefulness to investors and to the markets, and SRO rules that govern their trading. The Exchange believes that allowing the listing of options overlying ETFs that are listed pursuant to the generic listing standards on equities exchanges for ETFs based on international and global indexes and applying Rule 19b–4(e)[12] should fulfill the intended objective of that Rule by allowing options on those ETFs that have satisfied the generic listing standards to commence trading, without the need for the public comment period and Commission approval. The proposed rule has the potential to reduce the time frame for bringing options on ETFs to market, thereby reducing the burdens on issuers and other market participants. The failure of a particular ETF to comply with the generic listing standards under Rule 19b–4(e)[13] would not, however, preclude the Exchange from submitting a separate filing pursuant to Section 19(b)(2),[14] requesting Commission approval to list and trade options on a particular ETF.

Requirements for Listing and Trading Options Overlying ETFs Based on International and Global Indexes

Options on ETFs listed pursuant to these generic standards for international and global indexes would be traded, in all other respects, under the Exchange's existing trading rules and procedures that apply to options on ETFs and would be covered under the Exchange's surveillance program for options on ETFs. Pursuant to the proposed rule, the Exchange may list and trade options on an ETF without a CSSA provided that the ETF is listed pursuant to generic listing standards for series of portfolio depositary receipts and index fund shares based on international or global indexes under which a comprehensive surveillance agreement is not required. The Exchange believes that these generic listing standards are intended to ensure that stocks with substantial market capitalization and trading volume account for a substantial portion of the weight of an index or portfolio. The Exchange believes that this proposed listing standard for options on ETFs is reasonable for international and global indexes, and, when applied in conjunction with the other listing requirements,[15] will result in options overlying ETFs that are sufficiently broad-based in scope and not readily susceptible to manipulation. The Exchange also believes that allowing the Exchange to list options overlying ETFs that are listed on equities exchanges pursuant to generic standards for series of portfolio depositary receipts and index fund shares based on international or global indexes under which a CSSA is not required, will result in options overlying ETFs that are adequately diversified in weighting for any single security or small group of securities to significantly reduce concerns that trading in options overlying ETFs based on international or global indexes could become a surrogate for trading in unregistered securities.

The Exchange believes that ETFs based on international and global indexes that have been listed pursuant to the generic standards are sufficiently broad-based enough as to make options overlying such ETFs not susceptible instruments for manipulation. The Exchange believes that the threat of manipulation is sufficiently mitigated for underlying ETFs that have been listed on equities exchanges pursuant to generic listing standards for series of portfolio depositary receipts and index fund shares based on international or global indexes under which a comprehensive surveillance agreement is not required and for the overlying options, that the Exchange does not see

[7] When relying on Rule 19b–4(e), the SRO must submit Form 19b–4(e) to the Commission within five business days after the SRO begins trading the new derivative securities products. *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998).

[8] *See* NYSE MKT Rule 1000 Commentary .03(a)(B); NYSE Arca Equities Rule 5.2(j)(3) Commentary .01(a)(B); NASDAQ Rule 5705(a)(3)(A)(ii); and BATS Rule 14.11(b)(3)(A)(ii). *See also* Securities Exchange Act Release Nos. 54739 (November 9, 2006), 71 FR 66993 (SR–Amex–2006–78); 55269 (February 9, 2007), 72 FR 7490 (February 15, 2007) (SR–NASDAQ–2006–050); 55621 (April 12, 2007), 72 FR 19571 (April 18, 2007) (SR–NYSEArca–2006–86).

[9] 17 CFR 240.19b–4(e).

[10] *See* Commentary .03 to Amex Rule 1000 and Commentary .02 to Amex Rule 1000A. *See also* Securities Exchange Act Release No. 42787 (May 15, 2000), 65 FR 33598 (May24, 2000).

[11] *See e.g.,* Securities Exchange Act Release Nos. 50189 (August 12, 2004), 69 FR 51723 (August 20, 2004) (approving the listing and trading of certain Vanguard International Equity Index Funds); 44700 (August 14, 2001), 66 FR 43927 (August 21, 2001) (approving the listing and trading of series of the iShares Trust based on certain S&P global indexes).

[12] 17 CFR 240.19b–4(e).

[13] 17 CFR 240.19b–4(e).

[14] 15 U.S.C. 78s(b)(2).

[15] All of the other listing criteria under the Exchange's rules will continue to apply to any options listed pursuant to the proposed rule change.

the need for CSSA to be in place before listing and trading options on such ETFs. The Exchange notes that its proposal does not replace the need for a CSSA as provided in the current rule. The provisions of the current rule, including the need for a CSSA, remain materially unchanged in the proposed rule and will continue to apply to options on ETFs that are not listed on an equities exchange pursuant to generic listing standards for series of portfolio depositary receipts and index fund shares based on international or global indexes under which a comprehensive surveillance agreement is not required. Instead, the proposed rule adds an additional listing mechanism for certain qualifying options on ETFs to be listed on the Exchange.

Proposed Non-Substantive Reorganizational Changes

The Exchange proposes to take this opportunity to reorganize the provisions set forth in Rule 5.3.06. As background, the Exchange states that there are three general areas addressed in Rule 5.3.06. First, current subparagraphs (i) to (v) identify general and specific types of ETFs eligible for options listing. The Exchange is proposing to maintain this organization. Second, subparagraph (v)(E) sets forth the two ways in which an ETF may meet the Exchange's initial listing criteria. Third, subparagraphs (A)–(D) and (F) set forth additional initial listing criteria for ETFs based on the particular type of ETF. The Exchange believes that reorganizing the presentation of these paragraphs would make Rule 5.3.06 clearer and more user-friendly. As a result, CBOE proposes to move the contents of current subparagraph (v)(E) to be set forth as new paragraphs (B)(i) and (ii), after the general and specific types of ETFs eligible for options listing are identified. The Exchange believes that this placement would make it clearer that this provision applies to all ETFs. Finally, the Exchange proposes to add new subparagraph lettering to existing rule text and to re-letter existing rule text. These these [sic] are technical organizational changes and are not substantive changes.

CBOE also proposes to amend Rule 5.4.08 by updating internal cross-references to Rule 5.3.06 to reflect renumbering changing being proposed in this current filing to Rule 5.3.06. These proposed changes to Rule 5.4.08 are technical and non-substantive.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Section 6(b)(5) of the Act,[17] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the proposed rules have the potential to reduce the time frame for bringing options on ETFs to market, thereby reducing the burdens on issuers and other market participants. The Exchange also believes enabling the listing and trading of options on ETFs pursuant to this new listing standard will benefit investors by providing them with valuable risk management tools. The Exchange notes that its proposal does not replace the need for a CSSA as provided in the current rule. The provisions of the current rule, including the need for a comprehensive surveillance sharing agreement, remain materially unchanged in the proposed rule and will continue to apply to options on ETFs that are not listed on an equities exchange pursuant to generic listing standards for series of portfolio depositary receipts and index fund shares based on international or global indexes under which a comprehensive surveillance agreement is not required. Instead, the proposed rule adds an additional listing mechanism for certain qualifying options on ETFs to be listed on the Exchange in a manner that is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed non-substantive reorganizational changes to Rule 5.3.06 would be beneficial to market participants and users of CBOE's Rulebook because these proposed changes would generally result in a clearer and more user-friendly presentment of the provisions set forth in CBOE's Rulebook.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b).

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. To the contrary, the proposed rule change is a competitive change that is substantially similar to recent rule changes filed by the MIAX Options Exchange (''MIAX''), NASDAQ OMX PHLX, LLC (''Phlx'') and International Securities Exchange, LLC (''ISE'').[18] Furthermore, the Exchange believes this proposed rule change will benefit investors by providing additional methods to trade options on ETFs, and by providing them with valuable risk management tools. Specifically, the Exchange believes that market participants on the Exchange would benefit from the introduction and availability of options on ETFs in a manner that is similar to equities exchanges and will provide investors with a venue on which to trade options on these products. For all the reasons stated above, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, and believes the proposed change will enhance competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and Rule 19b–4(f)(6) thereunder.[20]

[18] *See* Securities Exchange Act Release Nos. 74509 (March 13, 2015), 80 FR 14425 (March 19, 2015) (SR–MIAX–2015–04); 74553 (March 20, 2015), 80 FR 16072 (March 26, 2015) (SR–Phlx–2015–27) and 74832 (April 29, 2015), 80 FR 25738 (May 5, 2015) (SR–ISE–2015–16).

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[21] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[22] 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 asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of the operative delay will permit the Exchange to list and trade certain ETF options on the same basis as other options markets.[23] Moreover, the Exchange has represented that the reorganizational changes are non-substantive and would assist market participants by providing a clearer rule. The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[24]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2015–052 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2015–052. 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–CBOE–2015–052, and should be submitted on or before July 22, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–16085 Filed 6–30–15; 8:45 am]

BILLING CODE 8011–01–P

of filing of the proposed rule change, or such shorter time as designated by the Commission.

[21] 17 CFR 240.19b–4(f)(6).

[22] 17 CFR 240.19b–4(f)(6)(iii).

[23] *See supra* note 18.

[24] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75301; File No. SR–NYSEMKT–2015–44]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Members' Schedule as Defined in the Amended and Restated Limited Liability Company Agreement of NYSE Amex Options LLC Dated as of May 14, 2014 in Order to Reflect Changes to the Capital Structure of the Company

June 25, 2015.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 17, 2015, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Members' Schedule (as defined in the Amended and Restated Limited Liability Company Agreement of NYSE Amex Options LLC (the ''Company'') dated as of May 14, 2014 (the ''LLC Agreement'')) in order to reflect changes to the capital structure of the Company based on two transactions (such amendment, the ''Proposed Rule Change''). The first transaction involved the issuance of Annual Incentive Shares (as defined in the Members Agreement (as defined below)) to the Founding Firms (as defined below) consistent with the formula set forth in Section 2.1 of that certain Amended and Restated Members Agreement, dated as of May 14, 2014, by and among the Company, NYSE MKT, NYSE Holdings LLC (formerly known as NYSE Euronext) (''NYSE Holdings''), NYSE Market (DE), Inc. (formerly known as NYSE Market, Inc.) (''NYSE Market (DE)''), Banc of America Strategic Investments Corporation (''BAML''), Barclays Electronic Commerce Holdings Inc. (''Barclays''), Citadel Securities LLC (''Citadel''), Citigroup Financial Strategies, Inc. (''Citigroup''), Goldman,

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Sachs & Co. (''Goldman Sachs''), Datek Online Management Corp. (''TD Ameritrade'') and UBS Americas Inc. (''UBS'') (collectively, excluding the Company, NYSE MKT, NYSE Holdings and NYSE Market (DE), the ''Founding Firms'') (the ''Members Agreement''). The second transaction will involve the transfer of Interests (as defined in the LLC Agreement) by the Founding Firms to NYSE Market (DE), an affiliate of the Exchange, as soon as reasonably practicable following June 15, 2015 pursuant to Article XI of the LLC Agreement and Section 3.1 of the Members Agreement. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Members' Schedule as set forth herein. The amendment reflects changes to the capital structure of the Company due to (i) the issuance of Annual Incentive Shares to the Founding Firms pursuant to Section 2.1 of the Members Agreement and (ii) the transfer of Interests by the Founding Firms to NYSE Market (DE) pursuant to Article XI of the LLC Agreement and Section 3.1 of the Members Agreement.

Issuance of Annual Incentive Shares

Pursuant to Section 2.1 of the Members Agreement, each year until this year (unless extended by the board of directors of the Company), the Company must issue a number of Class B Common Interests (as defined in the LLC Agreement) equal to thirty percent (30%) of the then-outstanding Class B Common Interests as Annual Incentive Shares. These Annual Incentive Shares are allocated among the Members (as defined in the LLC Agreement) holding Class B Common Interests (such Members, the ''Class B Members'') based on each Class B Member's contribution to the volume of the Exchange relative to such Class B Member's Individual Target (as defined in the Members Agreement). The Annual Incentive Shares may change the relative economic and voting rights among the Class B Members but have no effect on the relative economic and voting rights as between Members holding Class A Common Interests (as defined in the LLC Agreement) and Class B Members.

Effective February 28, 2015, the Company issued 10.5456 Annual Incentive Shares in the aggregate to the Founding Firms (the ''Issuance of Annual Incentive Shares''). Five of the Founding Firms did not achieve their Individual Targets, which reduced the five Founding Firms' economic and voting interests in the Company relative to the other Founding Firms. In addition, because only two Founding Firms exceeded their Individual Targets, 1.0309 unallocated Reallocation Shares (as defined in the Members Agreement) were included in an Unearned Class B Shares Pool (as defined in the Members Agreement). In accordance with Section 2.2 of the Members Agreement, the board of directors of the Company allocated such Class B Shares between those two Founding Firms that exceeded their Individual Targets, effective February 28, 2015. The Exchange proposes to amend the Members' Schedule as set forth in Exhibit 5A attached hereto [4] (marked against the Members' Schedule in effect prior to such issuance) to reflect the issuance of Annual Incentive Shares, including the allocation of the Reallocation Shares included in the Unearned Class B Shares Pool.

Founding Firm Transfer

Pursuant to Article XI of the LLC Agreement and Section 3.1 of the Members Agreement, *a Member* may transfer Interests to a third party or to another Member *in accordance with the* conditions and limitations *set forth therein.* The Exchange is filing this Proposed Rule Change, in part, to provide notice that the Founding Firms collectively intend to transfer an aggregate equity interest [sic] *16.0000*% in the Company to NYSE Market (DE), an affiliate of the Exchange (the ''Founding Firm Transfer''). Upon consummation of the Founding Firm Transfer and the acquisition by NYSE Market (DE) of the Class B Common Interests transferred by the Founding Firms, such Class B Common Interests will automatically convert into an appropriate number of Class A Common Interests.

Immediately following the Founding Firm Transfer, NYSE MKT will own an equity interest of *47.2000*% in the Company, NYSE Market (DE) will own an equity interest of *52.8000*%, and the Founding Firms, collectively, will no longer have an equity interest in the Company. *The Exchange proposes, upon consummation of the Founding Firm Transfer, to amend the Members' Schedule* as set forth in Exhibit 5B attached hereto [5] (marked against the Members' Schedule following the Issuance of Annual Incentive Shares) *to reflect the Founding Firm Transfer.*

2. Statutory Basis

The Proposed Rule Change is consistent with Section 6(b) [6] of the Act,[7] in general, and furthers the objectives of Section 6(b)(1) [8] of the Act, which requires a national securities exchange to be so organized and have the capacity to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations promulgated thereunder and the rules of the Exchange. The Proposed Rule Change does not modify the Company's trading or compliance rules and preserves the existing mechanisms for ensuring the Exchange's and the Company's compliance with the Act, the rules and regulations promulgated thereunder and the rules of the Exchange. The Proposed Rule Change also retains NYSE MKT's regulatory control over the Company and the provisions specifically designed to ensure the independence of its self-regulatory function and to ensure that any regulatory determinations by NYSE MKT, as the Company's SRO, are controlling with respect to the actions and decisions of the Company.

Additionally, the Proposed Rule Change continues to require the Company, its Members and its directors to comply with the federal securities laws and the rules and regulations promulgated thereunder and to engage in conduct that fosters and does not interfere with the Exchange's or the Company's ability to carry out its

[4] The Commission notes that Exhibit 5A is attached to the filing, not to this Notice.

[5] The Commission notes that Exhibit 5B is attached to the filing, not to this Notice.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78.

[8] 15 U.S.C. 78f(b)(1).

respective responsibilities under the Act.

The Proposed Rule Change is also consistent with, and furthers the objectives of, Section 6(b)(5) [9] of the Act, in that it preserves all of NYSE MKT's existing rules and mechanisms to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect 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 have any impact on competition. The Proposed Rule Change solely relates to changes in the equity interests among the Members of the Company pursuant to provisions of the LLC Agreement and Members Agreement that have been previously filed and approved by the Commission. In addition, neither the Issuance of Annual Incentive Shares nor the Founding Firm Transfer implicates the Commission's policies with respect to permissible ownership. Furthermore, because the Proposed Rule Change does not affect the availability or pricing of any goods or services, the Proposed Rule Change will not affect competition either between the Exchange and others that provide the same goods and services as the Exchange or among market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the Proposed Rule Change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that an immediate operative date is necessary to permit the efficient consummation of both the Issuance of Annual Incentive Shares and the Founding Firm Transfer. According to the Exchange, accomplishing the Founding Firm Transfer requires that the Members have certainty as to the amount of Common Interests owned by each, which in turn requires timely consummation of the Issuance of Annual Incentive Shares. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the Company to consummate the Issuance of Annual Incentive Shares and the Founding Firm Transfer in an efficient and predictable manner. Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing.[14]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2015–44 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2015–44. 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 publicly available. All submissions should refer to File Number SR–NYSEMKT–2015–44 and should be submitted on or before July 22, 2015.

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78s(b)(2)(B).

[16] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–16089 Filed 6–30–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75291; File No. SR–BX–2015–015]

Self-Regulatory Organizations; NASDAQ OMX BX Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, To Amend and Restate Certain Rules That Govern the NASDAQ OMX BX Equities Market

June 24, 2015.

I. Introduction

On March 20, 2015, NASDAQ OMX BX, Inc. (''BX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend and restate certain BX rules that govern the NASDAQ OMX BX Equities Market in order to provide a clearer and more detailed description of certain aspects of its functionality. The proposed rule change was published for comment in the **Federal Register** on April 6, 2015.[3] The Commission received no comment letters regarding the proposed rule change. On May 12, 2015, the Commission extended to July 5, 2015, the time period in which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved.[4] On June 22, 2015, the Exchange filed Amendment No. 1 to the proposed rule change.[5] This order approves the proposed rule change, as amended, on an accelerated basis.

II. Description of the Amended Proposal

The Exchange proposes to amend and restate certain rules governing the NASDAQ OMX BX Equities Market in order to provide additional detail and clarity regarding its order type functionality.[6] This proposed rule change is a response to Chair White's request that each equities exchange conduct a comprehensive review of the operation of each of the order types that it offers to members.[7]

While the Exchange believes that its current rules and other public disclosures provide a comprehensive description of the operation of the NASDAQ OMX BX Equities Market and are sufficient for members and the investing public to have an accurate understanding of its market structure, it also acknowledges that a restatement of certain rules will further clarify the operation of its system.[8] For instance, BX believes that adding examples of order type operation to its rules will promote greater understanding of the Exchange's market structure.[9] In addition, BX asserts that certain functionality previously described as an ''order type'' is more precisely characterized as an attribute that may be added to a particular order.[10] Accordingly, this proposed rule change distinguishes between ''Order Types'' and ''Order Attributes,'' and provides descriptions of the Order Attributes that may be attached to particular Order Types.[11]

Currently, BX Rule 4751 sets forth most of the rules governing NASDAQ OMX BX Equities Market Order Types and Order Attributes, as well as other defined terms that pertain to trading securities on the NASDAQ OMX BX Equities Market.[12] BX proposes to restate and amend Rule 4751 as new Rule 4701.[13] BX also proposes to amend the definitions pertaining to Order Types and Order Attributes and to relocate them from Rule 4751 to new Rules 4702 (Order Types) and 4703 (Order Attributes), respectively.[14] In addition, BX proposes to delete Rule 4755 as the information contained therein is superseded by proposed Rules 4702 and 4703.[15] Lastly, BX proposes certain conforming and technical changes to Rules 4756, 4757, and 4780.[16]

BX represents that, except where specifically stated otherwise, all proposed rules are restatements of existing rules and are not intended to reflect substantive changes to rule text or the operation of the NASDAQ OMX BX Equities Market.[17] Proposed Rule 4702 related to Order Types contains definitions and descriptions of Price to Comply Orders, Price to Display Orders (referred to as ''Price to Comply Post Orders'' in current Rule 4751),[18] Non-Displayed Orders, Post-Only Orders, Retail Price Improving Orders, and Retail Orders. Proposed Rule 4703 related to Order Attributes contains definitions and descriptions of time-in-force (''TIF'') modifiers, order size, order price, pegging, minimum quantity, routing, discretion, reserve size, attribution, intermarket sweep order designation, and display.[19]

In Amendment No. 1, the Exchange proposes to add language further explaining the operation of the following order types: Post-Only Orders, orders with a TIF of IOC, including Routable Orders and Post-Only Orders; orders with Midpoint Pegging, Primary Pegging or Market Pegging; and orders designated with both Pegging and Routing attributes.[20] For example, the Exchange states that for Order Types that list both Pegging and Routing as possible Order Attributes, the two Order Attributes may be combined since Pegging serves to establish the price of the order, while Routing establishes the market center(s) to which the system's routing functionality may direct a routed order if liquidity is available at that price.[21] The Exchange also proposes to add further specification regarding the availability of certain order types only through certain communication protocols by stating that a Post-Only Order with a TIF of IOC may not be entered through the RASH or FIX protocols.[22] In addition, the Exchange proposes to add language stating that one or more Order

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 74617 (March 31, 2015), 80 FR 18473 (''Notice'').

[4] *See* Securities Exchange Act Release No. 74934, 80 FR 28325 (May 18, 2015).

[5] In Amendment No. 1, the Exchange proposed to correct typographical errors in the original filing, further improve the clarity of certain rule language, and include additional explanation with regard to the purpose of the proposed rule change.

[6] *See* Notice 80 FR at 18473.

[7] *See id.; see also* Mary Jo White, Chair, Commission, Speech at the Sandler O'Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014), *available at http://www.sec.gov/News/Speech/Detail/Speech/1370542004312.*

[8] *See* Notice, 80 FR at 18474.

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] *See* Rule 4751.

[13] *See* proposed Rule 4701.

[14] *See* proposed Rules 4702 and 4703.

[15] *See* Rule 4755.

[16] BX states that, in subsequent proposed rule changes, it plans to restate the remainder of its Rules numbered 4752 through 4780 so that they appear sequentially following Rule 4703. *See.* Notice, 80 FR at 18474.

[17] *See.* Notice, 80 FR at 18474.

[18] *See* Notice, 80 FR at 18477 n.29.

[19] The Notice contains additional details related to proposed Rules 4702 and 4703. *See* Notice, 80 FR at 18473–90.

[20] *See* Amendment No. 1.

[21] *Id.*

[22] *Id.*

Attributes may be assigned to a single order, but if the use of multiple Order Attributes would result in contradictory instructions, the system will reject the order or remove non-conforming Order Attributes.[23]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[24] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[25] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission notes that the Exchange believes that the proposal is consistent with Section 6(b)(5) of the Act because the reorganized and enhanced descriptions of its Order Types, Order Attributes, and related System functionality should promote just and equitable principles of trade and perfect the mechanisms of a free and open market and the national market system by providing greater clarity concerning certain aspects of the System's operations.[26] In addition, the Commission notes that BX believes that the proposed rule change should contribute to the protection of investors and the public interest by making BX's rules easier to understand.[27] Further, BX believes that additional specificity in its rules will promote a better understanding of the Exchange's operation, thereby facilitating fair competition among brokers and dealers and among markets.[28]

The Commission notes that, according to the Exchange, the proposal does not add any new functionality but instead re-organizes the Exchange's order type rules and provides additional detail regarding the order type functionality currently offered by the Exchange. Based on the Exchange's representation, the Commission believes that the proposed rule change does not raise any novel regulatory considerations and should provide greater specificity, clarity and transparency with respect to the order type functionality available on the Exchange. In addition, the Commission notes that the Exchange's proposed rule changes provide additional detail related to functionality for certain order types and the handling of orders during initial entry and after posting to the NASDAQ OMX BX Equities Market Book. Accordingly, the Commission believes that this proposed rule change should provide greater transparency with respect to the Exchange's order type functionality. For these reasons, the Commission believes that the proposal should help 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, protect investors and the public interest.

The Commission finds good cause to approve the filing, as amended by Amendment No. 1 to the proposed rule change, prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The proposed amendments should further increase the Exchange's transparency with respect to the operation of various order types and modifiers, and serve to enhance investors' understanding of the tools available with respect to the handling of their orders. Accelerated approval would allow the Exchange to update its rule text immediately, thus providing users with greater clarity with respect to the use and potential use of functionality offered by the Exchange. In addition, the initial proposal was open for comment for twenty-one days after publication and generated no comment. Accordingly, the Commission believes that good cause exists, consistent with Sections 6(b)(5) and 19(b) of the Act,[29] to approve the filing, as amended by Amendment No. 1 to the proposed rule change, on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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–BX–2015–015 *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–BX–2015–015. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2015–015 and should be submitted on or before July 22, 2015.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[30] that the proposed rule change (SR–BX–2015–015) be, and it hereby is, approved on an accelerated basis, as amended.

[23] *Id.*

[24] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 15 U.S.C. 78f(b)(5).

[26] *See* Notice, 80 FR at 18488.

[27] *Id.*

[28] *Id.*

[29] 15 U.S.C. 78f(b)(5); 15 U.S.C. 78s(b).

[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–16083 Filed 6–30–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75299; File No. SR–CBOE–2015–047]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change Relating to Floor Broker Due Diligence

June 25, 2015.

I. Introduction

On May 5, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend Exchange rules related to Floor Broker due diligence. The proposed rule change was published for comment in the **Federal Register** on May 22, 2015.[4] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

CBOE proposes to amend several rules to address certain order handling obligations on the part of its Floor Brokers. Specifically, whether orders sent to Floor Brokers are presumed to be ''Held'' or ''Not Held.'' A ''Not Held'' order generally is one where the customer gives the Floor Broker discretion in executing the order, both with respect to the time of execution and the price (though the customer may specify a limit price), and the Floor Broker works the order over a period of time to avoid market impact while seeking best execution of the order. A ''Held'' order generally is one where the customer seeks a prompt execution at the best currently available price or prices.

Currently, CBOE Rule 6.53 (Certain Order Types Defined) defines a ''Not Held Order'' as an order that is marked as ''not held'' or ''take time,'' or ''which bears any qualifying notation giving discretion as to the price or time at which such order is to be executed.'' CBOE Rule 6.75 (Discretionary Transactions) further provides that ''[u]nder normal market conditions, and in the absence of a 'not held' instruction, a Floor Broker may not exercise time discretion on market or marketable limit orders and shall immediately execute such orders at the best price or prices available.''

CBOE now proposes to amend Exchange Rule 6.75, as well as Rules 6.53 and 6.73, to establish a different default status for orders sent to Floor Brokers. Specifically, CBOE proposes to add a new Interpretation and Policy .06 to CBOE Rule 6.73 (Responsibilities of Floor Brokers) to specify that an order entrusted to a Floor Broker will be considered a Not Held Order unless (i) a Floor Broker's customer otherwise specifies or (ii) the order was electronically received by the Exchange and subsequently routed to a Floor Broker or PAR Official pursuant to the order entry firm's routing instructions. The Exchange also proposes to add additional language to the Not Held Order definition in CBOE Rule 6.53(g) that mirrors the language it proposes to add to Rule 6.73. Finally, the Exchange proposes to amend CBOE Rule 6.75, which addresses a Floor Broker's discretion in executing orders, to delete the sentence that specifies that a Floor Broker may *not* exercise time discretion on an order under normal market conditions unless the order was marked ''not held.''

The consequence of these proposes changes, taken together, will result in a change to the default order handling obligations for orders sent to Floor Brokers. Whereas Floor Brokers are currently obligated by CBOE Rule 6.75 to immediately execute orders at the best available prices under normal market conditions unless the customer provides a Not Held instruction on the order, CBOE's proposal will consider all orders sent to Floor Brokers to be ''Not Held'' by default unless the customer specifies or if the order is delivered to CBOE electronically in such a manner as to suggest that the customer is seeking a prompt execution of a marketable order at the best available prices.

In its filing, the Exchange states that CBOE Rules 6.73 and 6.75 were adopted prior to electronic trading and thus did not contemplate the interaction between an electronic trading environment and a manual trading floor.[5] The Exchange believes that, at present, customers who submit orders to Floor Brokers likely are seeking to rely on a Floor Broker's expertise and discretion.[6] The Exchange believes that customers place orders with Floor Brokers because Floor Brokers can exercise discretion in executing a client's order and can potentially provide higher execution quality.[7] The Exchange states that a customer would otherwise electronically submit an order to the Exchange for automatic handling and an electronic execution.[8]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[9] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[10] which requires that the rules of the exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the Exchange has articulated a reasonable basis for changing the current default presumption of whether a customer intends to provide a Floor Broker with the ability to exercise time and price discretion on its behalf as long as the order is not otherwise marked, or received electronically, in a manner to suggest that the customer did not intend for its order to be treated as Not Held. Other than changing the default presumption to ''Not Held'' for most orders sent to Floor Brokers, CBOE is not proposing to change any other order handling obligations applicable to Floor Brokers. CBOE's proposal responds to its understanding of the changing role of Floor Brokers on its trading floor since it adopted Rule 6.75, and its understanding of how customers today use, and intend to continue to use, the services of Floor Brokers on the CBOE exchange. Accordingly, the Commission finds that the proposed rule change is consistent with the Act and is designed

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 74990 (May 18, 2015), 80 FR 29767 (''Notice'').

[5] *See* Notice, *supra* note 4, 80 FR at 29768.

[6] *See id.*

[7] *See id.*

[8] *See id.*

[9] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78(b)(5).

to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–CBOE–2015–047) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–16087 Filed 6–30–15; 8:45 am]

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[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31697; File No. 812–13875–47]

Cash Trust Series, Inc., et al.; Notice of Application

June 24, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order pursuant to sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY: *Summary of the Application:* Applicants request an order (''Order'') that would permit certain registered management investment companies to engage in certain primary and secondary market transactions in fixed-income securities (the ''Securities Transactions'') on a principal basis with certain broker-dealers and banks that are affiliated persons of the registered management investment companies solely by virtue of non-controlling ownership interests in such investment companies.

Applicants: Cash Trust Series, Inc., Federated Adjustable Rate Securities Fund, Federated Core Trust, Federated Core Trust II, L.P., Federated Core Trust III, Federated Enhanced Treasury Income Fund, Federated Equity Funds, Federated Equity Income Fund, Inc., Federated Fixed Income Securities, Inc., Federated Global Allocation Fund, Federated Government Income Securities, Inc., Federated Government Income Trust, Federated High Income Bond Fund, Inc., Federated High Yield Trust, Federated Income Securities Trust, Federated Index Trust, Federated Institutional Trust, Federated Insurance Series, Federated International Series, Inc., Federated Investment Series Funds, Inc., Federated MDT Series, Federated MDT Stock Trust, Federated Managed Pool Series, Federated Municipal Securities Fund, Inc., Federated Municipal Securities Income Trust, Federated Premier Intermediate Municipal Income Fund, Federated Premier Municipal Income Fund, Federated Short-Intermediate Duration Municipal Trust, Federated Total Return Government Bond Fund, Federated Total Return Series, Inc., Federated U.S. Government Securities Fund: 1–3 Years, Federated U.S. Government Securities Fund: 2–5 Years, Federated World Investment Series, Inc., Intermediate Municipal Trust, Edward Jones Money Market Fund, Money Market Obligations Trust (each such registered management investment company or series thereof, a ''Federated Fund''); Federated Advisory Services Company, Federated Equity Management Company of Pennsylvania, Federated Global Investment Management Corp., Federated Investment Counseling, Federated Investment Management Company, Federated MDTA LLC, Passport Research, Ltd., Federated Securities Corp. (each, an Adviser, and collectively, the ''Advisers'') and any other registered management investment company or series thereof for which a person controlling, controlled by, or under common control with Federated Investors, Inc., a Pennsylvania corporation (''Federated''), serves as investment adviser (included in the term ''Adviser,'' and any such company or series thereof, together with the Federated Funds, the ''Funds,'' and individually, a ''Fund'').[1]

DATES: *Filing Dates:* The application was filed on March 1, 2011 and amended on August 29, 2011, July 3, 2012, December 7, 2012, August 29, 2013, June 15, 2015 and June 22, 2015.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 17, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants, c/o Peter Germain, Federated Investors, Inc., Federated Investors Tower, 1001 Liberty Avenue, Pittsburgh, PA 15222–3779.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at (202) 551–6817 or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. Each Fund is an open-end or closed-end management investment company registered under the Act and is organized as a statutory trust, business trust, or corporation under the laws of Delaware, Maryland, or Massachusetts. The Funds have a variety of investment objectives, but each may invest a portion of its assets in fixed-income securities. The fixed-income securities in which the Funds may invest include, but are not limited to, government securities, municipal securities, tender option bonds, taxable and tax-exempt money market securities, repurchase agreements, asset- and mortgage-backed securities, corporate issues and syndicated loans, as the Funds' respective investment objectives, policies and restrictions allow.

2. The Advisers are direct or indirect wholly-owned subsidiaries of Federated. Each Adviser is registered as an investment adviser under the Investment Advisers Act of 1940. The Advisers act as investment advisers to the Funds and may supervise one or

[1] All entities that currently intend to rely on the requested Order are named as applicants. Any other entity that relies on the Order in the future will comply with the terms and conditions of the application. No Fund may rely on the requested Order unless the Adviser serves as the primary investment adviser to such Fund. On October 27, 1993, the Commission issued an exemptive order under section 17(b) of the Act permitting the Funds to engage in transactions with certain affiliated banks (A.T. Ohio Tax-Free Money Fund, et al., Investment Company Act Release Nos. 19737 (Sept. 28, 1993) (notice) and 19816 (Oct. 27, 1993) (order)) (''1993 Order''). The Order sought herein would not supersede the 1993 Order.

more sub-advisers with respect to certain Funds.

3. Applicants state that, because of consolidation in the financial services industry, combined with an increase in fund industry assets, a few major broker-dealers account for a large percentage of the market share in trading in fixed-income securities. Applicants state that the decline in the number of broker-dealers and banks trading in the fixed-income securities in which the Funds seek to invest and the increasing importance of the few remaining institutions have increased the importance to the Funds of their relationships with such entities. For example, applicants state that, for the period January 1, 2014 through December 31, 2014, there were eighty-six underwriters in the U.S. high yield bond market and that the applicants currently trade with each of the top ten underwriters in this market: JP Morgan, Bank of America Merrill Lynch, Citigroup, Goldman Sachs, Morgan Stanley, Barclays, Wells Fargo, Credit Suisse, RBC and Deutsche Bank. These entities accounted for 80.2% of the market share for this period. The Funds also invest in money market instruments issued by these dealers. For example, during 2014, Federated estimates that Barclays, Deutsche Bank, JP Morgan, HSBC and RBC issued over 9% of the financial commercial paper. In addition, as of January 30, 2015, applicants stated that eleven banks or broker-dealers that were part of Federated's top fifteen dealers in 2014 maintained customer accounts in one or more of the Funds and that the percentage of outstanding voting securities held by each of these entities could rise above 5% of a Fund's outstanding shares at any time. Therefore, applicants state that the Funds are constantly at risk of being prevented from trading with the most significant dealers in the fixed-income markets due to circumstances that they cannot effectively control.

4. Applicants assert that the inability of the Funds to execute Securities Transactions (as defined below) with Affiliated Dealers (defined below) would significantly limit the number of broker-dealers and banks available to the Funds, the universe of underwritings in which the Funds may participate, and the Securities Transactions in which the Funds may engage. Applicants state that the inability to effect Securities Transactions with Affiliated Dealers would impair an Advisers' flexibility in portfolio management and the ability of the Funds to purchase and sell portfolio securities, to the detriment of their shareholders.

5. Therefore, applicants request the Order pursuant to sections 6(c) and 17(b) of the Act exempting from section 17(a) of the Act [2] Securities Transactions entered into in the ordinary course of business by a Fund with an Affiliated Dealer under the circumstances, terms and conditions set forth in the application. ''Securities Transactions'' for purposes of the Order are primary and secondary market transactions in fixed-income securities [3] executed on a principal basis between the Funds and Affiliated Dealers. An ''Affiliated Dealer'' includes any person, or any affiliated person of a person (''second-tier affiliate''), who is an affiliated person of a Fund solely because such person, directly or indirectly, owns, controls or holds with power to vote five percent (5%) or more of the outstanding voting securities of a Fund and such person or affiliated person thereof is a (a) broker-dealer registered under the Securities Exchange Act of 1934 (the ''1934 Act'') or (b) bank excepted from the definition of broker and dealer pursuant to Sections 3(a)(4)(B) and 3(a)(5)(C) of the 1934 Act and therefore not required to register as a broker or dealer under the 1934 Act.[4] The requested relief would not extend to primary market Securities Transactions in fixed-income securities, other than repurchase agreements and other fixed-income securities that are ''Eligible Securities'' as defined in rule 2a–7 under the Act, of which the Affiliated Dealer, or any entity controlling, controlled by or under common control with the Affiliated Dealer (such entity, a ''Control Affiliate''), is the primary obligor.

6. Applicants state that all Securities Transactions will originate with the purchasing Fund or its Adviser on behalf of the Fund. No Affiliated Dealer will seek to influence the choice of a broker or dealer for any Securities Transaction by a Fund. An Affiliated Dealer's participation in any Securities Transaction will be limited to the normal course of sales activities of the same nature that are being carried out during the same period with respect to unaffiliated institutional clients of the Affiliated Dealer.

7. Applicants represent that there is not, and will not be, any express or implied understanding between the Advisers and any Affiliated Dealer that will cause a Fund to enter into Securities Transactions or give preference to the Affiliated Dealer in effecting such transactions between the Funds and the Affiliated Dealer.

Applicants' Legal Analysis

1. Section 17(a) of the Act, in relevant part, prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from selling to or purchasing from such company any security or other property and from borrowing money or other property from such company. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

2. Section 6(c) of the Act, in relevant part, authorizes the Commission to exempt any person or transaction, or any class or classes of persons or transactions, from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Section 2(a)(3) of the Act, in relevant part, defines ''affiliated person'' of another person to include: (a) Any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of such other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned by, controlled, or held with power to vote, by such person; and (c) any person directly or indirectly controlling, controlled by, or under common control with, such other person.

4. Section 2(a)(9) of the Act, in relevant part, defines ''control'' as ''the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official

[2] Applicants are not seeking any relief from section 10(f), 17(d) or 17(e) of the Act or rules 17d–1 and 17e–1 thereunder.

[3] Fixed-income securities for purposes of the Order include interests in syndicated loans, as well as convertible bonds and convertible preferred stock.

[4] No director, officer or employee of the Funds or the Advisers is or will be a director, officer or employee of an Affiliated Dealer. Additionally, the Chairman of the Funds' board of directors or trustees (''Board'') is not an interested person of the Funds, as defined in section 2(a)(19) of the Act, and seven of the nine members of the Funds' Board are independent trustees or directors.

position with such company.'' Section 2(a)(9) also provides that any person who owns beneficially, either directly or through one or more controlled companies, more than 25% of the voting securities of a company shall be presumed to control such company, and that any person who does not so own more than 25% of the voting securities of any company shall be presumed not to control such company.

5. Applicants state that if a bank or broker-dealer acquires five percent or more of the outstanding voting securities of a Fund, the bank or broker-dealer would become an affiliated person of the Fund and a second-tier affiliate of the other Funds within the meaning of section 2(a)(3) of the Act (by virtue of the Funds' being under the common control of the Advisers or common directors or officers).

6. Applicants submit that the primary purpose of section 17(a) is to prevent a person with the power to control or influence a registered investment company from engaging in self-dealing or overreaching, to the detriment of the investment company's shareholders. Applicants submit that the policies which section 17(a) of the Act was meant to further are not implicated in the context of the requested Order because the Affiliated Dealers are not in a position to cause a Fund to enter into a Securities Transaction or otherwise influence portfolio decisions by the Advisers on behalf of the Funds. Applicants state that, as a result, no Affiliated Dealer is in a position to cause a Fund to enter into Securities Transactions that are not in the best interests of the Fund and its shareholders. Applicants also state that there will be no conflict of interest associated with an Adviser's decision to engage in a Securities Transaction with an Affiliated Dealer on behalf of a Fund. Applicants further submit that the conditions to the requested Order provide further protections against any possibility of self-dealing or overreaching by the Affiliated Dealers. Therefore, applicants submit that the requested Order satisfies the statutory standards for relief.

Applicants' Conditions

Applicants agree that the Order granting the requested relief will be subject to the following conditions:

A. Structural

1. No Fund will engage in Securities Transactions in reliance on the requested Order with any Affiliated Dealer which controls any Fund, within the meaning of section 2(a)(9) of the Act, or with any Affiliated Dealer that is an affiliated person of such Affiliated Dealer.

2. An Affiliated Dealer's participation in any Securities Transaction will be limited to the normal course of sales activities of the same nature that are being carried out during the same period with respect to unaffiliated institutional customers of the Affiliated Dealer. In particular, no Adviser will directly or indirectly consult with any Affiliated Dealer concerning Securities Transactions, or the selection of a broker or dealer for any Securities Transaction placed or to be placed on behalf of a Fund. No Affiliated Dealer will seek to influence the choice of broker or dealer for any Securities Transaction by a Fund.

3. The Compliance Department of the Advisers will prepare guidelines for their respective personnel to make certain that Securities Transactions effected pursuant to the Order comply with its terms and conditions, and that the Advisers maintain an arm's-length relationship with the Affiliated Dealers. The Compliance Department of the Advisers will monitor periodically the activities of the Advisers to make certain that the terms and conditions of the Order are met.

4. Each Fund's Board will annually determine whether the level of Securities Transactions executed with Affiliated Dealers is appropriate based upon its review, without limitation, of the following materials to be prepared by the Advisers:

(a) a report on the Affiliated Dealers' market share in fixed-income securities for the previous twelve (12) months; and

(b) a memorandum explaining why continued reliance on the Order is in the best interests of the Funds. Such memorandum will discuss the findings of the Fixed Income Brokerage Practices Committee which reviews broker performance and execution on a quarterly basis. Such memorandum will also include an analysis of the current fixed-income securities markets and such other materials as the Board may request in order to aid it in its review, including, but not limited to, data showing that the exclusion of the Affiliated Dealers would deny the Funds opportunities for investment and improved execution.

Based on such report and memorandum, without limitation, the Board will further, in a separate determination, consider annually whether continued reliance by the Funds on the Order is appropriate for each category of fixed-income securities (such categories to be reasonably defined by the Advisers), as evidenced by the aggregate market share of the Affiliated Dealers in each such category, among other things.

B. Transactional

With respect to each Securities Transaction entered into or effected pursuant to the Order:

5. Each Fund's Board, including a majority of the disinterested Board members (''Necessary Majority''), will approve, and the Fund will implement, procedures governing all Securities Transactions pursuant to the Order and the Fund's Board will no less frequently than quarterly review all such Securities Transactions and receive and review a report (the ''Report'') of those Securities Transactions. The Report will be prepared by the Fund's Adviser, and reviewed and approved by the Fund's Chief Compliance Officer, will indicate for each Securities Transaction that the terms and conditions of the Order have been satisfied, and will include a discussion of any significant changes in the volume, type or terms of Securities Transactions between the relevant Fund and the Affiliated Dealer, the reasons for these changes, and a determination that such changes are legitimate.

6. For each Securities Transaction, the Advisers will adhere to a ''best execution'' standard, will consider only the interests of the Fund, and will not take into account the impact of the Fund's investment decision on the Affiliated Dealer. Before entering into any Securities Transaction, the Adviser will determine that the transaction is consistent with the investment objectives and policies of the Fund and is in the best interests of the Fund and its shareholders.

7. A primary market Securities Transaction will not involve the purchase of a fixed-income security of which the Affiliated Dealer to the transaction, or one of its Control Affiliates, is the primary obligor, unless the transaction is for repurchase agreements or Eligible Securities, and such Affiliated Dealer, and any of its Control Affiliates, does not hold 5% or more of the outstanding voting securities of a Fund defined as a ''Money Market Fund'' in the General Instructions to Form N–1A, which holds itself out as a money market fund and meets the maturity, quality, and diversification requirements of rule 2a–7 under the Act.

8. The Advisers to the Funds will maintain a credit committee for Eligible Securities and an execution assessment committee for trading in fixed-income securities. A Fund may purchase from an Affiliated Dealer an Eligible Security for which the Affiliated Dealer or a Control Affiliate is the primary obligor

only if (a) the credit committee has determined that the Affiliated Dealer's or the Control Affiliate's primary obligations, or if the Eligible Security is guaranteed by another entity, the other entity's obligations, present minimal credit risks, as currently required by rule 2a–7(c) under the Act and (b) the execution assessment committee reviews the terms of the purchase at its next regular meeting and addresses any concerns regarding the terms of purchase, including whether the Funds may engage in future Eligible Securities transactions with such Affiliated Dealer. The Advisers' Compliance Department will monitor the meetings of the credit and execution assessment committees and will include the committees' determinations in the Report provided to the Board.

9. Each Fund will (a) for so long as the Order is relied upon, maintain and preserve in an easily accessible place a written copy of the procedures and conditions (and any modifications thereto) that are described herein, and (b) maintain and preserve for a period of not less than six years from the end of the fiscal year in which any Securities Transaction in which the Fund's Adviser knows that both an Affiliated Dealer and the Fund directly or indirectly have an interest occurs, the first two years in an easily accessible place, a written record of each such transaction setting forth a description of the security purchased or sold by the Fund, a description of the Affiliated Dealer's, or the Affiliated Dealer's affiliated person's, interest or role in the transaction, the terms of the transaction, and the information or materials upon which the determination was made that such transaction was made in accordance with the procedures set forth above and conditions in the application.

10. Except as otherwise provided below, before any secondary market principal transaction is entered into between a Fund and an Affiliated Dealer, the Fund's Adviser will obtain a competitive quotation for the same securities (or in the case of securities for which quotations for the same securities are not available, a competitive quotation for Comparable Securities [5]) from at least two dealers that are not affiliated persons of the Affiliated Dealer or the Adviser and that are in a position to quote favorable market prices, except that if, after reasonable efforts, quotations are unavailable from two such dealers, only one other competitive quotation is required. For each such transaction, the Adviser will determine, based upon the quotations and such other relevant information (such as available transaction prices and any other information regarding the value of the securities) as is reasonably available to the Adviser, that the price available from the Affiliated Dealer is at least as favorable as that available from other sources.

(a) With respect to each such transaction involving repurchase agreements, a Fund will enter into such agreements only where the Adviser has determined, based upon relevant information reasonably available to the Adviser, that the income to be earned from the repurchase agreement is at least equal to that available from other sources. Before any repurchase agreements are entered into pursuant to the exemption, the Fund or the Adviser will obtain competitive quotations with respect to repurchase agreements comparable to the type of repurchase agreement involved from at least two dealers that are not affiliated persons of the Affiliated Dealer or the Adviser, except that if, after reasonable efforts, quotations are unavailable from two such dealers, only one other competitive quotation is required.

(b) With respect to each such transaction involving variable rate demand notes for which dealer quotes are not ordinarily available, a Fund will only undertake purchases and sales where the Adviser has determined, based on relevant information reasonably available to the Adviser, that the income earned from the variable rate demand note is at least equal to that of variable rate demand notes of comparable quality that are available from other sources.

11. Except as otherwise provided below, with respect to securities offered in a primary market underwritten transaction a Fund will undertake such purchase from the Affiliated Dealer only where the Adviser has determined, based upon relevant information reasonably available to the Adviser, that the securities were purchased at a price that is no more than the price paid by each other purchaser of securities from the Affiliated Dealer or other members of the underwriting syndicate in that offering or in any concurrent offering of the securities, and on the same terms as such other purchasers (except in the case of an offering conducted under the laws of a country other than the United States, for any rights to purchase that are required by law to be granted to existing securities holders of the issuer).

12. With respect to a primary market transaction in which an Affiliated Dealer offers as principal fixed-income securities on a continuing, rather than a fixed, basis a Fund will enter into such transactions only where the Adviser has determined, based upon relevant information reasonably available to the Adviser, that the yield on such fixed-income securities is at least equal to the yield of Comparable Securities at that time. Before any such fixed-income securities are purchased pursuant to the Order, the Fund or the Adviser will obtain competitive quotations with respect to yields on fixed-income securities comparable to the type of fixed-income securities involved from at least two dealers that are not affiliated persons of the Affiliated Dealer or the Adviser, and that are in a position to quote favorable market yields, except that if, after reasonable efforts, quotations are unavailable from two such dealers, only one other competitive quotation is required.

13. Prior to entering into a Securities Transaction with an Affiliated Dealer, the Fund's Adviser will determine that the Fund needs the ability to transact with the Affiliated Dealer based upon a reasonable determination:

(a) that the Fund could not obtain as favorable an execution for the Security Transaction by trading with an unaffiliated dealer; and

(b) that there is no similar investment opportunity suitable for and more advantageous to the Fund that could be obtained from an unaffiliated dealer.

14. The commission, fee, spread, or other remuneration to be received by an Affiliated Dealer will be reasonable and fair compared to the commission, fee, spread, or other remuneration received by other persons in connection with comparable transactions involving similar securities being purchased and sold during a comparable period of time.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–16091 Filed 6–30–15; 8:45 am]

BILLING CODE 8011–01–P

[5] The term ''Comparable Securities'' refers to securities with substantially identical maturities, credit risk and repayment terms (including floating or fixed-rate coupons, attached options, or any other provisions that affect the expected size or timing of the payments from the securities) as the securities to be purchased or sold.

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0298]

LaSalle Capital Group II–A, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that LaSalle Capital Group II–A, L.P., 70 West Madison Street, Suite 5710, Chicago, Illinois, 60602, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the ''Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). LaSalle Capital Group II–A, L.P. is providing debt and equity financing to Westminster Foods II, LLC, 70 West Madison Street, Suite 5710, Chicago, Illinois, 60602. Some of the proceeds will be used to purchase Westminster Foods, LLC.

The financing is brought within the purview of § 107.730(a)(5) of the Regulations because a majority of the membership units of Westminster Foods, LLC are owned by LaSalle Capital Group, L.P., an Associate of LaSalle Capital Group II–A. L.P., therefore this transaction is considered to be financing a Small Business for the purpose of purchasing property from an Associate and it requires SBA prior written exemption.

Notice is hereby given that any interested person may submit written comments on the transaction within fifteen days of the date of this publication to the Associate Administrator for the Office of Investment and Innovation, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: June 24, 2015.

John R Williams,

Acting Deputy Associate Administrator for Office of Investment and Innovation.

[FR Doc. 2015–16144 Filed 6–30–15; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Action Subject to Intergovernmental Review Under Executive Order 12372

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Action Subject to Intergovernmental Review Under Executive Order 12372.

SUMMARY: The Small Business Administration (SBA) is notifying the public that it intends to fund grant applications for 22 existing Small Business Development Centers (SBDCs) beginning October 1, 2015 subject to the availability of funds. A description of the SBDC program is contained in the supplementary information below.

The SBA is publishing this notice at least 90 days before the expected funding date. The SBDCs mailing addresses listed below are participating in the intergovernmental review process. A copy of this notice also is being furnished to the respective State single points of contact designated under the Executive Order.

DATES: A State single point of contact and other interested State or local entities may submit written comments regarding funding of an SBDC within 30 days from the date of publication of this notice. Please address any comments to the relevant SBDC State Director listed below.

ADDRESSES:

ADDRESSES OF RELEVANT SBDC STATE DIRECTORS

Mr. Rande Kessler, SBDC State Director, University of Louisiana, Monroe, 700 University Avenue, Admin 2–101, Monroe, LA 71209–6435, (318) 342–5506.

Mr. Mike Bowman, SBDC State Director, University of Delaware, One Innovation Way, Suite 301, Newark, DE 19711, (302) 831–4283.

Ms. Becky Naugle, SBDC State Director, University of Kentucky, One Quality Street, Lexington, KY 40507, (859) 257–7668.

Mr. Chris Bouchard, SBDC State Director, University of Missouri, 410 South Sixth Street, 200 Engineering North, Columbia, MO 65211, (573) 884–1555.

Ms. Leonor Dottin-Carrillo, SBDC Director, University of the Virgin Islands, 8000 Niskey Center, Suite 720, St. Thomas, USVI 00802–5804, (340) 776–3206.

Ms. Kristina Oliver, SBDC State Director, West Virginia Development Office, 1900 Kanawha Blvd., Capitol Complex, Building 6, Room 652, Charleston, WV 25305, (304) 558–2960.

Ms. Carmen Marti, SBDC Director, Inter American University of Puerto Rico, 416 Ponce de Leon Avenue, Union Plaza, Seventh Floor, San Juan, PR 00918, (787) 763–6811.

Ms. Rene Sprow, SBDC State Director, Univ. of Maryland@College Park, 7100 Baltimore Avenue, Suite 402, Baltimore, MD 20740, (301) 403–8300.

Ms. Lisa Shimkat, SBDC State Director, Iowa State University, 2321 North Loop Drive, Suite 202, Ames, IA 50010–8218, (515) 294–2037.

FOR FURTHER INFORMATION CONTACT: Vicky Mundt, Director of Financial Oversight, Office of Small Business Development Centers, U.S. Small Business Administration, 409 Third Street SW., Sixth Floor, Washington, DC 20416.

SUPPLEMENTARY INFORMATION:

Description of the SBDC Program

Small Business Development Centers (SBDCs) provide a wide array of technical assistance to small businesses and aspiring entrepreneurs supporting business performance and sustainability and enhancing the creation of new businesses entities. These small businesses in turn foster local and regional economic development through job creation and retention as a result of the extensive one-on-one long-term counseling, training and specialized services they receive from the SBDCs. The SBDCs are made up of a unique collaboration of SBA, state and local governments, and private sector funding resources.

SBDCs provide clients with professional business assistance regarding business plans, market research, financial preparation packages, cash flow, and procurement contracts. Special emphasis areas include: Manufacturing; international trade and export assistance; e-commerce; technology transfer; assistance for veterans, both active duty and personnel returning from deployment; disaster recovery assistance; IRS, EPA, and OSHA regulatory compliance; as well as research and development. Based on client needs, business trends and individual business requirements, SBDCs modify their services to meet the evolving needs through more than 900 local service delivery points across the nation and all U.S. Territories.

SBDCs deliver these services to small business concerns using an effective education network of 63 Lead Centers reaching out to both rural and urban areas, serving entrepreneurs of all types throughout a state or region. SBDCs can

be found in every U.S. state, the District of Columbia, Guam, Puerto Rico, American Samoa and the U.S. Virgin Islands. SBDCs provide professional business counseling free of charge along with low cost training.

To reach the millions of small businesses across the U.S., SBDC assistance is available virtually anywhere: from rural circuit riders in Alaska to marine services in the Outer Banks of North Carolina. Many centers are located within or are co-located with: Local economic development entities; chambers of commerce; Department of Defense's Procurement Technical Assistance Centers; The Department of Commerce's Manufacturing Extension Partnership sites; and community colleges. Some SBDCs also have International Trade Centers and some are classified by a special emphasis on Technology.

Lead Center SBDCs hosts include:

• 48 University-sponsored Lead SBDCs

2 SBDC locations are located at Historically Black Colleges and Universities (Howard University in Washington, DC and the University of the Virgin Islands, U.S.V.I.).

• 8 Community college-sponsored Lead SBDCs

Dallas-TX, UT, OR, NM, AZ, San Diego-CA, Los Angeles, CA, and American Samoa

• 7 State-sponsored Lead SBDCs (CO, IL, IN, MN, MT, OH, & WV).

Program Objectives

The SBDC program uses Federal funds to leverage the resources of states, academic institutions and the private sector to:

(a) Strengthen the nation's small business communities;

(b) increase local economic growth;

(c) ensure inclusiveness by broadening the impact of SBDC technical assistance to underserved markets.

SBDC Program Organization

Through a partnership between SBA and institutions of higher education and state government, a network of 63 lead SBDCs are managed by the Office of Small Business Development Centers (OSBDC). The local District Offices have a Project Officer to ensure each SBDC provides quality services and is in compliance with its negotiated Cooperative Agreement with the SBA. OSBDC has six Program Managers who each have a portfolio of 10–12 SBDCs for which they are responsible for SBDC performance management. OSBDC also has three Grants Managers along with a finance staff who oversee the issuance and budget aspects of the Cooperative Agreement. SBDCs operate on the basis of an annual proposed plan to provide assistance within a state or geographic area. The initial plan must have the written approval of the Governor. Non-Federal funds must match Federal funds by 1:1.

SBDC Services

An SBDC must have a full range of business development and technical assistance services in its area of operations, supporting local small business needs, SBA priorities and established SBDC program objectives. Services include training and professional business advising to existing and prospective small business owners in all areas of small firm establishment and growth, including: management; online and social media and marketing; finance and access to capital; exporting and international trade; manufacturing; and business operations, including disaster mitigation.

The SBA district office and the SBDC negotiate annually through this funding announcement the specific mix of services and best use of program funds to meet mutually agreed upon annual milestones, giving particular attention to SBA's annual priorities and special emphasis groups, including veterans, women, the disabled, and other minorities.

SBDC Program Requirements

An SBDC must meet required programmatic and financial requirements established by statute, regulations, other program directive and its Cooperative Agreement. Following these guidelines an SBDC must:

(a) Provide services that are accessible to all persons, especially those who identify as disabled;

(b) open all service centers during normal business hours of the community or during the normal business hours of its state or academic Host Organization, throughout the year;

(c) develop working relationships with financial institutions, the investment communities, professional associations, private consultants and local small business groups;

(d) establish a lead center which operates and oversees a statewide or regional network of SBDC service centers;

(e) have a full-time Director; and

(f) expend at least 80 percent of the Federal funds to provide direct client services to small businesses.

Scott Henry,

Acting Associate Administrator, Office of Small Business Development Centers.

[FR Doc. 2015–16145 Filed 6–30–15; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Actions Subject to Intergovernmental Review

AGENCY: U.S. Small Business Administration.

ACTION: Notice of action subject to intergovernmental review under Executive Order 12372.

SUMMARY: The Small Business Administration (SBA) is notifying the public that it intends to fund grant applications for 41 existing Small Business Development Centers (SBDCs) beginning January 1, 2016 subject to the availability of funds. A description of the SBDC program is contained in the supplementary information.

The SBA is publishing this notice at least 90 days before the expected funding date. The SBDCs mailing addresses listed below are participating in the intergovernmental review process. A copy of this notice also is being furnished to the respective State single points of contact designated under the Executive Order.

DATES: A State single point of contact and other interested State or local entities may submit written comments regarding funding of an SBDC within 30 days from the date of publication of this notice. Please address any comments to the relevant SBDC State Director listed below.

ADDRESSES:

ADDRESSES OF RELEVANT SBDC STATE DIRECTORS

Mr. Sherman Wilkinson, SBDC State Director, Salt Lake Community College, 9750 South 300 West, Sandy, UT 84070, (801) 957–5384.

Mr. Herbert Thweatt, SBDC Director, American Samoa Community College, P.O. Box 2609, Pago Pago, American Samoa 96799, (684) 699–4830

ADDRESSES OF RELEVANT SBDC STATE DIRECTORS—Continued

Ms. Michele Abraham, SBDC State Director, University of South Carolina, 1705 College Street, Columbia, SC 29208, (803) 777–4555.

Ms. Diane R. Howerton, SBDC Regional Director, University of California, Merced, 550 East Shaw, Suite 100, Fresno, CA 93710, (559) 241–6590.

Mr. Marquise Jackson, Acting SBDC Regional Director, Southwestern Community College, 880 National City Blvd., National City, CA 91950, (619) 216–6718.

Mr. Casey Jeszenka, SBDC Network Director, University of Guam, P.O. Box 5014—U.O.G. Station, Mangilao, GU 96923, (671) 735–2590.

Mr. Dan Ripke, SBDC Regional Director, California State University, Chico, Building 35, CSU Chico, Chico, CA 95929, (530) 898–4598.

Ms. Katrina Smith, Acting SBDC Regional Director, Orange County/Inland Empire Network, 800 North State College Blvd., SGMH 5313, Fullerton, CA 92831, (657) 278–3195.

Ms. Janet Rodrick, SBDC State Director, University of Arkansas, 2801 South University Avenue, Little Rock, AR 72204, (501) 683–7700.

Mr. Allan Adams, SBDC State Director, University of Georgia, Chicopee Complex, 1180 East Broad Street, Athens, GA 30602, (706) 542–6762.

Mr. Rich Grogan, SBDC State Director, University of New Hampshire, 10 Garrison Ave., Durham, NH 03824, (603) 862–1446.

Mr. Keith Brophy, State Director, 1034 L. William Seidman Center, 50 Front Avenue SW., Grand Rapids, MI 49504, (616) 331–7371.

Mr. Michael Myhre, SBDC State Director, University of West Florida, 11000 University Parkway, Bldg. 38, Pensacola, FL 32514, (850) 473–7802

Mr. Sam Males, SBDC State Director, University of Nevada Reno, College of Business Admin., Room 441, Reno, NV 89557–0100, (775) 784–1717.

Mr. Timothy Mittan, Acting SBDC Regional Director, Long Beach Community College, 4901 E Carson Street, MC 05, Long Beach, CA 90808, (562) 938–5020.

Ms. Kristin Johnson, SBDC Regional Director, Humboldt State University, Office of Economic & Community Dev., 1 Harpst Street, House 71, Room 110, Arcata, CA 95521, (707) 826–3920.

Ms. Janice Washington, SBDC State Director, Maricopa County Comm. College, 2411 West 14th Street, Suite 132, Tempe, AZ 85281–6942, (480) 731–8722.

Mr. Darrell Brown, SBDC Executive Director, Howard University, 2600 6th Street NW., Washington, DC 20059, (202) 806–1550.

Mr. David Martin, SBDC State Director, University of North Dakota, Bank of North Dakota Building, 1200 Memorial Highway, Bismarck, ND 58504, (701) 715–2475.

Dr. Gerald Sonnenfeld, Interim SBDC State Director, University of Rhode Island, 75 Lower College Road, Kingston, RI 02881, (401) 874–4576.

FOR FURTHER INFORMATION CONTACT: Vicky Mundt, Director of Financial Oversight, Office of Small Business Development Centers, U.S. Small Business Administration, 409 Third Street SW., Sixth Floor, Washington, DC 20416.

SUPPLEMENTARY INFORMATION:

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SBDCs provide clients with professional business assistance regarding business plans, market research, financial preparation packages, cash flow, and procurement contracts. Special emphasis areas include: Manufacturing; international trade and export assistance; e-commerce; technology transfer; assistance for veterans, both active duty and personnel returning from deployment; disaster recovery assistance; IRS, EPA, and OSHA regulatory compliance; as well as research and development. Based on client needs, business trends and individual business requirements, SBDCs modify their services to meet the evolving needs through more than 900 local service delivery points across the nation and all U.S. Territories.

SBDCs deliver these services to small business concerns using an effective education network of 63 Lead Centers reaching out to both rural and urban areas, serving entrepreneurs of all types throughout a state or region. SBDCs can be found in every U.S. state, the District of Columbia, Guam, Puerto Rico, American Samoa and the U.S. Virgin Islands. SBDCs provide professional business counseling free of charge along with low cost training.

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Lead Center SBDCs hosts include:

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for which they are responsible for SBDC performance management. OSBDC also has three Grants Managers along with a finance staff who oversee the issuance and budget aspects of the Cooperative Agreement. SBDCs operate on the basis of an annual proposed plan to provide assistance within a state or geographic area. The initial plan must have the written approval of the Governor. Non-Federal funds must match Federal funds by 1:1.

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The SBA district office and the SBDC negotiate annually through this funding announcement the specific mix of services and best use of program funds to meet mutually agreed upon annual milestones, giving particular attention to SBA's annual priorities and special emphasis groups, including veterans, women, the disabled, and other minorities.

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(a) Provide services that are as accessible to all persons, especially those who identify as disabled;

(b) open all service centers during normal business hours of the community or during the normal business hours of its state or academic Host Organization, throughout the year;

(c) develop working relationships with financial institutions, the investment communities, professional associations, private consultants and local small business groups;

(d) establish a lead center which operates and oversees a statewide or regional network of SBDC service centers;

(e) have a full-time Director; and

(f) expend at least 80 percent of the Federal funds to provide direct client services to small businesses.

Scott Henry,

Acting Associate Administrator, Office of Small Business Development Centers.

[FR Doc. 2015–16149 Filed 6–30–15; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2015–0041]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and one extension of OMB-approved information collections, as well as one collection in use without an OMB number.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov,*

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2015–0041].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than August 31, 2015. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Representative Payee Report of Benefits and Dedicated Account—20 CFR 416.546, 416.635, 416.640, and 416.665—0960–0576. SSA requires representative payees (RPs) to submit a written report accounting for the use of money paid to Social Security or Supplemental Security Income (SSI) recipients, and to establish and maintain a dedicated account for these payments. SSA uses Form SSA–6233 to: (1) Ensure the RPs use the payments for the recipient's current maintenance and personal needs; and (2) confirm the expenditures of funds from the dedicated account remain in compliance with the law. Respondents are RPs for SSI and Social Security recipients.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–6233	30,000	1	20	10,000

2. Certification of Prisoner Identity Information—20 CFR 422.107—0960–0688. Inmates of Federal, State, or local prisons may need a Social Security card as verification of their Social Security number for school or work programs, or as proof of employment eligibility upon release from incarceration. Before SSA can issue a replacement Social Security card, applicants must show SSA proof of their identity. People who are in prison for an extended period typically do not have current identity documents. Therefore, under formal written agreement with the correctional institution, SSA allows prison officials to verify the identity of certain incarcerated U.S. citizens who need replacement Social Security cards. Information prison officials provide comes from the official prison files, sent on correctional facility letterhead. SSA uses this information to establish the applicant's identity in the replacement

Social Security card process. The respondents are prison officials who certify the identity of prisoners applying for replacement Social Security cards.

Type of Request: Extension of an OMB-approved Information Collection.

Modality of completion	Number of respondents	Frequency of response	(Number of responses)	Average burden per response (minutes)	Estimated total annual burden (hours)
Verification of Prisoner Identity Statements	1,000	200	(200,000)	3	10,000

II. SSA submitted the information collection below to OMB for clearance. Your comments regarding the information collection would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than July 31, 2015. Individuals can obtain copies of the OMB clearance package by writing to *OR.Reports.Clearance@ssa.gov.*

Third Party Liability Information Statement—42 CFR 433.136 through 433.139 —0960–0323. To reduce Medicaid costs, Medicaid state agencies must identify third party insurers liable for medical care or services for Medicaid beneficiaries. Regulations at 42 CFR 433.136 through 433.139 require Medicaid state agencies to obtain this information on Medicaid applications and redeterminations as a condition of Medicaid eligibility. States may enter into agreements with the Commissioner of Social Security to make Medicaid eligibility determinations for aged, blind, and disabled beneficiaries in those states. Applications for and redeterminations of SSI eligibility in jurisdictions with such agreements are applications and redeterminations of Medicaid eligibility. Under these agreements, SSA obtains third party liability information using Form SSA–8019–U2, and provides that information to the Medicaid state agencies. The Medicaid state agencies use the information to bill third parties liable for medical care, support, or services for a beneficiary to guarantee that Medicaid remains the payer of last resort. The respondents are SSI claimants and recipients.

Type of Request: Revision of an OMB-approved information collection.

This is a correction notice: SSA published the incorrect form number in the burden chart for this collection at 80 FR 24307, on April 30, 2015. We are correcting this error here.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–8019–U2 Paper Form	200	1	5	17
MSSICS Version	51,381	1	5	4,282
Totals	51,581			4,299

Dated: June 26, 2015.

Faye I. Lipsky,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2015–16132 Filed 6–30–15; 8:45 am]

BILLING CODE 4191–02–P

OFFICE OF SPECIAL COUNSEL

Agency Information on Public Availability of FY 2014 Service Contract Inventory

AGENCY: Office of Special Counsel (OSC).

ACTION: First notice.

SUMMARY: The U.S. Office of Special Counsel, in accordance with section 743(c) of Division C of the Consolidated Appropriations Act, 2010 (Pub. L. 111–117, 123 Stat. 3034, 3216), is announcing the availability of OSC's service contract inventory for fiscal year (FY) 2014. This inventory provides information on service contract actions that exceeded $25,000 that OSC made in FY 2014.

DATES: Comments should be received no later than August 31, 2015.

FOR FURTHER INFORMATION CONTACT: Karl Kammann, Director of Finance, at 1730 M St. NW., Suite 300, Washington, DC 20036, or by facsimile at (202) 254–3711.

SUPPLEMENTARY INFORMATION: On December 16, 2009, the Consolidated Appropriations Act, 2010 (Consolidated Appropriations Act), Public Law 111–117, became law. Section 743(a) of the Consolidated Appropriations Act, titled, ''Service Contract Inventory Requirement,'' requires agencies to submit to the Office of Management and Budget (OMB), an annual inventory of service contracts awarded or extended through the exercise of an option on or after April 1, 2010, and describes the contents of the inventory. The contents of the inventory must include:

(A) A description of the services purchased by the executive agency and the role the services played in achieving agency objectives, regardless of whether such a purchase was made through a contract or task order;

(B) The organizational component of the executive agency administering the contract, and the organizational component of the agency whose requirements are being met through contractor performance of the service;

(C) The total dollar amount obligated for services under the contract and the funding source for the contract;

(D) The total dollar amount invoiced for services under the contract;

(E) The contract type and date of award;

(F) The name of the contractor and place of performance;

(G) The number and work location of contractor and subcontractor employees, expressed as full-time equivalents for direct labor, compensated under the contract;

(H) Whether the contract is a personal services contract; and

(I) Whether the contract was awarded on a noncompetitive basis, regardless of date of award.

Section 743(a)(3)(A) through (I) of the Consolidated Appropriations Act. Section 743(c) of the Consolidated Appropriations Act requires agencies to ''publish in the **Federal Register** a

notice that the inventory is available to the public.''

Consequently, through this notice, we are announcing that OSC's service contract inventory for FY 2014 is available to the public. The inventory provides information on service contract actions over $25,000 that OSC made in FY 2014. OSC's finance section has posted its inventory, and a summary of the inventory can be found at our homepage at the following link: *https://osc.gov/Pages/Resources-ReportsAndInfo.aspx.*

Dated: June 15, 2015.

Mark P. Cohen,

Principal Deputy Special Counsel.

[FR Doc. 2015–16121 Filed 6–30–15; 8:45 am]

BILLING CODE 7405–01–P

OFFICE OF SPECIAL COUNSEL

Survey Renewal for FY 2015—Request for Comment

AGENCY: Office of Special Counsel.

ACTION: First Notice for public comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), and implementing regulations at 5 CFR part 1320, the U.S. Office of Special Counsel (OSC), plans to request approval from the Office of Management and Budget (OMB) for use of a previously approved information collection consisting of an electronic survey form. The current OMB approval for the OSC Survey expires 10/31/15. We are submitting the electronic survey for renewal, based on its pending t expiration. There are several changes being submitted with this request for renewal of the use of the OSC survey. Current and former Federal employees, employee representatives, other Federal agencies, state and local government employees, and the general public are invited to comment on this for the first time. Comments are invited on: (a) Whether the proposed collection consisting of our survey is necessary for the proper performance of OSC functions, including whether the information will have practical utility; (b) the accuracy of OSC's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; 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.

DATES: Comments should be received by August 31, 2015.

FOR FURTHER INFORMATION CONTACT: Karl Kammann, Director of Finance, at the address shown above; by facsimile at (202) 254–3711.

SUPPLEMENTARY INFORMATION: OSC is an independent agency responsible for, among other things, (1) investigation of allegations of prohibited personnel practices defined by law at 5 U.S.C. 2302(b), protection of whistleblowers, and certain other illegal employment practices under titles 5 and 38 of the U.S. Code, affecting current or former Federal employees or applicants for employment, and covered state and local government employees; and (2) the interpretation and enforcement of Hatch Act provisions on political activity in chapters 15 and 73 of title 5 of the U.S. Code.

Title of Collection: Office of Special Counsel (OSC) Annual Survey; OMB Control Number 3255–0003, Expiration 10/31/2015.

OSC is required to conduct an annual survey of individuals who seek its assistance. Section 13 of Public Law 103–424 (1994), codified at 5 U.S.C. 1212 note, states, in part: ''[T]he survey shall—(1) Determine if the individual seeking assistance was fully apprised of their rights; (2) determine whether the individual was successful either at the Office of Special Counsel or the Merit Systems Protection Board; and (3) determine if the individual, whether successful or not, was satisfied with the treatment received from the Office of Special Counsel.'' The same section also provides that survey results are to be published in OSC's annual reports to Congress. Copies of prior years' annual reports are available on OSC's Web site, at *https://osc.gov/Pages/Resources-ReportsAndInfo.aspx* or by calling OSC at (202) 254–3600. The survey form for the collection of information is available by calling OSC at (202) 254–3600.

Type of Information Collection Request: Approval of previously approved collection of information that expires on 10/31/2015, with some revisions. The Disclosure Unit was added for the first time to the electronic survey of individuals with cases resolved in FY 2014. The second major change is that the survey is hosted by Survey Monkey, (*https://www.surveymonkey.com*) rather than being an in-house supported IT tool. A future enhancement will add an additional question to the survey about the user's experience with our new OSC Form 14 Wizard and electronic complaint form, which is currently in development.

Affected public: Current and former Federal employees, applicants for Federal employment, state and local government employees, and their representatives, and the general public.

Respondent's Obligation: Voluntary

Estimated Annual Number of Survey Form Respondents: 320.

Frequency of Survey form use: Annual.

Estimated Average Amount of Time for a Person To Respond to survey: 12 minutes.

Estimated Annual Survey Burden: 109 hours.

This survey form is used to survey current and former Federal employees and applicants for Federal employment who have submitted allegations of possible prohibited personnel practices or other prohibited activity for investigation and possible prosecution by OSC, and whose matter has been closed or otherwise resolved during the prior fiscal year, on their experience at OSC. Specifically, the survey asks questions relating to whether the respondent was: (1) Apprised of his or her rights; (2) successful at the OSC or at the Merit Systems Protection Board; and (3) satisfied with the treatment received at the OSC.

Dated: June 15. 2015.

Carolyn N. Lerner,

Special Counsel.

[FR Doc. 2015–16110 Filed 6–30–15; 8:45 am]

BILLING CODE 7405–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2015–1497; Airspace Docket No. 15–AWA–4]

RIN 2120–AA66

Designation of Oceanic Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of provision of air traffic services in oceanic airspace.

SUMMARY: By this action the FAA informs airspace users of the type of air traffic control (ATC) service provided in the oceanic airspace controlled by the United States of America (U.S.). This notice is consistent with U.S. obligations under the Convention on International Civil Aviation (Chicago Convention), including, that all Contracting States disseminate information regarding the types of ATC services provided in oceanic airspace under their control.

FOR FURTHER INFORMATION CONTACT: Jason Stahl, Airspace Policy and Regulations Group, Office of Airspace

Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

International Civil Aviation Organization (ICAO)

The Chicago Convention was adopted to promote the safe and orderly development of international civil aviation. The Chicago Convention also created the International Civil Aviation Organization (ICAO), which promulgates uniform international Standards and Recommended Practices *(SARPs)* aimed at standardizing international civil aviation operational practices and services. Currently, these *SARPs* are detailed in 18 annexes to the Chicago Convention. Annex 11, Air Traffic Services, and Annex 15, Aeronautical Information Services, are of particular relevance to this notice as they address civil aircraft operations, the establishment of airspace, ATC services in international airspace, and the dissemination of aeronautical information.

Most recently ICAO recommended, and the FAA concurred, that all Contracting States take action to define their oceanic airspace, and inform those interested as to the type of ATC services that would be provided.

By this action the FAA gives notice to those interested parties operating in the oceanic airspace controlled by the U.S. of the type of ATC services provided within the airspace.

ATC Services/Procedures Provided

Pursuant to the Chicago Convention, the U.S. accepted responsibility for providing ATC services over the domestic U.S. and within certain areas of the western half of the North Atlantic, the Gulf of Mexico, the Caribbean, and the North Pacific. In the airspace over the contiguous U.S. and out to 12 nautical miles (NM) from the U.S. shores, domestic ATC separation is applied (with certain limitations) along with additional services (*e.g.,* traffic advisories, bird activity information, weather and chaff information, etc.).

The U.S. also manages airspace areas outside of the domestic U.S. These areas are called Control Areas (CTA) and Flight Information Regions (FIR). Within these CTA/FIR the U.S. applies oceanic separation procedures consistent with ICAO regional procedures.

The FAA may also apply, per Annex 11, domestic ATC procedures within designated Offshore/Control airspace areas provided certain conditions are met. Specifically, these airspace areas must be within signal coverage of domestic radio navigational aid or ATC radar coverage from the 12–NM limit outward to the inner oceanic CTA/FIR boundaries. The Chicago Convention permits the application of domestic ATC procedures even though this is international airspace. However, within the oceanic CTA/FIR area itself, ICAO oceanic ATC procedures are used instead of domestic procedures.

Article of Exemption

Article 3 of the Chicago Convention provides that the Chicago Convention, and its annexes, are not applicable to state-aircraft (which includes military aircraft). However, article 3 requires states, when issuing regulations for their state aircraft, to have due regard for the safety of navigation of civil aircraft. The U.S., as a Contracting State, complies with this provision.

Further, article 12 obligates each Contracting State to adopt measures to ensure that persons operating an aircraft within its territory will comply with that state's air traffic rules, and with Annex 2, Rules of the Air, when operating over the high seas. The U.S. has satisfied this responsibility through Title 14, Code of Federal Regulations (14 CFR) part 91, General Operating and Flight Rules, which requires that operators of aircraft comply with U.S. operating rules when in the U.S. and that U.S.-registered aircraft comply with Annex 2 when over the high seas (see 14 CFR 91.703).

Section 91.703 applies only to civil aircraft. State aircraft operating outside the U.S. are only subject to the ''due regard'' provisions of article 3 of the Chicago Convention. The *SARPs* in Annex 11, apply to airspace under the jurisdiction of a Contracting State that has accepted the responsibility of providing air traffic services over the high seas (oceanic airspace), or in airspace of undetermined sovereignty.

U.S. Controlled Oceanic Airspace

The ICAO classes of airspace and associated services provided, as described in Annex 11, to be used by the U.S. within their delegated Oceanic/Arctic CTA/FIR areas are: (1) Class A airspace area (instrument flight rules (IFR) flights only are permitted, all flights are provided with ATC service and are separated from each other); (2) Class E airspace area (IFR and visual flight rules (VFR) flights are permitted, IFR flights are provided with ATC service and are separated from other IFR flights); and (3) Class G airspace area (IFR and VFR flights are permitted and receive flight information service if requested). All flights in these airspace areas would receive traffic information as far as is practical.

Anchorage Oceanic CTA/FIR

Aircraft operating in the Anchorage Oceanic CTA/FIR can expect to receive ATC services associated with the following types of airspace areas and associated altitudes:

Class G—below FL 55;
Class A—FL 55 to FL 600, inclusive except less than 100 NM seaward is Class E below FL 180;
Class E—above FL 600.

Anchorage Arctic CTA/FIR

Aircraft operating in the Anchorage Arctic CTA/FIR can expect to receive ATC services associated with the following types of airspace areas and associated altitudes:

Class G—below FL12;
Class E—FL12 to but not including FL180;
Class A—FL180 to FL600 inclusive;
Class E—above FL 600.

Houston Oceanic CTA/FIR

Aircraft operating in the Houston Oceanic CTA/FIR can expect to receive ATC services associated with the following types of airspace areas and associated altitudes:

Class G—below FL 15;
Class E—FL 15 to, but not including FL 180;
Class A—FL 180 to FL 600, inclusive;
Class E—above FL 600.

Miami Oceanic CTA/FIR

Aircraft operating in the Miami Oceanic CTA/FIR can expect to receive ATC services associated with the following types of airspace areas and associated altitudes:

Class G—below FL 25;
Class E—FL 25 to, but not including FL 180;
Class A—FL 180 to FL 600, inclusive;
Class E—above FL 600.

New York Oceanic CTA/FIR, excluding that portion of the airspace delegated to NAVCANADA

Aircraft operating in the New York Oceanic CTA/FIR, excluding that portion of the airspace delegated to NAVCANADA can expect to receive ATC services associated with the following types of airspace areas and associated altitudes:

Class G—below FL 55;
Class A—FL 55 to FL 600, inclusive;
Class E—above FL 600.

Oakland Oceanic OCA/FIR

Aircraft operating in the Oakland Oceanic OCA/FIR can expect to receive

ATC services associated with the following types of airspace areas and associated altitudes:

Class G—below FL 55;
Class A—FL 55 to FL 600, inclusive except less than 100 NM seaward from the shoreline within controlled airspace, sunrise to sunset, is Class E below FL 200;
Class E—above FL 600.

Oakland CTA airspace area delegated to Oakland Center by Fukuoka ATMC at and above FL 55

Aircraft operating in the Oakland CTA delegated airspace to Oakland Center at and above FL 55 can expect to receive ATC services associated with the following types of airspace and associated altitudes:

Class A—FL 55 to FL 600, inclusive except less than 100 NM seaward from the shoreline within controlled airspace, sunrise to sunset, is Class E below FL 200;
Class E—above FL 600.

San Juan Oceanic CTA/FIR

Aircraft operating-in the San Juan CTA/FIR can expect to receive ATC services associated with the following types of airspace and associated altitudes:

Class G—below FL 25;
Class E—FL 25 to, but not including FL 180;
Class A—FL 180 to FL 600, inclusive;
Class E—above FL 600.

Accordingly, the U.S. designation of ICAO classes of Oceanic Airspace and associated altitudes, as described in this notice will be reflected on the appropriate aeronautical charts.

Issued in Washington, DC, on June 23, 2015.

Gary A. Norek,

Manager, Airspace Policy and Regulations Group.

[FR Doc. 2015–16246 Filed 6–30–15; 8:45 a.m.]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Release From Federal Grant Assurance Obligations for Elko Regional Airport (EKO), Elko, Nevada

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of request to release airport land.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application for a release of approximately 5,037 square feet of airport property at the Elko Municipal Airport (Airport), City of Elko, Nevada. The City of Elko proposes to release the airport land in order to acquire an equal 5,037 square feet parcel of privately-owned land. The land exchange was proposed after a 2011 deed survey disclosed that the airport perimeter fence encroached into private property abutting the airport. Relocation of the fence is not practical due to the cost associated with moving the fence and underground utilities. The parties concluded that the encroachment problem could be resolved with an equitable land exchange. Since the release land is not needed for airport purposes, the exchange will not negatively impact the airport or civil aviation.

DATES: Comments must be received on or before July 31, 2015.

FOR FURTHER INFORMATION CONTACT: Comments on the request may be mailed or delivered to the FAA at the following address Mike N. Williams, Manager, Federal Aviation Administration, Phoenix Airports District Office, **Federal Register** Comment, 3800 N. Central Avenue, Suite 1025, 10th Floor, Phoenix, Arizona 85012. In addition, one copy of the comment submitted to the FAA must be mailed or delivered to Mr. Mark Gibbs, Airport Director, Elko Regional Airport, 975 Terminal Way, Elko, Nevada 89801.

SUPPLEMENTARY INFORMATION: In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 106–181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary may waive any condition imposed on a federally obligated airport by surplus property conveyance deeds or grant agreements.

The following is a brief overview of the request:

The City of Elko, Nevada requested a release from sponsor grant assurance obligations for approximately 5,037 square feet of airport land to facilitate a land exchange so the airport can acquire an equal 5,037 square feet of privately-owned land. A land survey conducted in 2011 disclosed that the airport perimeter fence encroached into private property abutting the airport. Relocating the fence line and underground utilities would be costly for the Airport. The City offered to trade a parcel of unused airport land that is not needed for airport purposes for the portion of land into which the airport fence encroaches. The land exchange would conform to Nevada Revised Statutes for Boundary Line Adjustments. Appraisals concluded the two parcels have equal values. As a result, the City and land owner concluded that a land swap would represent an equitable and less expensive way to resolve the encroachment problem. The release land is not needed for airport purposes and land exchange will result in no net loss in value or negative impact for the airport. The reuse of the released parcel for commercial purposes represents a compatible land use that will not interfere with the airport or its operation. The acquisition of the privately owned parcel will obviate the need to relocate the perimeter fence. Therefore, the exchange provides a benefit to the airport and civil aviation.

Issued in Phoenix, Arizona: June 26, 2015.

Mike N. Williams,

Manager, Phoenix Airports District Office, Western-Pacific Region.

[FR Doc. 2015–16207 Filed 6–30–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Sixth Meeting: Special Committee 231 (SC 231)

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

ACTION: Sixth Meeting Notice of Special Committee 231.

SUMMARY: The FAA is issuing this notice to advise the public of the sixth meeting of the Special Committee 231.

DATES: The meeting will be held September 16th–September 24th from 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036, Tel: (202) 330–0663.

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* or Sophie Bousquet, Program Director, RTCA, Inc., *sbousquet@rtca.org,* (202) 330–0663.

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 the Special Committee 231. The agenda will include the following:

Tuesday, September 22, 2015

1. Welcome/Introduction

2. Administrative Remarks
3. Agenda Review
4. Summary of Working Group activities
5. Other Business
6. Date and Place of Next Meeting

Wednesday, September 23, 2015

1. Continuation of Plenary or Working Group Session

Thursday, September 24, 2015

1. Continuation of Plenary or Working Group Session

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 June 26, 2015.

Latasha Robinson,

Management & Program Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2015–16244 Filed 6–30–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fifth Meeting: Special Committee 229 (SC 229)

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

ACTION: Fifth meeting notice of Special Committee 229.

SUMMARY: The FAA is issuing this notice to advise the public of the fifth meeting of the Special Committee 229.

DATES: The meeting will be held September 1st–3rd from 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at RTCA Headquarters, 1150 18th Street NW., Suite 450, Washington, DC 20036, Tel: (202) 330–0663.

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* or Sophie Bousquet, Program Director, RTCA, Inc., *sbousquet@rtca.org*, 202–330–0663.

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 the Special Committee 229. The agenda will include the following:

Tuesday, September 1, 2015 (09:30 a.m.–5:00 p.m.)

1. Welcome/Introductions/Administrative Remarks
2. Agenda overview and approval
3. Minutes Hamburg meeting review and approval
4. Review Action Items from Hamburg Meeting
5. ''Phasing in'' RTCA/DO–204B, EUROCAE/ED–62B requirements—discussion
6. Briefing of ICAO and COSPAS–SARSAT activities
7. WG 1 to 5 status and week's plan
8. Other Industry coordination and presentations
9. WG meetings (rest of the day)

Wednesday, September 2, 2015 (09:00 a.m.–5:00 p.m.)

1. WG 1 to 5 meetings

Thursday, September 3, 2015 (09:00 a.m.–4:00 p.m.)

1. WG 1–5 meetings (if needed)
2. WGs' reports
3. Action item review
4. Future meeting plans and dates
5. Industry coordination and presentations (if any)
6. Other business
7. 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 June 26, 2015.

Latasha Robinson,

Management & Program Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2015–16243 Filed 6–30–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request for a Temporary Change in Use To Accommodate Vehicular Parking on a Section of the Active Aircraft Parking Apron, at Albany International Airport, Albany, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comment.

SUMMARY: The FAA proposes to rule and invite public comment for a temporary change in use not to exceed 5 years to accommodate vehicular parking on a section of the aircraft parking apron to the immediate west of the terminal building, at Albany International Airport, Albany, NY.

DATES: Comments must be received on or before July 31, 2015.

ADDRESSES: Comments on this application may be mailed or delivered to the following address:

John O'Donnell, Chief Executive Officer, Albany International Airport, Albany County Airport Authority, Administration Building, Suite 200, Albany, NY 12211–1057, (518) 242–2222; and at the FAA New York Airports District Office: Evelyn Martinez, Manager, New York Airports District Office, 1 Aviation Plaza, Jamaica, NY 11434, (718) 995–5771.

FOR FURTHER INFORMATION CONTACT: Ryan Allen, Community Planner, New York Airports District Office, location listed above. (718) 995–5677.

The request for a temporary change in use not to exceed 5 years to accommodate vehicular parking on a section of the apron may be reviewed in person at the New York Airports District Office located at 159–30 Rockaway Blvd., Suite 111, Jamaica, NY 11434.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request for a temporary change in use not to exceed 5 years, to accommodate vehicular parking on a section of the aircraft parking apron to the immediate west of the terminal at Albany International Airport under the provisions of 49 U.S.C. 47125(a). Based on a full review, the FAA determined that the request for a temporary change in use not to exceed 5 years to accommodate vehicular parking on a section of the active apron at Albany International Airport (ALB), NY, submitted by the Albany County Airport Authority, met the procedural requirements.

The following is a brief overview of the request:

The Authority requests the temporary conversion of approximately 2.88 acres of existing aircraft parking apron space to accommodate vehicular parking during main terminal overflow events for a time period not to exceed 5 years from the date of approval. The conversion would provide for approximately 200 additional parking spaces, and includes temporary perimeter fencing, ingress/egress gates, pavement markings, ticketing and payment stations, paving modifications, and temporary lighting and signage. As indicated in the sponsor request,

the aircraft parking apron space in question is not currently utilized to capacity for its primary aviation function, which is transient overnight aircraft parking. There are currently other portions of the airport that can accommodate transient overnight parking if needed. The area will provide needed vehicular parking during overflow events, and the revenue generated will be used for airport purposes. All proceeds generated from the parking area must be used exclusively by the airport in accordance with 49 U.S.C. 47107(b) and the FAA's policy on revenue use.

Any person may inspect the request by appointment at the FAA office address listed above. Interested persons are invited to comment on the proposed 5 year temporary change of use from aeronautical to non-aeronautical. All comments will be considered by the FAA to the extent practicable.

Issued in Jamaica, New York, June 25, 2015.

Evelyn Martinez,

Manager, New York Airports District Office.

[FR Doc. 2015–16201 Filed 6–30–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Sixty-Sixth Meeting: Special Committee 135 (SC 135)

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

ACTION: Sixty-Sixth Meeting Notice of Special Committee 135.

SUMMARY: The FAA is issuing this notice to advise the public of the sixty-sixth meeting of the Special Committee 135.

DATES: The meeting will be held October 27th–October 29th from 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036, Tel: (202) 330–0663.

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* or Sophie Bousquet, Program Director, RTCA, Inc., *sbousquet@rtca.org,* (202) 330–0663.

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 the Special Committee 135. The agenda will include the following:

October 27–29, 2015

1. Chairmen's Opening Remarks, Introductions.
2. Approval of Summary from the Sixty-Fifth Meeting—(RTCA Paper No. 127–15/SC135–702).
3. Review New Change Proposals.
4. Review Working Group Activities.
5. New/Unfinished Business.
6. Establish date/locations for Next SC–135 Meetings.
7. Closing and 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 June 26, 2015.

Latasha Robinson,

Management & Program Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2015–16245 Filed 6–30–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Change in Use of Aeronautical Property at Sumner County Regional Airport, Gallatin, Tennessee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comment.

SUMMARY: The Federal Aviation Administration (FAA) is requesting public comment on a request by the Sumner County Regional Airport Authority of Gallatin, Tennessee, owner of the Sumner County Regional Airport, to change a portion of airport property from aeronautical to non-aeronautical use at the Sumner County Regional Airport. The request consists of approximately 14.29 acres to the City of Gallatin, Tennessee for construction of Airport Road. This action is taken under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before *July 31, 2015.*

ADDRESSES: Documents are available for review at the Sumner County Regional Airport, 1475 Airport Road, Gallatin, TN 37066; and the FAA Memphis Airports District Office, 2600 Thousand Oaks Boulevard, Suite 2250, Memphis, TN 38118–2482. Written comments on the Sponsor's request must be delivered or mailed to: Mr. Phillip J. Braden, Manager, Memphis Airports District Office, 2600 Thousand Oaks Boulevard, Suite 2250, Memphis, TN 38118–2482.

In addition, a copy of any comments submitted to the FAA must be mailed or delivered to Mr. Harold M. Van Leeuwen, Jr., Airport Manager, Sumner County Regional Airport Authority, 1475 Airport Road, Gallatin, TN 37066.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Wilson, Community Planner, Federal Aviation Administration, Memphis Airports District Office, 2600 Thousand Oaks Boulevard, Suite 2250, Memphis, TN 38118–2482. The application may be reviewed in person at this same location, by appointment.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to release property for non-aeronautical purposes at Sumner County Regional Airport, Gallatin, TN 37066 under the provisions of AIR 21 (49 U.S.C. 47107(h)(2)).

On June 25, 2015, the FAA determined that the request to release property for non-aeronautical purposes at Sumner County Regional Airport meets the procedural requirements of the agency. The FAA may approve the request, in whole or in part, no later than *July 31, 2015.*

The following is a brief overview of the request:

The Sumner County Regional Airport Authority is proposing the release of approximately 14.29 acres to the City of Gallatin, Tennessee for construction of Airport Road. This property is located along the existing airport western property line extending approximately 5,800 feet along Airport Road.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

Issued in Memphis, TN, on June 25, 2015.

Phillip J. Braden,

Manager, Memphis Airports District Office, Southern Region.

[FR Doc. 2015–16219 Filed 6–30–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2015–0015]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by August 31, 2015.

ADDRESSES: You may submit comments identified by DOT Docket ID 2015–0015 by any of the following methods:

Web site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jennifer Warren, 202–366–2157, *Jennifer.Warren@dot.gov;* Office of Safety, Federal Highway Administration, Department of Transportation, New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Drug Offender's Drivers License Suspension Certification

OMB Control #: 2125–0579.

Background: States are legally required to enact and enforce laws that revoke or suspend the drivers licenses of any individual convicted of a drug offense and to make annual certifications to the FHWA on their actions. The implementing regulations of the Department of Transportation and Related Agencies Appropriation Act, 1993 (Pub. L. 102–388, October 6, 1992) require annual certifications by the Governors. In this regard, the State must submit by January 1 of each year either a written certification, signed by the Governor, stating that the State is in compliance with 23 U.S.C. 159; or a written certification stating that the Governor is opposed to the enactment or enforcement, and that the State legislature has adopted a resolution expressing its opposition to 23 U.S.C. Section 159.

Beginning in Fiscal Year 1996, States' failure to comply by October 1 of each fiscal year resulted in a withholding penalty of 10 percent from major categories of Federal-aid funds (*i.e.,* National Highway System, Surface Transportation Program and the Interstate Maintenance Program) from States' apportionments for the fiscal year. Any funds withheld in Fiscal Year 1996 and thereafter cannot be restored and will be redistributed.

Respondents: Each of the 50 SDOTs, the District of Columbia, and the Commonwealth of Puerto Rico.

Frequency: Annually.

Estimated Average Burden per Response: Annual average of 5 hours for each respondent.

Estimated Total Annual Burden Hours: 260 total annual burden hours.

Public Comments Invited: 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 burdens; (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. 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: June 25, 2015.

Michael Howell,

Information Collection Officer.

[FR Doc. 2015–16175 Filed 6–30–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA 2015–0016]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of

Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by August 31, 2015.

ADDRESSES: You may submit comments identified by DOT Docket ID 2015–0016 by any of the following methods:

Web site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Damaris Santiago, 202–366–2034, Department of Transportation, FHWA, Office of Project Development and Environmental Review, E76–201, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: FHWA Environmental Excellence Awards

Background: In 1995 FHWA established the biennial Environmental Excellence Awards to recognize partners, projects, and processes that use FHWA funding sources to go beyond environmental compliance and achieve environmental excellence. The Environmental Excellence Awards also

recognize partners, projects, and processes that exemplify innovation and commitment to the human environment, and organization and process innovation. Awardees must make an outstanding contribution that goes beyond traditional transportation projects and that encourages environmental stewardship and partnerships to achieve a truly multi-faceted, environmentally sensitive transportation solution.

Award: Anyone can nominate a project, process, person or group that has used FHWA funding sources to make an outstanding contribution to transportation and the environment. The nominator is responsible for submitting an application via the FHWA Environmental Excellence Awards Web site that gives a summary of the outstanding accomplishments of the entry. The collected information will be used by FHWA to evaluate the project, showcase environmental excellence, and enhance the public's knowledge of environmental stewardship in the planning and project development process. Nominations will be reviewed by a panel of judges from varying backgrounds. It is anticipated that awards will be given every 2 years. The winners are presented plaques at an awards ceremony.

Respondents: Anyone who has used FHWA funding sources in the 50 States, U.S. territories, and the District of Columbia.

Frequency: The information will be collected biennially.

Estimated Average Burden per Response: 8 hours per respondent per application.

Estimated Total Annual Burden Hours: It is expected that the respondents will complete approximately 150 applications for an estimated total of 1200 annual burden hours.

Public Comments Invited: 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 burdens; (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. 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: June 25, 2015.

Michael Howell,

Information Collection Officer.

[FR Doc. 2015–16166 Filed 6–30–15; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2014–0315]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA confirms its decision to exempt 73 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions were effective on May 8, 2015. The exemptions expire on May 8, 2017.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue SE., 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. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/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.

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.*

II. Background

On April 7, 2015, FMCSA published a notice of receipt of Federal diabetes exemption applications from 73 individuals and requested comments from the public (80 FR 18681). The public comment period closed on May 7, 2015, and two comments were received.

FMCSA has evaluated the eligibility of the 73 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

III. Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 73 applicants have had ITDM over a range of one to 36 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to

diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the April 7, 2015, **Federal Register** notice and they will not be repeated in this notice.

III. Discussion of Comments

FMCSA received two comments in this proceeding. The comments are addressed below.

An anonymous commenter stated that allowing insulin-dependent drivers to operate CMVs in interstate commerce would increase safety as more experienced drivers would be allowed to drive. This is the purpose of the Diabetes Exemption Program.

Charla Sloan, Transit Director of the KI BOIS Area Transit System in Oklahoma, stated that she believes insulin-dependent drivers should be allowed to operate CMVs in interstate commerce without an exemption.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Conclusion

Based upon its evaluation of the 73 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)):

Tony W. Alonzo (TX)
Rafael M. Alvarado (TX)
Mark J. Avedisian (NY)
Timothy J. Burke (MA)
Eric E. Burton (TN)
Roger D. Cassada (VA)
Timothy W. Clark (OH)
Leonard W. Cleaves (MA)
Bruce Combs (OH)
Larry A. Cramer (SD)
Bradford A. Davies (ME)
Larry A. DeSanno (OR)
Robert S. Doering (IL)
Michael L. Domarus (MN)
Matthew G. Drabant (CO)
Adan A. Espinoza (CA)
Howard E. Fruehling (IA)
Michael F. Gabbianelli (NJ)
Christopher W. Geib (OH)
Ernest W. Gibbs (VA)
James E. Goins (NJ)
Gregory J. Goodenbour (IA)
Paul M. Gugerty, Jr. (IL)
William F. Guttormsen (NJ)
Michael D. Howell (NC)
Curtis L. Hudson (SC)
Mayer Indorsky (NY)
Raymond J. Jacobs (NY)
Lyle J. Kaehler (WI)
Charles F. Kennedy (PA)
Stephen P. Koons (PA)
Curtis G. Kirchbaum (PA)
Joseph A. Lahaderne (NY)
Walter P. Leck (PA)
Eric F. Leigh (IL)
Alvin G. Madwatkins (NJ)
Clayton B. Mathis (GA)
John R. Mauney (NC)
Derrell R. McCaskill (MD)
Darrel F. McCoy, Jr. (MO)
Eric O. McLamb (NC)
William W. McPhee (MI)
Michael S. Murray (IA)
Benjamin M. Naastad (ND)
Richard G. Niemi (WI)
Kenthia E. Norfleet (AL)
Donald M. Oakes (NH)
Philip L. Orsi (NY)
Robert E. Piernik (FL)
Harold E. Pratt (MO)
Jack C. Reed (NE)
Fernando Rivera (IL)
Timothy F. Rodehaver (OH)
Robin R. Roth (MN)
Lewis S. Russell (OR)
William J. Schmidt (MN)
Todd J. Schoeller (WI)
Gary H. Schrot (WI)
Ryan A. Snow (PA)
Kevin L. Sundh (UT)
William H. Terry (IN)
Gary E. Tilson (VA)
Duane K. Torlish, Jr. (NY)
Ronald W. Truitt (PA)
Timothy E. Vanderwiele (NY)
Leo D. Vermeire (WA)
Brian W. Walls (PA)
Gary L. Webster (VT)
Lance A. Wendinger (MN)
Allan W. Widener (GA)
Shane D. Wildoner (PA)
Roy L. Woodbury (OK)
Kyle A. Wright (WA)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: June 23, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–16140 Filed 6–30–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2000–7918; FMCSA–2001–9561; FMCSA–2002–13411; FMCSA–2003–14504; FMCSA–2006–24015; FMCSA–2007–2663; FMCSA–2007–25246; FMCSA–2007–27897; FMCSA–2008–0174; FMCSA–2008–0266; FMCSA–2011–0024; FMCSA–2011–0057; FMCSA–2011–0092; FMCSA–2013–0027; FMCSA–2013–0028]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 23 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective August 8, 2015. Comments must be received on or before July 29, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2000–7918; FMCSA–2001–9561; FMCSA–2002–13411; FMCSA–2003–14504; FMCSA–2006–24015; FMCSA–2007–2663; FMCSA–2007–25246; FMCSA–2007–27897; FMCSA–2008–0174; FMCSA–2008–0266; FMCSA–2011–0024; FMCSA–2011–0057; FMCSA–2011–0092; FMCSA–2013–0027; FMCSA–2013–0028], 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 or Courier: 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 number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

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: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, 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 renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-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 procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 23 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 23 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Juan D. Adame, Jr. (TX)
James C. Barr (OH)
Jean-Pierre G. Brefort (CT)
Ryan L. Brown (IL)
David S. Carman (NJ)
Todd A. Chapman (NC)
Timothy J. Curran (CA)
Erik R. Davis (GA)
Paul W. Dawson (CO)
Everett A. Doty (AZ)
Waylon E. Hall (LA)
Gary D. Hallman (AL)
Dean R. Hawley (NC)
Edward J. Kasper (DE)
David J. Kibble (PA)
Darrell W. Knorr (IL)
Jorge G. Lopez (OH)
William F. Nickel, V (OR)
Gonzalo Pena (FL)
Robert A. Reyna (UT)
Tim M. Seavy (IN)
Charles R. Sylvester (NC)
David R. Thomas (AL)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date

and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 23 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 66286; 66 FR 13825; 66 FR 30502; 66 FR 33990; 66 FR 41654; 67 FR 76439; 68 FR 10298; 68 FR 10300; 68 FR 19598; 68 FR 33570; 68 FR 44837; 70 FR 7545; 70 FR 7546; 70 FR 25878; 70 FR 41811; 71 FR 14566; 71 FR 30227; 72 FR 180; 72 FR 7111; 72 FR 7812; 72 FR 8417; 72 FR 9397; 72 FR 28093; 72 FR 36099; 72 FR 39879; 72 FR 40362; 72 FR 52419; 73 FR 27014; 73 FR 38497; 73 FR 48271; 73 FR 51689; 73 FR 63047; 74 FR 6212; 74 FR 19270; 74 FR 26466; 74 FR 34395; 75 FR 50799; 75 FR 66423; 75 FR 77590; 76 FR 9861; 76 FR 17481; 76 FR 18824; 76 FR 21796; 76 FR 25762; 76 FR 25766; 76 FR 28125; 76 FR 29024; 76 FR 37885; 76 FR 44652; 77 FR 70537; 78 FR 10250; 78 FR 14410; 78 FR 24300; 78 FR 24798; 78 FR 27281; 78 FR 37270; 78 FR 41188; 78 FR 46407; 78 FR 51268; 78 FR 56993; 79 FR 24298). Each of these 23 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2000–7918; FMCSA–2001–9561; FMCSA–2002–13411; FMCSA–2003–14504; FMCSA–2006–24015; FMCSA–2007–2663; FMCSA–2007–25246; FMCSA–2007–27897; FMCSA–2008–0174; FMCSA–2008–0266; FMCSA–2011–0024; FMCSA–2011–0057; FMCSA–2011–0092; FMCSA–2013–0027; FMCSA–2013–0028), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, got to *http://www.regulations.gov* and put the docket number, ''FMCSA–2000–7918; FMCSA–2001–9561; FMCSA–2002–13411; FMCSA–2003–14504; FMCSA–2006–24015; FMCSA–2007–2663; FMCSA–2007–25246; FMCSA–2007–27897; FMCSA–2008–0174; FMCSA–2008–0266; FMCSA–2011–0024; FMCSA–2011–0057; FMCSA–2011–0092; FMCSA–2013–0027; FMCSA–2013–0028'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. 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. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2000–7918; FMCSA–2001–9561; FMCSA–2002–13411; FMCSA–2003–14504; FMCSA–2006–24015; FMCSA–2007–2663; FMCSA–2007–25246; FMCSA–2007–27897; FMCSA–2008–0174; FMCSA–2008–0266; FMCSA–2011–0024; FMCSA–2011–0057; FMCSA–2011–0092; FMCSA–2013–0027; FMCSA–2013–0028'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: June 23, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–16138 Filed 6–30–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0062]

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 49 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 July 31, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2015–0062 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: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (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 49 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

Adele M. Aasen

Ms. Aasen, 53, has had ITDM since 1971. Her endocrinologist examined her in 2015 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. Aasen understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Aasen meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2015 and certified that she does not have diabetic retinopathy. She holds an operator's license from North Dakota.

Kyle E. Beine

Mr. Beine, 23, has had ITDM since 2004. His endocrinologist examined him in 2015 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. Beine understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Beine meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Wisconsin.

Dean B. Bibens, Jr.

Mr. Bibens, 58, has had ITDM since 2002. His endocrinologist examined him in 2015 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. Bibens understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bibens 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 Connecticut.

Joseph M. Blackwell

Mr. Blackwell, 31, has had ITDM since 2010. His endocrinologist examined him in 2015 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. Blackwell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Blackwell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Georgia.

Joseph G. Blastick

Mr. Blastick, 35, has had ITDM since 1987. His endocrinologist examined him in 2015 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. Blastick understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Blastick meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Dakota.

Gary W. Boninsegna

Mr. Boninsegna, 58, has had ITDM since 1991. His endocrinologist examined him in 2015 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. Boninsegna understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Boninsegna meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Ohio.

Brian K. Bouma

Mr. Bouma, 47, has had ITDM since 2015. His endocrinologist examined him in 2015 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. Bouma understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bouma meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Michigan.

Billy J. Bronson

Mr. Bronson, 60, has had ITDM since 2007. His endocrinologist examined him in 2015 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. Bronson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bronson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Oregon.

Michael L. Campbell

Mr. Campbell, 57, has had ITDM since 2011. His endocrinologist examined him in 2015 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. Campbell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Campbell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Steven C. Cornell

Mr. Cornell, 45, has had ITDM since 2013. His endocrinologist examined him in 2015 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. Cornell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cornell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Josiah L. Crestik

Mr. Crestik, 24, has had ITDM since 1997. His endocrinologist examined him in 2015 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. Crestik understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Crestik meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Minnesota.

Richard L. Cunningham

Mr. Cunningham, 66, has had ITDM since 2010. His endocrinologist examined him in 2015 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. Cunningham understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cunningham meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Nebraska.

Thomas M. Delasko

Mr. Delasko, 41, has had ITDM since 2005. His endocrinologist examined him in 2015 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. Delasko understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Delasko meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Florida.

William T. Eason

Mr. Eason, 54, has had ITDM since 2011. His endocrinologist examined him in 2015 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. Eason understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Eason meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Stefan D. Gall

Mr. Gall, 60, has had ITDM since 2008. His endocrinologist examined him in 2015 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. Gall understands diabetes management and monitoring,

has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gall meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a chauffeur's license from Michigan.

Douglas J. Garrison

Mr. Garrison, 55, has had ITDM since 1990. His endocrinologist examined him in 2015 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. Garrison understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Garrison meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Iowa.

Charles F. Gollahon

Mr. Gollahon, 81, has had ITDM since 2011. His endocrinologist examined him in 2015 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. Gollahon understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gollahon 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.

Donald E. Gray

Mr. Gray, 61, has had ITDM since 2014. His endocrinologist examined him in 2015 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. Gray understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gray meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Florida.

Daniel W. Gregory

Mr. Gregory, 57, has had ITDM since 2014. His endocrinologist examined him in 2015 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. Gregory understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gregory meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Barry L. Grimes, Sr.

Mr. Grimes, 70, has had ITDM since 2013. His endocrinologist examined him in 2015 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. Grimes understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Grimes meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maryland.

Dennis J. Grimm

Mr. Grimm, 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. Grimm understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Grimm meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Delaware.

Stephen G. Helmer

Mr. Helmer, 47, has had ITDM since 1996. His endocrinologist examined him in 2015 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. Helmer understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Helmer meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Nebraska.

Kenneth P. Henry

Mr. Henry, 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. Henry understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Henry meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Washington.

Marco K. Higgs

Mr. Higgs, 41, has had ITDM since 1995. His endocrinologist examined him in 2015 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. Higgs understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Higgs meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Oregon.

Jeffrey T. Hunley

Mr. Hunley, 45, has had ITDM since 2010. His endocrinologist examined him in 2015 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. Hunley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hunley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from North Carolina.

Colin S. Jackson

Mr. Jackson, 32, has had ITDM since 1995. His endocrinologist examined him in 2015 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 optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Washington.

Dennis J. Klawes

Mr. Klawes, 69, 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. Klawes understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Klawes 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.

John E. Marshall

Mr. Marshall, 77, has had ITDM since 2006. His endocrinologist examined him in 2015 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. Marshall understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Marshall meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Andrew Milite

Mr. Milite, 47, has had ITDM since 2011. His endocrinologist examined him in 2015 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. Milite understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Milite meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New York.

Peter E. Mizialko

Mr. Mizialko, 53, has had ITDM since 2012. His endocrinologist examined him in 2015 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. Mizialko understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mizialko meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Jersey.

Matthew E. Modlin

Mr. Modlin, 25, has had ITDM since 2006. His endocrinologist examined him in 2015 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. Modlin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Modlin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from North Carolina.

Michael I. Moore

Mr. Moore, 64, has had ITDM since 2003. His endocrinologist examined him in 2015 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. Moore understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Moore meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that

he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

Clyde S. Morgan

Mr. Morgan, 58, has had ITDM since 2015. His endocrinologist examined him in 2015 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. Morgan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Morgan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Richard M. Ohland

Mr. Ohland, 55, has had ITDM since 2014. His endocrinologist examined him in 2015 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. Ohland understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ohland meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

James D. Parrish

Mr. Parrish, 60, has had ITDM since 2014. His endocrinologist examined him in 2015 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. Parrish understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Parrish meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from North Carolina.

Justin D. Redding

Mr. Redding, 42, has had ITDM since 2014. His endocrinologist examined him in 2015 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. Redding understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Redding meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Montana.

Alex R. Rumph

Mr. Rumph, 30, has had ITDM since 1990. His endocrinologist examined him in 2015 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. Rumph understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rumph meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Montana.

Kenneth S. Schoenberger

Mr. Schoenberger, 57, has had ITDM since 2012. His endocrinologist examined him in 2015 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. Schoenberger understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Schoenberger meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Jarred E. Shawles

Mr. Shawles, 29, has had ITDM since 1994. His endocrinologist examined him in 2015 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. Shawles understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Shawles meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from California.

Charles M. Smith

Mr. Smith, 42, has had ITDM since 2004. His endocrinologist examined him in 2015 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. Smith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Howard L. Smith

Mr. Smith, 71, has had ITDM since 2014. His endocrinologist examined him in 2015 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. Smith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Illinois.

Jeffrey S. Snyder

Mr. Snyder, 51, has had ITDM since 2014. His endocrinologist examined him in 2015 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. Snyder understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Snyder meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Pennsylvania.

Jerry L. Stevens

Mr. Stevens, 55, has had ITDM since 1975. His endocrinologist examined him in 2015 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. Stevens understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stevens meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Nebraska.

Todd A. Stover

Mr. Stover, 45, has had ITDM since 1990. His endocrinologist examined him in 2015 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. Stover understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stover 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 Pennsylvania.

Kevin G. Sundquist

Mr. Sundquist, 32, has had ITDM since 2009. His endocrinologist examined him in 2015 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. Sundquist understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sundquist meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Minnesota.

David N. Tetlak

Mr. Tetlak, 36, has had ITDM since 1998. His endocrinologist examined him in 2015 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. Tetlak understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Tetlak meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

Dennis P. Walker, Jr.

Mr. Walker, 40, has had ITDM since 2010. His endocrinologist examined him in 2015 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. Walker understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Walker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Ohio.

Horace V. Watson

Mr. Watson, 34, has had ITDM since 2009. His endocrinologist examined him in 2015 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. Watson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Watson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Georgia.

Jeremy W. Wolfe

Mr. Wolfe, 34, has had ITDM since 1982. His endocrinologist examined him in 2015 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. Wolfe understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wolfe meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Missouri.

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–2015–0062 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–2015–0062 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on June 23, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–16112 Filed 6–30–15; 8:45 am]

BILLING CODE 4910–EX–P

[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

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2015–0057]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA confirms its decision to exempt 49 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions were effective on May 9, 2015. The exemptions expire on May 9, 2017.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue SE., 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. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/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.

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.*

II. Background

On April 8, 2015, FMCSA published a notice of receipt of Federal diabetes exemption applications from 49 individuals and requested comments from the public (80 FR 18928). The public comment period closed on May 8, 2015, and one comment was received.

FMCSA has evaluated the eligibility of the 49 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

II. Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher

rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 49 applicants have had ITDM over a range of one to 42 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the April 8, 2015, **Federal Register** notice and they will not be repeated in this notice.

II. Discussion of Comments

FMCSA received one comment in this proceeding. The comment is addressed below.

Michael Smith expressed concerns regarding the monitoring of drivers granted the exemptions, believing they are monitored only once a year. FMCSA requires that drivers who hold exemption submit quarterly and annual monitoring reports from their endocrinologists, and an annual vision examination.

III. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

IV. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

V. Conclusion

Based upon its evaluation of the 49 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 949 CFR 391.64(b)):

Christopher R. Alba (CO)
Lloyd T. Beverly (VA)
James R. Bledsoe (FL)
Sammy W. Bowlin (KS)
Durwin A. Brannon (NC)
Larry J. Carril (IL)
Jimmy E. Cole (TN)
Richard S. Collins (IA)
Robert S. Colosimo (ND)
Joel F. Cook (NY)
James N. Coombs (NJ)
David A. Daniels (ME)
Mark J. Dias (MA)
William A. Emerick (MA)
Brian A. Foss (WY)
William A. H. Gardner (CA)
Gary R. Gill (PA)
Steven M. Gilmour (MA)
Ismael Gonzalez (IN)
Arnold P. Griffith, Jr. (IA)
Charles A. Gudaitis (PA)
Scott D. Hanlon (NY)
Cory A. Harker (FL)
Stanley A. Head (GA)
David W. Henderson (NC)
Clark D. Holdeman (TX)
William E. Holt (TX)
David A. Holwenger (WA)
Alan D. Jacobs (OR)
Conrad J. Janik (NY)
David F. Kenny (NY)
George W. Key, Jr. (AL)
Michael O. Lancial (MI)
Frank A. Mowers (IL)
Charles H. Nichols (MI)
Marvin R. Nunn (OR)
Terry C. Rose (NC)
Robert L. Rush, Jr. (PA)
Derek J. Scougal (VA)
Roy Silva (IL)
James L. Skinner (IA)
Robert L. Terry (TN)
Rafael Torres, Jr. (FL)
Matthew C. Vaillancourt (MA)
Joseph E. Weitzel (PA)
Ashley M. Winkels (MN)
Steven L. Wolvers (IA)
David W. Wood (ID)
Donald E. Zimmerman (NC)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: June 23, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–16139 Filed 6–30–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2012–0033]

Notice of Intent To Grant a Buy America Waiver to the Rhode Island Department of Transportation and the National Railroad Passenger Corporation for the Purchase of Two Turnouts and One Crossover

AGENCY: Federal Railroad Administration (FRA), United States Department of Transportation (DOT).

ACTION: Notice of intent to grant Buy America waiver.

SUMMARY: FRA is issuing this notice to advise the public that it intends to grant the Rhode Island Department of Transportation (RIDOT) and the National Railroad Passenger Corporation (Amtrak), a waiver from FRA's Buy America requirement under 49 U.S.C. 24405(a)(2)(B) for the purchase of one No. 20 RH 136RE Turnout, one No. 20 LH 136RE Turnout, and one No. 20 LH Crossover 136RE (Turnouts and Crossover) manufactured by VAE Nortrak North America, Inc. at its plant in Birmingham, Alabama, for use in the Kingston Track Capacity and Platform Improvements Project (Kingston Project). Nortrak will manufacture the Turnouts and Crossover at its plant in Birmingham, Alabama. The Turnouts and Crossover will contain four components (ZU1–60 steel left and right switch point rail sections and Schwihag roller assemblies and plates) not produced in the U.S. The roller assemblies and plates are manufactured in Switzerland, and the ZUl-60 steel switch point rail sections are manufactured in Austria. The total amount of foreign material under this waiver request amounts to approximately $126,000. The foreign material comprises approximately 8 percent of the Turnouts' $350,000 cost or approximately $56,000 and 10 percent of the Crossover's $700,000 cost or approximately $70,000. FRA believes a waiver is appropriate under 49 U.S.C. 24405(a)(2)(B) for the ZUI–60 steel switch point rail sections and roller assemblies and plates because domestically-produced components meeting the specific needs of RIDOT and Amtrak are not currently produced in the U.S.

DATES: Written comments on FRA's determination to grant RIDOT's and Amtrak's Buy America waiver request should be provided to the FRA on or before July 6, 2015.

ADDRESSES: Please submit your comments by one of the following means, identifying your submissions by docket number FRA–2012–0033. All electronic submissions must be made to the U.S. Government electronic site at *http://www.regulations.gov.* Commenters should follow the instructions below for mailed and hand-delivered comments.

(1) *Web site: http://www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site;

(2) *Fax:* (202) 493–2251;

(3) *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, Room W12–140, Washington, DC 20590–0001; or

(4) *Hand Delivery:* Room W12–140 on the first floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must make reference to the ''Federal Railroad Administration'' and include docket number FRA–2012–0033. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties making submissions responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to *http://www.regulations.gov.* For more information, you may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. John Johnson, Attorney-Advisor, FRA Office of Chief Counsel, 1200 New Jersey Avenue SE., Mail Stop 25, Washington, DC 20590, (202) 493–0078, *John.Johnson@dot.gov.*

SUPPLEMENTARY INFORMATION: The letter granting RIDOT's and Amtrak's request is quoted below:

Mr. Bernard Reynolds
Vice President and Chief Procurement Officer
National Railroad Passenger Corporation (Amtrak)
60 Massachusetts Avenue NE
Washington, D.C.

Mr. Michael Lewis
Director
Rhode Island Department of Transportation
Two Capitol Hill
Providence, RI 02903

Re: Request for Waiver of Buy America Requirement

Dear Mr. Reynolds and Mr. Lewis:

On January 26, 2015, the Rhode Island Department of Transportation (RIDOT) and the National Railroad Passenger Corporation (Amtrak) requested a waiver from FRA's Buy America requirement to purchase one (1) No. 20 RH 136RE turnout, one (1) No. 20 LH 136RE Turnout, and one (1) No. 20 LH Crossover 136RE (Turnouts and Crossover) manufactured by VAE Nortrak North America, Inc. (Nortrak) for use in the Kingston Track Capacity and Platform Improvements Project (Kingston Project). Nortrak will manufacture the Turnouts and Crossover at its plant in Birmingham, Alabama, but the Turnouts and Crossover will contain several components (ZU1–60 steel left and right switch point rail sections and Schwihag roller assemblies and plates) not produced in the United States. The total amount of foreign material is approximately $126,000. For the reasons set forth below, FRA is granting a waiver for the purchase of the Turnouts and Crossover.

FRA believes a waiver is appropriate under 49 U.S.C. 24405(a)(2)(B) for the ZUI–60 steel switch point rail sections and Schwihag roller assemblies and plates because domestically-produced components meeting the specific needs of RIDOT and Amtrak for this application are not currently ''produced in sufficient and reasonably available amount or are not of a satisfactory quality.''

Amtrak has conducted significant market research to locate 100 percent compliant turnouts. Further, Nortrak has advised Amtrak that it is in the process of designing 100% domestic replacements for the Schwihag rollers and plates, and expects to have them fully tested and approved in one to two years. However, Nortrak will not complete the testing and approval process in time for use in the Kingston Project. In addition, Amtrak issued a competitive solicitation for the Turnouts and Crossover and received no Buy America compliant bids.

On January 30, 2015, FRA provided public notice of this waiver request and a 15-day opportunity for comment on its Web site. FRA also sent an email notice to over 6,000 persons who have signed up for Buy America notices through ''GovDelivery.'' See *http://www.fra.dot.gov/Page/P0782.* FRA received no comments.

This waiver applies only to the ZUI–60 steel switch point rail sections and

Schwihag roller assemblies and plates used in the Turnouts and Crossover installed in the Kingston Project. Pursuant to 49 U.S.C. 24405(a)(4), FRA will publish this letter granting Amtrak's and RIDOT's request in the **Federal Register** and provide notice of such finding and an opportunity for public comment after which this waiver will become effective.

Questions about this letter can be directed to, John Johnson, Attorney-Advisor, at *John.Johnson@dot.gov* or (202) 493–0078.

Sincerely,

Sarah Feinberg
Acting Administrator

Issued in Washington, DC, on June 22, 2015.

Sarah L. Inderbitzin,

Deputy Chief Counsel.

[FR Doc. 2015–16064 Filed 6–30–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number MARAD–2015–0086]

Maritime Environmental and Technical Assistance (META) Program Forum

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The Maritime Administration (MARAD), in cooperation with the Maryland Environmental Resource Center, will hold an open forum to solicit individual input to MARAD on the Agency's Maritime Environmental and Technical Assistance (META) Program and key environmental issues facing maritime transportation. Input received will enable the Agency to assess the effectiveness and utility of the Program thus far, and will inform MARAD and Department of Transportation decision making regarding possible future research, development and demonstration projects.

DATES: The forum will be held on Wednesday, July 22, 2015, from 9:00 a.m. to 1:00 p.m. EDT.

ADDRESSES: The event will be held at the Conference Center of the Maritime Institute of Technology and Graduate Studies (MITAGS), 692 Maritime Blvd., Linthicum Heights, Maryland 21090 (Telephone 866–656–5568). The facility has overnight accommodations. For those interested in reserving MITAGS accommodations please feel free to call 410–859–5700.

FOR FURTHER INFORMATION CONTACT: You may contact Daniel Yuska, Office of Environment, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone (202) 366–0714. You may send electronic mail to *Daniel.Yuska@dot.gov*.

For access to the docket, go to *http://www.regulations.gov* at any time or to Room W12–140 of the Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal Holidays. To view the docket electronically, type the docket number ''MARAD–2015–0086'' in the ''SEARCH'' box and click ''Search.'' Click and Open Docket Folder on the line associated with this forum.

SUPPLEMENTARY INFORMATION: The META program seeks to foster collaborative efforts among Federal agencies, academia, industry and the public to address critical marine transportation environmental issues. Among the areas of current focus are aquatic invasive species, ballast water and underwater hull growth, port and vessel air emissions, and alternative fuels and energy technologies. Through META, MARAD supports research, development and demonstration of innovative technologies for practical applications to balance freight, passenger and environmental concerns with sustainable solutions. This support includes financial support for research and development activities, and fostering the exchange of information and best practices.

MARAD is holding this forum to provide information on the META concept, gather public input on identifying the key environmental issues on which the META program should focus its activities, and on how MARAD might best structure the program for the future. Specific topics of discussion will include how MARAD might be able to better focus requests for proposals, and how to address various levels of technology readiness.

During the forum, MARAD representatives will explain the META program and discuss current areas of focus and projects, followed by small group discussions. Minutes will be kept of the discussion and posted by MARAD.

MARAD will release further details on this public forum, including times and agenda, on its Web page at *http://marad.dot.gov* and on the DOT docket as they become available.

Privacy Act Statement

All input received at the forum will be recorded and attributable to the individual commenter and where appropriate on behalf of an association, business, labor union, etc. This information will be placed on the DOT public docket. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476, 04/11/2011) or at *http://www.dot.gov/privacy.html*.

Authority: 49 CFR 1.93.

* * * * *

Dated: June 25, 2015.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–16180 Filed 6–30–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Voluntary Intermodal Sealift Agreement/Joint Planning Advisory Group Table Top Exercise

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The Voluntary Intermodal Sealift Agreement (VISA) program requires a notice of the time, place, and nature of each Joint Planning Advisory Group (JPAG) meeting be published in the **Federal Register.** The full text of the VISA program, including these requirements, is published in **Federal Register**/Vol. 79, No. 209, 64462—64470, dated October 29, 2014.

On June 2–3, 2015, the Maritime Administration and the U.S. Transportation Command co-hosted the 2015 Voluntary Intermodal Sealift Agreement Joint Planning Advisory Group Table-Top Exercise at Scott Air Force Base, Illinois. Participants of the Table Top Exercise (TTX) were required to possess a secret clearance due to the classified nature of the meeting and attendance was by invitation only. The Maritime Administrator invited VISA carriers, Maritime Labor Unions, Longshoreman Labor and designated U.S. Strategic Seaport personnel. In addition, representatives from the Department of Transportation, the Maritime Administration and the Department of Defense (DOD) to include the Office of the Secretary of Defense, U.S. Transportation Command, the Military Sealift Command and the Surface Deployment and Distribution Command attended the meeting.

FOR FURTHER INFORMATION CONTACT: You may contact William G. Kurfehs, Acting Director, Office of Sealift Support, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone (202) 366–2318. You may send electronic mail to *Bill.Kurfehs@dot.gov.*

SUPPLEMENTARY INFORMATION: Colonel Martin Chapin, USAF, Deputy Director, Operations and Planning, U.S. Transportation Command, and Mr. Kevin Tokarski, Associate Administrator for Strategic Sealift, Maritime Administration, welcomed the participants. Mr. Tokarski thanked the industry participants for their continued support and stated he was pleased with the large number of attendees at the JPAG meeting. He expressed a hope that the JPAG TTX would serve to prepare all attendee for what could actually occur during a VISA activation. Col. Chapin remarked that the classified TTX will focus on VISA participants' ability to meet DOD requirements for moving contingency cargo from CONUS Sea Ports of Embarkation to designated OCONUS Ports of Debarkation. Col. Chapin also stated that the TTX will address mariner availability to support VISA activation. Further, both gentlemen requested participants complete a survey at the end of the TTX and provide recommendations to improve the JPAG.

The purpose of the JPAG TTX was to: (1) Affirm industry's ability to meet DOD requirements by exposing them to the most demanding DOD scenario; (2) exercise commercial sealift capacity in relation to scenario requirements; (3) validate scenario planning assumptions; and (4) recommend revisions, as appropriate, on how we model specified scenarios and/or other related planning documents and associated planning assumptions. The JPAG TTX was considered a success as industry participants were able to provide capacity and resources to meet DOD requirements. However, the participants identified specific ''lessons learned'' that will be addressed to improve the JPAG. The JPAG TTX participants agreed to work on the lessons learned to assure that they are adequately addressed for the efficient coordination of VISA activation procedures.

The following are VISA participants:

A Way To Move, Inc.
American International Shipping, LLC
American Marine Corporation
American President Lines, Ltd.
American Roll-On Roll-Off Carrier, LLC
APL Marine Services, Ltd.
Argent Marine Operations, Inc.
Beyel Brothers Inc.
Central Gulf Lines, Inc.
Columbia Coastal Transport, LLC
CRC Marine Services, Inc.
Crimson Shipping Co., Inc.
Crowley Puerto Rico Services, Inc.
Crowley Marine Services, Inc.
Curtin Maritime, Corp.
Dann Marine Towing, LC
Farrell Lines Incorporated
Fidelio Limited Partnership
Foss International, Inc.
Foss Maritime Company
Hapag-Lloyd USA, LLC
Horizon Lines, LLC
LA Carriers, LLC
Laborde Marine, L.L.C.
Liberty Global Logistics, LLC
Liberty Shipping Group, LLC
Lockwood Brothers, Inc.
Lynden Incorporated
Maersk Line, Limited
Marine Transport Management
Matson Navigation Company, Inc.
McAllister Towing and Transportation Co., Inc.
McCulley Marine Services, Inc.
Moran Towing Corp.
National Shipping of America, LLC
Northcliffe Ocean Shipping & Trading Company
Pasha Hawaii Transport Lines LLC
Patriot Shipping, L.L.C
Resolve Towing & Salvage, Inc.
Samson Tug & Barge Company, Inc.
Schuyler Line Navigation Company, LLC
Sea Star Line, LLC
SeaTac Marine Services, LLC
Seabridge, Inc.
Sealift Inc.
Smith Maritime, Inc.
Stevens Towing Co., Inc.
Stevens Transportation, LLC
Superior Maritime Services, Inc.
Tactical Shipping, LLC
Teras BBC Ocean Navigation Enterprises Houston, LLC
Totem Ocean Trailer Express
Trailer Bridge, Inc.
TransAtlantic Lines, LLC
Western Towboat Company
Weeks Marine, Inc.
Waterman Steamship Corporation
Young Brothers Limited

AUTHORITY: 49 CFR 1.93(l), Pub. L. 111–67.

Dated: June 25, 2015.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–16178 Filed 6–30–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Voluntary Intermodal Sealift Agreement Open Season

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of open season for enrollment in the VISA program.

SUMMARY: The Maritime Administration (MARAD) announces that the open season for Fiscal Year 2016 applications for participation in the Voluntary Intermodal Sealift Agreement (VISA) program will run for 30 days beginning today and ending July 31, 2015. The purpose of this notice is to invite interested, qualified U.S.-flag vessel operators that are not currently enrolled in the VISA program to apply. This is the only planned enrollment period for carriers to join the VISA program and derive benefits for Department of Defense (DOD) peacetime contracts initiated during the period from October 1, 2015, through September 30, 2016.

Any U.S.-flag vessel operator organized under the laws of a state of the United States, or the District of Columbia, who is able and willing to commit militarily useful sealift assets and assume the related consequential risks of commercial disruption, may be eligible to participate in the VISA program.

The mission of VISA is to provide commercial sealift and intermodal shipping services and systems, including vessels, vessel space, intermodal systems and equipment, terminal facilities, and related management services, to the Department of Defense (DOD), as necessary, to meet national defense contingency requirements or national emergencies. Carriers enrolled in the VISA program provide DOD with assured access to such services during contingencies. In return for their VISA commitment, DOD gives VISA participants priority for peacetime cargos.

DATES: VISA Program applications must be received on or before July 31, 2015.

ADDRESSES: Submit applications and questions related to this notice to William G. Kurfehs, Acting Director, Office of Sealift Support, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: William G. Kurfehs, Acting Director, Office of Sealift Support, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

Telephone (202) 366–2318; Fax (202) 366–5904, electronic mail to *Bill.Kurfehs@dot.gov* or visit *http://www.marad.dot.gov.*

SUPPLEMENTARY INFORMATION: The VISA program was established pursuant to Section 708 of the Defense Production Act of 1950, as amended (DPA). The VISA program was created to provide for voluntary agreements for emergency preparedness programs. Pursuant to the DPA, voluntary agreements for preparedness programs, including the VISA program expire five (5) years after the date they became effective.

The VISA program is open to U.S.-flag vessel operators of oceangoing militarily useful vessels, to include tugs and barges. An operator is defined as an owner or bareboat charterer of a vessel. Tug enrollment alone does not satisfy VISA eligibility. Operators include vessel owners and bareboat charter operators if satisfactory signed agreements are in place committing the assets of the owner to VISA. Voyage and space charterers are not considered U.S.-flag vessel operators for purposes of VISA eligibility.

VISA Concept

The VISA program provides for the staged, time-phased availability of participants' shipping services/systems through pre-negotiated contracts between the Government and participants. Such arrangements are jointly planned with the MARAD, U.S. Transportation Command (USTRANSCOM), and participants in peacetime to allow effective and best valued use of commercial sealift capacity, provide DOD assured contingency access, and to minimize commercial disruption.

There are three time-phased stages in the event of VISA activation. VISA Stages I and II provide for pre-negotiated contracts between DOD and participants to provide sealift capacity to meet all projected DOD contingency requirements. These contracts are executed in accordance with approved DOD contracting methodologies. VISA Stage III provides for additional capacity to DOD when Stages I and II commitments or volunteered capacity are insufficient to meet contingency requirements, and adequate shipping services from non-participants are not available through established DOD contracting practices or U.S. Government treaty agreements.

Exceptions to This Open Season

The only exception to this open season period for VISA enrollment will be for a non-VISA carrier that reflags a vessel into U.S. registry. That carrier may submit an application to participate in the VISA program at any time upon completion of reflagging.

Advantages of Peacetime Participation

In return for their VISA commitment, DOD awards peacetime cargo contracts to VISA participants on a priority basis. Award of DOD cargoes to meet DOD peacetime and contingency requirements is made on the basis of the following priorities: U.S.-flag vessel capacity operated by VISA participants and U.S.-flag Vessel Sharing Agreement (VSA) capacity held by VISA participants; U.S.-flag vessel capacity operated by non-participants; Combination U.S.-flag/foreign-flag vessel capacity operated by VISA participants, and combination U.S.-flag/foreign-flag VSA capacity held by VISA participants; Combination U.S.-flag/foreign-flag vessel capacity operated by non-participants; U.S.-owned or operated foreign-flag vessel capacity and VSA capacity held by VISA participants; U.S.-owned or operated foreign-flag vessel capacity and VSA capacity held by non-participants; and Foreign-owned or operated foreign-flag vessel capacity of non-participants.

Participation

Applicants must provide satisfactory evidence that the vessels being committed to the VISA program are operational and are intended to be operated by the applicant in the carriage of commercial or government preference cargoes. Operator is defined as an ocean common carrier or contract carrier that owns, controls or manages vessels by which ocean transportation is provided. While vessel brokers, freight forwarders, and agents play an important role as a conduit to locate and secure appropriate vessels for the carriage of DOD cargo, they are not eligible to participate in the VISA program due to lack of requisite vessel ownership or operation.

Commitment

Any U.S.-flag vessel operator desiring to receive priority consideration for DOD peacetime contracts must commit no less than 50 percent of its total U.S.-flag militarily useful capacity in Stage III of the VISA program. Participants operating vessels in international trade may receive top tier consideration in the award of DOD peacetime contracts by committing the minimum percentages of capacity to all three stages of VISA or bottom tier consideration by committing the minimum percentage of capacity to only Stage III of VISA. USTRANSCOM and MARAD will coordinate to ensure that the amount of sealift assets committed to Stages I and II will not have an adverse national economic impact. To minimize domestic commercial disruption, participants operating vessels exclusively in the domestic Jones Act trades are not required to commit the capacity of those U.S. domestic trading vessels to VISA Stages I and II. Overall VISA commitment requirements are based on annual enrollment.

In order to protect a U.S.-flag vessel operator's market share during contingency activation, VISA allows participants to join with other vessel operators in Carrier Coordination Agreements (CCAs) to satisfy commercial or DOD requirements. VISA provides a defense against antitrust laws in accordance with the DPA. CCAs must be submitted to the MARAD for coordination with the Department of Justice for approval, before they can be utilized.

Vessel Position Reporting

If VISA applicants have the capability to track their vessels, they must include the tracking system used in their VISA application. Such applicants are required to provide MARAD access to their vessel tracking systems upon approval of their VISA application. If VISA applicants do not have a tracking system, they must indicate this in their VISA application. The VISA program requires enrolled ships to comply with 46 CFR part 307, Establishment of Mandatory Position Reporting System for Vessels.

Compensation

In addition to receiving priority in the award of DOD peacetime cargo, a participant will receive compensation during contingency activation for that capacity activated under Stage I, II and III. The amount of compensation will depend on the Stage at which capacity is activated. During enrollment, each participant must select one of several compensation methodologies. The compensation methodology selection will be completed with the appropriate DOD agency, resulting in prices in contingency contracts between DOD and the participant.

Security Clearances

All VISA applicants accepted for VISA participation, not having a Facility Security Clearance (FCL), will be required to pursue the clearance process with the Defense Security Service (DSS). If the accepted applicant does not have a clearance, MARAD will initiate the clearance process with DSS. Participants must have a FCL and individual security clearances, at a

minimum of SECRET level, for key personnel in order for them to participate in the VISA Joint Planning Advisory Group (JPAG) meetings and to meet VISA contingency contract obligations. One of the objectives of the JPAG is to provide the USTRANSCOM, MARAD and VISA participants a planning forum to analyze DOD contingency sealift/intermodal service and resource requirements against industry commitments. JPAG meetings are often SECRET classified sessions. Eligibility for VISA participation will be terminated if an applicant is rejected for a facility clearance or if it fails to progress in a timely manner in the clearance process.

Application for VISA Participation

New applicants may apply to participate by obtaining a VISA application package (Form MA–1020 (OMB Approval No. 2133–0532)) from the Acting Director, Office of Sealift Support. Form MA–1020 includes instructions for completing and submitting the application, blank VISA Application forms and a request for information regarding the operations and U.S. citizenship of the applicant company. A copy of the VISA document as published in the **Federal Register** on October 29, 2014 will also be provided with the package. This information is needed in order to assist MARAD in making a determination of the applicant's eligibility. An applicant company must provide an affidavit that demonstrates that the company is qualified to document a vessel under 46 U.S.C. 12103, and that it owns, or bareboat charters and controls, oceangoing, militarily useful vessel(s) for purposes of committing assets to the VISA program.

New VISA applicants are required to submit their applications for the VISA program as described in this Notice no later than 30 days after the date of publication of this **Federal Register** notice. Applicants must provide the following: U.S. citizenship documentation; Copy of their Articles of Incorporation and/or By Laws; Copies of loadline documents from a recognized classification society to validate oceangoing vessel capability; U.S. Coast Guard Certificates of Documentation for all vessels in their fleet; Copy of Bareboat Charters, if applicable, valid through the period of enrollment, which state that the owner will not interfere with the charterer's obligation to commit chartered vessel(s) to the VISA program for the duration of the charter; and Copy of Time Charters, valid through the period of enrollment, for tug services to barge operators, if sufficient tug service is not owned or bareboat chartered by the VISA applicant. Barge operators must provide evidence to MARAD that tug service of sufficient horsepower will be available for all barges enrolled in the VISA program.

Once MARAD has reviewed the application and determined VISA eligibility, MARAD will sign the VISA application document which completes the eligibility phase of the VISA enrollment process. Approved VISA participants will be responsible for ensuring that information submitted with their application remains up to date beyond the approval process. If charter agreements are due to expire, participants must provide MARAD with charters that extend the charter duration for another 12 months or longer.

After VISA eligibility is approved by MARAD, approved applicants are required to execute a VISA Contingency Contract with USTRANSCOM. The USTRANSCOM VISA Contingency Contract will specify the following: Participant's Stage III commitment, and appropriate Stage I and/or II commitments for the period October 1, 2015 through September 30, 2016; Drytime Contingency terms and conditions; and Liner Contingency terms and conditions, if applicable. If any change is expected in the Contractor's U.S. flag fleet during the period of the applicable VISA Contingency Contract, a minimum 30-day notice shall be provided to MARAD and USTRANSCOM identifying the change and to alter the VISA Capacity Commitment indicated on Attachment 1 of the VISA Contingency Contract.

Execution of the USTRANSCOM VISA Contingency Contract completes the enrollment process and establishes the approved applicant as a VISA Participant. The Maritime Administration reserves the right to revalidate all eligibility requirements without notice. USTRANSCOM reserves the right to revalidate eligibility for VISA priority for DOD business at any time without notice.

Authority: 49 CFR Sections 1.92 and 1.93.

* * * * *

By Order of the Maritime Administrator.

Dated: June 25, 2015.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2015–16179 Filed 6–30–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0062]

National Emergency Medical Services Advisory Council; Notice of Federal Advisory Committee Meeting

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Meeting notice—National Emergency Medical Services Advisory Council (NEMSAC).

SUMMARY: The NHTSA announces a meeting of the NEMSAC to be held in the Metropolitan Washington, DC, area. This notice announces the date, time, and location of the meeting, which will be open to the public, as well as opportunities for public input to the NEMSAC. The purpose of NEMSAC, a nationally recognized council of emergency medical services representatives and consumers, is to advise and consult with DOT and the Federal Interagency Committee on EMS (FICEMS) on matters relating to emergency medical services (EMS).

DATES: The NEMSAC meeting will be held on Thursday, July 30, 2015, from 9 a.m. to 5 p.m. EDT, and on Friday, July 31, 2015, from 8 a.m. to 12 p.m. EDT. A public comment period will take place on July 30, 2015, at approximately 4 p.m. EDT and on July 31, 2015, at approximately 10:45 a.m. EDT. Written comments for the NEMSAC from the public must be received no later than July 24, 2015.

ADDRESSES: The meetings will both be held at the Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Avenue NW., Washington, DC 20004 in the Polaris Room.

FOR FURTHER INFORMATION CONTACT: Drew Dawson, Director, U.S. Department of Transportation, National Highway Traffic Safety Administration, Office of Emergency Medical Services, 1200 New Jersey Avenue SE., NTI–140, Washington, DC 20590, telephone 202–366–9966; email *Drew.Dawson@dot.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App.). The NEMSAC is authorized under Section 31108 of the Moving Ahead with Progress in the 21st Century Act of 2012.

Tentative Agenda of the National EMS Advisory Council Meeting

The tentative NEMSAC agenda includes the following:

Thursday, July 30, 2015 (9 a.m. to 5 p.m. EDT)

(1) Opening Remarks and Introductions by NEMSAC Members and Staff
(2) Disclosure of Conflicts of Interests by Members
(3) Remarks from the National Highway Traffic Safety Administration
(4) Remarks from FICEMS Chair Ed Gabriel
(5) Overview of the National EMS Advisory Council
(6) Overview of NEMSAC Recommendation Procedures
(7) Updates from Liaisons from the Departments of Transportation, Homeland Security, and Health & Human Services
(8) Review of Ongoing Work of NHTSA and FICEMS Agencies
(9) Public Comment Period (Approximately 4 p.m. EDT)
(10) Review of Previous Recommendations from NEMSAC
(11) Recess

Friday, July 31, 2015 (9 a.m. to 12 p.m. EDT)

(1) Discussion of Naloxone Use by EMS personnel
(2) Discussion of New and Emerging Issues from NEMSAC Members
(3) Public Comment Period (Approximately 10:45 a.m. EDT)
(4) Discussion of NEMSAC Focus Areas for 2015–2017
(5) Charge to the Council, Next Steps, Election of Chairman and Vice-Chairman and Adjourn

Registration Information: These meetings will be open to the public; however, pre-registration is requested. Individuals wishing to attend must register online at *https://www.signup4.net/public/ap.aspx?EID=NEMS12E* no later than July 24, 2015. For assistance with registration, please contact Noah Smith at *Noah.Smith@dot.gov* or 202–366–5030. There will not be a teleconference option for this meeting.

Public Comment: Members of the public are encouraged to comment directly to the NEMSAC during designated public comment periods as noted above. In order to allow as many people as possible to speak, speakers are requested to limit their remarks to 5 minutes. Written comments from members of the public will be distributed to NEMSAC members at the meeting and should reach the NHTSA Office of EMS no later than July 24, 2015. Written comments may be submitted by either one of the following methods: (1) You may submit comments by email: *nemsac@dot.gov* or (2) you may submit comments by fax: (202) 366–7149.

A final agenda as well as meeting materials will be available to the public online through *www.EMS.gov* on or before July 24, 2015.

Issued on: June 26, 2015.

Jeffrey P. Michael,

Associate Administrator for Research and Program Development.

[FR Doc. 2015–16174 Filed 6–30–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Delayed Applications

AGENCY: Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of application delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of special permit applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of Hazardous Materials Special Permits and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

Key to ''Reason for Delay''

1. Awaiting additional information from applicant
2. Extensive public comment under review
3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis
4. Staff review delayed by other priority issues or volume of special permit applications

Meaning of Application Number Suffixes

N—New application
M—Modification request
R—Renewal Request
P—Party To Exemption Request

Issued in Washington, DC, on June 23, 2015.

Ryan Paquet,

Director, Approvals and Permits Division.

Application No.	Applicant	Reason for delay	Estimated date of completion
MODIFICATION TO SPECIAL PERMITS			
8451–M	Special Devices, Inc., Mesa, AR	4	06–30–2015
15744–M	Praxair Distribution, Inc., Danbury, CT	4	06–25–2015
7945–M	Pacific Scientific Company, Simi Valley, CA	4	06–25–2015
15393–M	Savannah Acid Plant LLC, Savannah, GA	3	06–30–2015
NEW SPECIAL PERMIT APPLICATIONS			
15767–N	Union Pacific Railroad Company, Omaha, NE	1	06–20–2015
16001–N	VELTEK ASSOCIATES, INC., Malvern, PA	4	06–30–2015
16190–N	Digital Wave Corporation, Centennial, CO	4	06–29–2015
16198–N	Fleischmann's Vinegar Company, Inc., CERRITOS, CA	4	07–15–2015
16212–N	Entegris, Inc., Billerica, MA	4	06–30–2015
16220–N	Americase, Waxahache, TX	4	07–30–2015
16193–N	CH&I Technologies, Inc., Santa Paula, CA	4	06–29–2015
16261–N	Dexsil Corporation, Hamden, CT	4	07–13–2015
16232–N	Linde Gas North America LLC, Murray HIll, NJ	1	07–05–2015
16249–N	Optimized Energy Solutions, LLC, Durango, CO	4	06–30–2015
16320–N	Digital Wave Corporation, Centennial, CO	4	06–29–2015

Application No.	Applicant	Reason for delay	Estimated date of completion
16346–N	FIBA Technologies, Inc., Littleton, MA	4	07–15–2015
16337–N	Volkswagen Group of America (VWGoA), Herndon, VA)	4	06–30–2015
16318–N	Technical Chemical Company, Cleburne TX	4	07–17–2015
16484–N	Rotarex North America, Mount Pleasant, PA	4	07–15–2015
PARTY TO SPECIAL PERMITS APPLICATION			
16279–P	National Hazard Control, Tempe, AZ	4	06–30–2015
RENEWAL SPECIAL PERMITS APPLICATIONS			
11860–R	GATX Corporation, Chicago, IL	1	07–15–2015
11296–R	Environmental Waste Services, Inc., Elburn, IL	4	06–30–2015
8009–R	NK Co., Ltd., Busan City, KR	4	06–30–2015
13976–R	Osmose Utilities Services, Inc., Tyrone, GA	4	06–30–2015

[FR Doc. 2015–15845 Filed 6–30–15; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 55 (Sub-No. 739X)]

CSX Transportation, Inc.—Abandonment Exemption—in Atlanta, Fulton County, GA

CSX Transportation, Inc. (CSXT) has filed a verified notice of exemption under 49 CFR part 1152 subpart F–*Exempt Abandonments* to abandon an approximately 0.37-mile segment of rail line, formerly known as the L&N Belt Line, between milepost 472.27 and the end of the line at milepost 472.64 in Atlanta, Fulton County, Ga. (the Line).[1] The Line traverses United States Postal Service Zip Code 30310. CSXT states there are no stations on the Line.

CSXT has certified that: (1) No freight traffic has moved over the Line for at least two years; (2) 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 is either 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 (3) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 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 abandonment 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) has been received, this exemption will be effective on July 31, 2015, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 13, 2015. Petitions to reopen or requests for public use[4] conditions under 49 CFR 1152.28 must be filed by July 21, 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 CSXT's representative: Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

CSXT has filed environmental and historic reports that address the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by July 6, 2015. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by CSXT's filing of a notice of consummation by July 1, 2016, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: June 23, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. Contee,

Clearance Clerk.

[FR Doc. 2015–16192 Filed 6–30–15; 8:45 am]

BILLING CODE 4915–01–P

[1] CSXT states that, following abandonment, it plans to sell the real estate.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

[4] CSXT states that the Line may be suitable for other public purposes or trail use, but may be subject to reversionary interests.

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable On Federal Bonds—Terminations: Harleysville Worcester Insurance Company; OneBeacon America Insurance Company OneBeacon Insurance Company; Pennsylvania Insurance Company

AGENCY: Bureau of the Fiscal Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 10 to the Treasury Department Circular 570, 2014 Revision, published July 1, 2014, at 79 FR 37398.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificates of Authority issued by the Treasury to the above-named companies under 31 U.S.C. 9305 to qualify as acceptable sureties on Federal bonds were terminated effective June 30, 2015. Federal bond-approving officials should annotate their reference copies of the Treasury Department Circular 570 (''Circular''), 2014 Revision, to reflect this change.

With respect to any bonds currently in force with these companies, bond-approving officers may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from these companies, and bonds that are continuous in nature should not be renewed.

The Circular may be viewed and downloaded through the Internet at *www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570.htm.*

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Bureau of the Fiscal Service, Financial Accounting and Services Division, Surety Bond Section, 3700 East-West Highway, Room 6D22, Hyattsville, MD 20782.

Dated: June 26, 2015.

Alberta Holloway,

Acting Manager, Financial Accounting and Services Branch.

[FR Doc. 2015–16279 Filed 6–30–15; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circular 570; 2015 Revision]

Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies

Effective July 1, 2015

This Circular is published annually for the information of Federal bond-approving officers and persons required to give bonds to the United States consistent with 31 CFR 223.16. Copies of the Circular and interim changes may be obtained directly from the internet at *www.gpoaccess.gov* or from the Government Printing Office (202) 512–1800. (Interim changes are published in the **Federal Register** and on the internet as they occur). Other information pertinent to Federal sureties may be obtained from the U.S. Department of the Treasury, Bureau of the Fiscal Service, Surety Bond Section, 3700 East West Highway, Room 6D22, Hyattsville, MD 20782, Telephone (202) 874–6850 or Fax (202) 874–9978.

The most current list of Treasury authorized companies is always available through the Internet at *www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570.htm.* In addition, applicable laws, regulations, and application information are also available at the same site.

Please note that the underwriting limitation published herein is on a per bond basis but this does not limit the amount of a bond that a company can write. Companies are allowed to write bonds with a penal sum over their underwriting limitation as long as they protect the excess amount with reinsurance, coinsurance or other methods as specified at 31 CFR 223.10–11. Please refer to Note (b) at the end of this publication.

The following companies have complied with the law and the regulations of the U.S. Department of the Treasury. Those listed in the front of this Circular are acceptable as sureties and reinsurers on Federal bonds under Title 31 of the United States Code, Sections 9304 to 9308 [See Note (a)]. Those listed in the back are acceptable only as reinsurers on Federal bonds under 31 CFR 223.3(b) [See Note (e)].

If we can be of any assistance, please feel free to contact the Surety Bond Section at (202) 874–6850.

Patricia M. Greiner,

Assistant Commissioner for Management (CFO).

IMPORTANT INFORMATION IS CONTAINED IN THE NOTES AT THE END OF THIS CIRCULAR. PLEASE READ THE NOTES CAREFULLY.

Certified Companies

ACCREDITED SURETY AND CASUALTY COMPANY, INC. (NAIC #26379)

BUSINESS ADDRESS: PO Box 140855, Orlando, FL 32814–0855. PHONE: (407) 629–2131. UNDERWRITING LIMITATION b/: $2,088,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

ACE American Insurance Company (NAIC #22667)

BUSINESS ADDRESS: 436 Walnut Street P.O. Box 1000, Philadelphia, PA 19106. PHONE: (215) 640–1000. UNDERWRITING LIMITATION b/: $299,291,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

ACE Property and Casualty Insurance Company (NAIC #20699)

BUSINESS ADDRESS: 436 WALNUT STREET, P.O. Box 1000, Philadelphia, PA 19106. PHONE: (215) 640–1000. UNDERWRITING LIMITATION b/: $206,443,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

ACSTAR INSURANCE COMPANY (NAIC #22950)

BUSINESS ADDRESS: 30 SOUTH ROAD, FARMINGTON, CT 06032. PHONE: (860) 415–8400. UNDERWRITING LIMITATION b/: $2,805,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT,

NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Aegis Security Insurance Company (NAIC #33898)

BUSINESS ADDRESS: P.O. Box 3153, Harrisburg, PA 17105. PHONE: (717) 657–9671. UNDERWRITING LIMITATION b/: $5,340,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

ALL AMERICA INSURANCE COMPANY (NAIC #20222)

BUSINESS ADDRESS: P.O. BOX 351, VAN WERT, OH 45891–0351. PHONE: (419) 238–1010. UNDERWRITING LIMITATION b/: $13,470,000. SURETY LICENSES c,f/: AZ, CA, CT, GA, IL, IN, IA, KY, MA, MI, NV, NJ, NY, NC, OH, OK, TN, TX, VA. INCORPORATED IN: Ohio.

Allegheny Casualty Company (NAIC #13285)

BUSINESS ADDRESS: One Newark Center, 20th Floor, Newark, NJ 07102. PHONE: (800) 333–4167 x-269. UNDERWRITING LIMITATION b/: $2,303,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

ALLEGHENY SURETY COMPANY (NAIC #34541)

BUSINESS ADDRESS: 4217 Steubenville Pike, Pittsburgh, PA 15205. PHONE: (412) 921–3077. UNDERWRITING LIMITATION b/: $290,000. SURETY LICENSES c,f/: PA. INCORPORATED IN: Pennsylvania.

ALLIED Property and Casualty Insurance Company (NAIC #42579)

BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., 1–04–701, COLUMBUS, OH 43215–2220. PHONE: (515) 508–4211. UNDERWRITING LIMITATION b/: $5,904,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, ND, OH, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Allied World Insurance Company (NAIC #22730)

BUSINESS ADDRESS: 199 Water Street, New York, NY 10038. PHONE: (646) 794–0500. UNDERWRITING LIMITATION b/: $69,553,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Allied World Specialty Insurance Company (NAIC #16624)

BUSINESS ADDRESS: 1690 New Britain Avenue, Suite 101, Farmington, CT 06032. PHONE: (860) 284–1300. UNDERWRITING LIMITATION b/: $39,740,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

AMCO Insurance Company (NAIC #19100)

BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., 1–04–701, COLUMBUS, OH 43215–2220. PHONE: (515) 508–4211. UNDERWRITING LIMITATION b/: $20,798,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, ME, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

AMERICAN ALTERNATIVE INSURANCE CORPORATION (NAIC #19720)

BUSINESS ADDRESS: 555 COLLEGE ROAD EAST—P.O. BOX 5241, PRINCETON, NJ 08543. PHONE: (609) 243–4200. UNDERWRITING LIMITATION b/: $16,892,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

American Automobile Insurance Company (NAIC #21849)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899–2000. UNDERWRITING LIMITATION b/: $16,432,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA (NAIC #10111)

BUSINESS ADDRESS: 11222 QUAIL ROOST DRIVE, MIAMI, FL 33157–6596. PHONE: (305) 253–2244. UNDERWRITING LIMITATION b/: $56,394,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Florida.

American Casualty Company of Reading, Pennsylvania (NAIC #20427)

BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (312) 822–5000. UNDERWRITING LIMITATION b/: $14,629,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

AMERICAN CONTRACTORS INDEMNITY COMPANY (NAIC #10216) [1]

BUSINESS ADDRESS: 601 South Figueroa Street, 16th Floor, Los Angeles, CA 90017. PHONE: (310) 649–0990. UNDERWRITING LIMITATION b/: $8,620,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

American Fire and Casualty Company (NAIC #24066)

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $3,903,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

American Guarantee and Liability Insurance Company (NAIC #26247)

BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 18TH

FLOOR, SCHAUMBURG, IL 60196–1056. PHONE: (847) 605–6000. UNDERWRITING LIMITATION b/: $18,094,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Home Assurance Company (NAIC #19380)

BUSINESS ADDRESS: 175 WATER STREET, 18TH FLOOR, NEW YORK, NY 10038. PHONE: (212) 770–7000. UNDERWRITING LIMITATION b/: $724,790,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Insurance Company (The) (NAIC #21857)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899–2000. UNDERWRITING LIMITATION b/: $28,970,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

AMERICAN ROAD INSURANCE COMPANY (THE) (NAIC #19631)

BUSINESS ADDRESS: One American Road, MD 7600, Dearborn, MI 48126–2701. PHONE: (313) 337–1102. UNDERWRITING LIMITATION b/: $24,659,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

American Safety Casualty Insurance Company (NAIC #39969)

BUSINESS ADDRESS: 250 Commercial Street, Suite 5000, Manchester, NH 03101. PHONE: (603) 656–2200. UNDERWRITING LIMITATION b/: $14,862,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Oklahoma.

American Southern Insurance Company (NAIC #10235)

BUSINESS ADDRESS: P O Box 723030, Atlanta, GA 31139–0030. PHONE: (404) 266–9599. UNDERWRITING LIMITATION b/: $3,901,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, IL, IN, KS, KY, MD, MI, MN, MS, MO, NE, NJ, NY, NC, OH, PA, SC, TN, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Kansas.

American Surety Company (NAIC #31380)

BUSINESS ADDRESS: 250 East 96th Street, Suite 202, Indianapolis, IN 46240. PHONE: (317) 875–8700. UNDERWRITING LIMITATION b/: $1,083,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Indiana.

Amerisure Insurance Company (NAIC #19488)

BUSINESS ADDRESS: P. O. Box 2060, Farmington Hills, MI 48331–3586. PHONE: (248) 615–9000. UNDERWRITING LIMITATION b/: $22,451,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Amerisure Mutual Insurance Company (NAIC #23396)

BUSINESS ADDRESS: P. O. Box 2060, Farmington Hills, MI 48331–3586. PHONE: (248) 615–9000. UNDERWRITING LIMITATION b/: $59,569,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Amerisure Partners Insurance Company (NAIC #11050)

BUSINESS ADDRESS: P. O. Box 2060, Farmington Hills, MI 48331–3586. PHONE: (248) 615–9000. UNDERWRITING LIMITATION b/: $2,281,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Antilles Insurance Company (NAIC #10308)

BUSINESS ADDRESS: PO Box 9023507, San Juan, PR 00902–3507. PHONE: (787) 474–4900. UNDERWRITING LIMITATION b/: $6,651,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

Arch Insurance Company (NAIC #11150)

BUSINESS ADDRESS: 300 Plaza Three, Jersey City, NJ 07311–1107. PHONE: (201) 743–4000. UNDERWRITING LIMITATION b/: $77,837,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Arch Reinsurance Company (NAIC #10348) [2]

BUSINESS ADDRESS: 445 South Street, Suite 220, P.O. Box 1988, Morristown, NJ 07962–1988. PHONE: (973) 898–9575. UNDERWRITING LIMITATION b/: $35,995,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV. INCORPORATED IN: Delaware.

Argonaut Insurance Company (NAIC #19801)

BUSINESS ADDRESS: P.O. BOX 469011, SAN ANTONIO, TX 78246. PHONE: (800) 470–7958. UNDERWRITING LIMITATION b/: $39,076,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

ASPEN AMERICAN INSURANCE COMPANY (NAIC #43460)

BUSINESS ADDRESS: 175 Capital Boulevard, Suite 300, Rocky Hill, CT 06067. PHONE: (860) 258–3500. UNDERWRITING LIMITATION b/: $26,281,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA,

ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Texas.

Associated Indemnity Corporation (NAIC #21865)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899–2000. UNDERWRITING LIMITATION b/: $8,423,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: California.

Atlantic Specialty Insurance Company (NAIC #27154)

BUSINESS ADDRESS: 601 Carlson Parkway Suite 700, Minnetonka, MN 55305. PHONE: (781) 332–7000. UNDERWRITING LIMITATION b/: $72,151,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Auto-Owners Insurance Company (NAIC #18988)

BUSINESS ADDRESS: P.O. BOX 30660, LANSING, MI 48909–8160. PHONE: (517) 323–1200. UNDERWRITING LIMITATION b/: $796,907,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, FL, GA, ID, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NV, NM, NC, ND, OH, OR, PA, SC, SD, TN, UT, VA, WA, WI. INCORPORATED IN: Michigan.

AXIS Insurance Company (NAIC #37273)

BUSINESS ADDRESS: 11680 Great Oaks Way, Ste. 500, Alpharetta, GA 30022. PHONE: (678) 746–9400. UNDERWRITING LIMITATION b/: $57,815,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

AXIS Reinsurance Company (NAIC #20370)

BUSINESS ADDRESS: 11680 Great Oaks Way, Suite 500, Alpharetta, GA 30022. PHONE: (678) 746–9400. UNDERWRITING LIMITATION b/: $86,489,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Bankers Insurance Company (NAIC #33162)

BUSINESS ADDRESS: P.O. BOX 15707, ST. PETERSBURG, FL 33733. PHONE: (727) 823–4000. UNDERWRITING LIMITATION b/: $6,910,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

Bankers Standard Insurance Company (NAIC #18279)

BUSINESS ADDRESS: 436 WALNUT STREET, P.O. Box 1000, Philadelphia, PA 19106. PHONE: (215) 640–1000. UNDERWRITING LIMITATION b/: $14,127,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: Pennsylvania.

Beazley Insurance Company, Inc. (NAIC #37540)

BUSINESS ADDRESS: 30 Batterson Park Road, Farmington, CT 06032. PHONE: (860) 677–3700. UNDERWRITING LIMITATION b/: $12,226,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Berkley Insurance Company (NAIC #32603)

BUSINESS ADDRESS: 475 STEAMBOAT ROAD, GREENWICH, CT 06830. PHONE: (203) 542–3800. UNDERWRITING LIMITATION b/: $456,381,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Berkley Regional Insurance Company (NAIC #29580)

BUSINESS ADDRESS: 11201 Douglas Avenue, Urbandale, IA 50322. PHONE: (515) 473–3174. UNDERWRITING LIMITATION b/: $66,657,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

BITCO GENERAL INSURANCE CORPORATION (NAIC #20095)

BUSINESS ADDRESS: 320—18TH STREET, ROCK ISLAND, IL 61201–8744. PHONE: (309) 786–5401. UNDERWRITING LIMITATION b/: $28,850,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

BOND SAFEGUARD INSURANCE COMPANY (NAIC #27081)

BUSINESS ADDRESS: 10002 Shelbyville Road, Suite 100, Louisville, KY 40223. PHONE: (615) 553–9500. UNDERWRITING LIMITATION b/: $3,556,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, KS, KY, LA, ME, MD, MA, MN, MS, MO, MP, MT, NV, NH, NJ, NM, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Dakota.

Bondex Insurance Company (NAIC #12965)

BUSINESS ADDRESS: P.O. Box 6, Florham Park, NJ 07932. PHONE: (973) 377–7000. UNDERWRITING LIMITATION b/: $330,000. SURETY LICENSES c,f/: DE, NJ, NY, PA. INCORPORATED IN: New Jersey.

Boston Indemnity Company, Inc. (NAIC #30279)

BUSINESS ADDRESS: 21 High Street, Suite 208B, North Andover, MA 01845. PHONE: (978) 984–5783. UNDERWRITING LIMITATION b/: $477,000. SURETY LICENSES c,f/: AL, AZ, AR, CT, DE, DC, FL, GA, ID, IN, KS, KY, LA, ME, MA, MN, MS, MT, NE, NV, NC, ND, OK, PA, SD, TN, WV. INCORPORATED IN: South Dakota.

Brierfield Insurance Company (NAIC #10993)

BUSINESS ADDRESS: 6300 University Parkway, Sarasota, FL

34240–8424. PHONE: (800) 226–3224 x-2726. UNDERWRITING LIMITATION b/: $842,000. SURETY LICENSES c,f/: AL, AR, GA, MS, TN. INCORPORATED IN: Mississippi.

BRITISH AMERICAN INSURANCE COMPANY (NAIC #32875)

BUSINESS ADDRESS: P.O. Box 1590, Dallas, TX 75221–1590. PHONE: (214) 443–5500. UNDERWRITING LIMITATION b/: $3,292,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

Capitol Indemnity Corporation (NAIC #10472)

BUSINESS ADDRESS: P.O. Box 5900, Madison, WI 53705–0900. PHONE: (608) 829–4200. UNDERWRITING LIMITATION b/: $18,034,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Capitol Preferred Insurance Company, Inc. (NAIC #10908)

BUSINESS ADDRESS: 2255 Killearn Center Boulevard, Tallahassee, FL 32309. PHONE: (850) 521–0742. UNDERWRITING LIMITATION b/: $2,290,000. SURETY LICENSES c,f/: FL, GA, SC. INCORPORATED IN: Florida.

Carolina Casualty Insurance Company (NAIC #10510)

BUSINESS ADDRESS: 11201 Douglas Avenue, Urbandale, IA 50322. PHONE: (515) 473–3174. UNDERWRITING LIMITATION b/: $9,555,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Centennial Casualty Company (NAIC #34568)

BUSINESS ADDRESS: 2200 Woodcrest Place, Suite 200, Birmingham, AL 35209. PHONE: (205) 414–2600. UNDERWRITING LIMITATION b/: $6,394,000. SURETY LICENSES c,f/: AL. INCORPORATED IN: Alabama.

CENTRAL MUTUAL INSURANCE COMPANY (NAIC #20230)

BUSINESS ADDRESS: P.O. BOX 351, VAN WERT, OH 45891–0351. PHONE: (419) 238–1010. UNDERWRITING LIMITATION b/: $50,540,000. SURETY LICENSES c,f/: AZ, CA, CO, CT, DE, GA, IL, IN, IA, KY, MA, MI, NV, NH, NJ, NM, NY, NC, OH, OK, PA, TN, TX, VA. INCORPORATED IN: Ohio.

CENTURY SURETY COMPANY (NAIC #36951)

BUSINESS ADDRESS: 550 Polaris Parkway, Westerville, OH 43082. PHONE: (614) 895–2000. UNDERWRITING LIMITATION b/: $13,800,000. SURETY LICENSES c,f/: AZ, IN, OH, WV, WI. INCORPORATED IN: Ohio.

Charter Oak Fire Insurance Company (The) (NAIC #25615)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $25,365,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Cherokee Insurance Company (NAIC #10642)

BUSINESS ADDRESS: 34200 Mound Road, Sterling Heights, MI 48310. PHONE: (800) 201–0450 x-3400. UNDERWRITING LIMITATION b/: $15,893,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

CHUBB INDEMNITY INSURANCE COMPANY (NAIC #12777)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (212) 612–4000. UNDERWRITING LIMITATION b/: $14,066,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Cincinnati Casualty Company (The) (NAIC #28665)

BUSINESS ADDRESS: P.O. Box 145496, Cincinnati, OH 45250–5496. PHONE: (513) 870–2000. UNDERWRITING LIMITATION b/: $33,022,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Cincinnati Insurance Company (The) (NAIC #10677)

BUSINESS ADDRESS: P.O. BOX 145496, CINCINNATI, OH 45250–5496. PHONE: (513) 870–2000. UNDERWRITING LIMITATION b/: $414,199,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

CITIZENS INSURANCE COMPANY OF AMERICA (NAIC #31534)

BUSINESS ADDRESS: 808 NORTH HIGHLANDER WAY, HOWELL, MI 48843–1070. PHONE: (517) 546–2160. UNDERWRITING LIMITATION b/: $63,364,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, GA, HI, IL, IN, IA, KS, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Michigan.

COLONIAL AMERICAN CASUALTY AND SURETY COMPANY (NAIC #34347)

BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 18TH FLOOR, SCHAUMBURG, IL 60196–1056. PHONE: (847) 605–6000. UNDERWRITING LIMITATION b/: $2,182,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Maryland.

COLONIAL SURETY COMPANY (NAIC #10758)

BUSINESS ADDRESS: 50 Chestnut Ridge Road, Montvale, NJ 07645. PHONE: (201) 573–8788. UNDERWRITING LIMITATION b/: $2,874,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Continental Casualty Company (NAIC #20443)

BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604.

PHONE: (312) 822–5000. UNDERWRITING LIMITATION b/: $808,254,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

CONTINENTAL HERITAGE INSURANCE COMPANY (NAIC #39551)

BUSINESS ADDRESS: 6140 PARKLAND BLVD, STE 321, MAYFIELD HEIGHTS, OH 44124. PHONE: (440) 229–3420. UNDERWRITING LIMITATION b/: $695,000. SURETY LICENSES c,f/: AZ, CA, CO, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MN, MS, NE, NV, NJ, ND, OH, PA, SC, SD, TN, TX, UT, VA, WA, WV. INCORPORATED IN: Florida.

Continental Insurance Company (The) (NAIC #35289)

BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (312) 822–5000. UNDERWRITING LIMITATION b/: $143,734,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

CONTRACTORS BONDING AND INSURANCE COMPANY (NAIC #37206) [3]

BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, IL 61615. PHONE: (309) 692–1000. UNDERWRITING LIMITATION b/: $11,217,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Cooperativa de Seguros Multiples de Puerto Rico (NAIC #18163)

BUSINESS ADDRESS: PO BOX 363846, SAN JUAN, PR 00936–3846. PHONE: (787) 622–3575 x-2512. UNDERWRITING LIMITATION b/: $14,286,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

CorePointe Insurance Company (NAIC #10499)

BUSINESS ADDRESS: 401 South Old Woodward Avenue, Suite 300, Birmingham, MI 48009. PHONE: (800) 782–9164. UNDERWRITING LIMITATION b/: $7,853,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

CUMIS INSURANCE SOCIETY, INC. (NAIC #10847)

BUSINESS ADDRESS: P.O. Box 1084, Madison, WI 53701. PHONE: (608) 238–5851. UNDERWRITING LIMITATION b/: $64,223,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

CUMIS Specialty Insurance Company, Inc. (NAIC #12758)

BUSINESS ADDRESS: Post Office Box 1084, Madison, WI 53701. PHONE: (608) 238–5851. UNDERWRITING LIMITATION b/: $7,265,000. SURETY LICENSES c,f/: AL, CA, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MI, MN, MO, NE, NV, NJ, NY, NC, OH, OK, OR, PA, SC, SD, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Iowa.

Darwin National Assurance Company (NAIC #16624) [4]

Developers Surety and Indemnity Company (NAIC #12718)

BUSINESS ADDRESS: P.O. BOX 19725, IRVINE, CA 92623–9725. PHONE: (949) 263–3300. UNDERWRITING LIMITATION b/: $6,154,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

ELECTRIC INSURANCE COMPANY (NAIC #21261)

BUSINESS ADDRESS: 75 Sam Fonzo Drive, Beverly, MA 01915–1000. PHONE: (978) 921–2080. UNDERWRITING LIMITATION b/: $53,755,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Employers Insurance Company of Wausau (NAIC #21458)

BUSINESS ADDRESS: 2000 Westwood Drive, Wausau, WI 54401. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $127,078,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Employers Mutual Casualty Company (NAIC #21415)

BUSINESS ADDRESS: P. O. BOX 712, DES MOINE, IA 50306–0712. PHONE: (515) 280–2511. UNDERWRITING LIMITATION b/: $121,498,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Endurance American Insurance Company (NAIC #10641)

BUSINESS ADDRESS: 4 MANHATTANVILLE ROAD, PURCHASE, NY 10577. PHONE: (914) 468–8000. UNDERWRITING LIMITATION b/: $24,120,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Endurance Reinsurance Corporation of America (NAIC #11551)

BUSINESS ADDRESS: 4 MANHATTANVILLE ROAD, PURCHASE, NY 10577. PHONE: (914) 468–8000. UNDERWRITING LIMITATION b/: $43,286,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Delaware.

Erie Insurance Company (NAIC #26263)

BUSINESS ADDRESS: 100 ERIE INSURANCE PLACE, ERIE, PA 16530. PHONE: (814) 870–2000.

UNDERWRITING LIMITATION b/: $31,195,000. SURETY LICENSES c,f/: DC, IL, IN, KY, MD, MN, NY, NC, OH, PA, TN, VA, WV, WI. INCORPORATED IN: Pennsylvania.

Everest Reinsurance Company (NAIC #26921)

BUSINESS ADDRESS: P.O. Box 830, Liberty Corner, NJ 07938–0830. PHONE: (908) 604–3000. UNDERWRITING LIMITATION b/: $289,300,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Evergreen National Indemnity Company (NAIC #12750)

BUSINESS ADDRESS: 6140 PARKLAND BLVD, STE 321, MAYFIELD HEIGHTS, OH 44124. PHONE: (440) 229–3420. UNDERWRITING LIMITATION b/: $3,321,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: Ohio.

Executive Risk Indemnity Inc. (NAIC #35181)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (908) 903–2000. UNDERWRITING LIMITATION b/: $125,802,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Explorer Insurance Company (NAIC #40029)

BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186–5563. PHONE: (858) 350–2400 x-2550. UNDERWRITING LIMITATION b/: $8,064,000. SURETY LICENSES c,f/: AZ, CA, CO, HI, ID, IL, IN, IA, MT, NV, NM, OR, PA, TX, UT, WA. INCORPORATED IN: California.

Farmers Alliance Mutual Insurance Company (NAIC #19194)

BUSINESS ADDRESS: P.O. Box 1401, McPherson, KS 67460. PHONE: (620) 241–2200. UNDERWRITING LIMITATION b/: $14,733,000. SURETY LICENSES c,f/: CO, ID, IA, KS, MN, MO, MT, NE, NM, ND, OK, SD. INCORPORATED IN: Kansas.

Farmington Casualty Company (NAIC #41483)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $28,765,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Farmland Mutual Insurance Company (NAIC #13838)

BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., 1–04–701, COLUMBUS, OH 43215–2220. PHONE: (515) 508–3300. UNDERWRITING LIMITATION b/: $16,855,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NV, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

FCCI Insurance Company (NAIC #10178)

BUSINESS ADDRESS: 6300 University Parkway, Sarasota, FL 34240–8424. PHONE: (800) 226–3224 x–2726. UNDERWRITING LIMITATION b/: $53,402,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, NE, NC, OH, OK, PA, SC, TN, TX, VA. INCORPORATED IN: Florida.

Federal Insurance Company (NAIC #20281)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (908) 903–2000. UNDERWRITING LIMITATION b/: $1,342,970,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Indiana.

FEDERATED MUTUAL INSURANCE COMPANY (NAIC #13935)

BUSINESS ADDRESS: 121 EAST PARK SQUARE, OWATONNA, MN 55060. PHONE: (507) 455–5200. UNDERWRITING LIMITATION b/: $265,710,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Fidelity and Deposit Company of Maryland (NAIC #39306)

BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 18TH FLOOR, SCHAUMBURG, IL 60196–1056. PHONE: (847) 605–6000. UNDERWRITING LIMITATION b/: $14,666,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

FIDELITY AND GUARANTY INSURANCE COMPANY (NAIC #35386)

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310–7911. UNDERWRITING LIMITATION b/: $1,910,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Fidelity and Guaranty Insurance Underwriters, Inc. (NAIC #25879)

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310–7911. UNDERWRITING LIMITATION b/: $10,086,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Financial Casualty & Surety, Inc. (NAIC #35009)

BUSINESS ADDRESS: 3131 Eastside, Suite 600, Houston, TX 77098. PHONE: (800) 392–1604. UNDERWRITING LIMITATION b/: $1,299,000. SURETY LICENSES c,f/: AZ, CA, CT, DE, FL, GA, ID, IN, IA, KS, LA, MD, MI, MN, MS, MO, MT, NV, NJ, NY, NC, ND, OH, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV. INCORPORATED IN: Texas.

Financial Pacific Insurance Company (NAIC #31453)

BUSINESS ADDRESS: P.O. BOX 73909, CEDAR RAPIDS, IA 52407–3909.

PHONE: (319) 399–5700. UNDERWRITING LIMITATION b/: $8,634,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, FL, ID, IL, IA, KS, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI. INCORPORATED IN: California.

Fireman's Fund Insurance Company (NAIC #21873)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899–2000. UNDERWRITING LIMITATION b/: $204,995,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

First Founders Assurance Company (NAIC #12150)

BUSINESS ADDRESS: 6 Mill Ridge Lane, Chester, NJ 07930–2486. PHONE: (908) 879–0990. UNDERWRITING LIMITATION b/: $393,000. SURETY LICENSES c,f/: NJ, NY. INCORPORATED IN: New Jersey.

First Insurance Company of Hawaii, Ltd. (NAIC #41742)

BUSINESS ADDRESS: P.O. Box 2866, Honolulu, HI 96803. PHONE: (808) 527–7777. UNDERWRITING LIMITATION b/: $28,883,000. SURETY LICENSES c,f/: GU, HI. INCORPORATED IN: Hawaii.

First Liberty Insurance Corporation (The) (NAIC #33588)

BUSINESS ADDRESS: 2815 Forbs Avenue, Suite 200, Hoffman Estates, IL 60192. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $2,225,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

First Net Insurance Company (NAIC #10972)

BUSINESS ADDRESS: 424 WEST O'BRIEN DRIVE, STE 202, HAGATNA, GU 96910. PHONE: (671) 477–8613. UNDERWRITING LIMITATION b/: $1,102,000. SURETY LICENSES c,f/: GU, MP. INCORPORATED IN: Guam.

General Casualty Company Of Wisconsin (NAIC #24414)

BUSINESS ADDRESS: One General Drive, Sun Prairie, WI 53596. PHONE: (608) 837–4440. UNDERWRITING LIMITATION b/: $23,871,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

General Reinsurance Corporation (NAIC #22039)

BUSINESS ADDRESS: 120 LONG RIDGE ROAD, STAMFORD, CT 06902–1843. PHONE: (203) 328–5000. UNDERWRITING LIMITATION b/: $1,170,661,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

GRANGE INSURANCE COMPANY OF MICHIGAN (NAIC #11136)

BUSINESS ADDRESS: 671 South High Street, P.O. Box 1218, Columbus, OH 43216–1218. PHONE: (614) 445–2900. UNDERWRITING LIMITATION b/: $3,773,000. SURETY LICENSES c,f/: MI. INCORPORATED IN: Ohio.

GRANGE MUTUAL CASUALTY COMPANY (NAIC #14060)

BUSINESS ADDRESS: 671 South High Street, Columbus, OH 43206–1014. PHONE: (614) 445–2900. UNDERWRITING LIMITATION b/: $101,957,000. SURETY LICENSES c,f/: AL, GA, IL, IN, IA, KS, KY, MO, OH, PA, SC, TN, VA, WI. INCORPORATED IN: Ohio.

GRANITE RE, INC. (NAIC #26310)

BUSINESS ADDRESS: 14001 Quailbrook Drive, Oklahoma City, OK 73134. PHONE: (405) 752–2600. UNDERWRITING LIMITATION b/: $1,852,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, PA, SC, SD, TN, TX, UT, VA, WV, WI, WY. INCORPORATED IN: Oklahoma.

Granite State Insurance Company (NAIC #23809) [5]

BUSINESS ADDRESS: 175 WATER STREET, 18TH FLOOR, NEW YORK, NY 10038. PHONE: (212) 770–7000. UNDERWRITING LIMITATION b/: $3,087,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

GRAY CASUALTY & SURETY COMPANY (THE) (NAIC #10671)

BUSINESS ADDRESS: P.O. Box 6202, Metairie, LA 70009–6202. PHONE: (504) 888–7790. UNDERWRITING LIMITATION b/: $1,461,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, DC, GA, IL, KY, LA, MD, MS, MO, NV, NM, NY, NC, OK, PA, SC, TN, TX. INCORPORATED IN: Louisiana.

GRAY INSURANCE COMPANY (THE) (NAIC #36307)

BUSINESS ADDRESS: P.O. BOX 6202, METAIRIE, LA 70009–6202. PHONE: (504) 888–7790. UNDERWRITING LIMITATION b/: $9,686,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Louisiana.

Great American Alliance Insurance Company (NAIC #26832)

BUSINESS ADDRESS: 301 E Fourth Street, Cincinnati, OH 45202. PHONE: (513) 369–5000. UNDERWRITING LIMITATION b/: $2,911,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Great American Insurance Company (NAIC #16691)

BUSINESS ADDRESS: 301 E Fourth Street, Cincinnati, OH 45202. PHONE: (513) 369–5000. UNDERWRITING LIMITATION b/: $138,445,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK (NAIC #22136)

BUSINESS ADDRESS: 301 E Fourth Street, Cincinnati, OH 45202. PHONE: (513) 369–5000. UNDERWRITING LIMITATION b/: $4,719,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY,

NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Great Northern Insurance Company (NAIC #20303)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (908) 903–2000. UNDERWRITING LIMITATION b/: $47,697,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Greenwich Insurance Company (NAIC #22322)

BUSINESS ADDRESS: SEAVIEW HOUSE, 70 SEAVIEW AVENUE, STAMFORD, CT 06902. PHONE: (203) 964–5200. UNDERWRITING LIMITATION b/: $39,734,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Guarantee Company of North America USA (The) (NAIC #36650)

BUSINESS ADDRESS: One Towne Square, Suite 1470, Southfield, MI 48076–3725. PHONE: (248) 281–0281 x-66012. UNDERWRITING LIMITATION b/: $16,627,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Hanover Insurance Company (The) (NAIC #22292)

BUSINESS ADDRESS: 440 LINCOLN STREET, WORCESTER, MA 01653–0002. PHONE: (508) 853–7200. UNDERWRITING LIMITATION b/: $132,703,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

HARCO NATIONAL INSURANCE COMPANY (NAIC #26433)

BUSINESS ADDRESS: 702 OBERLIN ROAD, RALEIGH, NC 27605–0800. PHONE: (919) 833–1600. UNDERWRITING LIMITATION b/: $18,323,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Harleysville Worcester Insurance Company (NAIC #26182) [6]

Hartford Accident and Indemnity Company (NAIC #22357)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155–0001. PHONE: (860) 547–5000. UNDERWRITING LIMITATION b/: $241,154,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Casualty Insurance Company (NAIC #29424)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155–0001. PHONE: (860) 547–5000. UNDERWRITING LIMITATION b/: $91,334,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Fire Insurance Company (NAIC #19682)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155–0001. PHONE: (860) 547–5000. UNDERWRITING LIMITATION b/: $1,379,745,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Insurance Company of Illinois (NAIC #38288)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155–0001. PHONE: (860) 547–5000. UNDERWRITING LIMITATION b/: $133,484,000. SURETY LICENSES c,f/: CT, HI, IL, MI, NY, PA. INCORPORATED IN: Illinois.

Hartford Insurance Company of the Midwest (NAIC #37478)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155–0001. PHONE: (860) 547–5000. UNDERWRITING LIMITATION b/: $45,293,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Insurance Company of the Southeast (NAIC #38261)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155–0001. PHONE: (860) 547–5000. UNDERWRITING LIMITATION b/: $5,884,000. SURETY LICENSES c,f/: CT, FL, GA, KS, LA, MI, PA. INCORPORATED IN: Connecticut.

Hudson Insurance Company (NAIC #25054)

BUSINESS ADDRESS: 100 William Street, 5th Floor, New York, NY 10038. PHONE: (212) 978–2800. UNDERWRITING LIMITATION b/: $44,018,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

IMT Insurance Company (NAIC #14257)

BUSINESS ADDRESS: P.O. Box 1336, Des Moines, IA 50306–1336. PHONE: (515) 327–2777. UNDERWRITING LIMITATION b/: $12,785,000. SURETY LICENSES c,f/: IL, IA, MN, MO, NE, SD, WI. INCORPORATED IN: Iowa.

Indemnity Company of California (NAIC #25550)

BUSINESS ADDRESS: P.O. BOX 19725, IRVINE, CA 92623–9725. PHONE: (949) 263–3300. UNDERWRITING LIMITATION b/: $2,070,000. SURETY LICENSES c,f/: AK, AZ, CA, CO, GA, HI, ID, IN, MD, MT, NV, NM, OR, SC, UT, VA, WA, WY. INCORPORATED IN: California.

Indemnity Insurance Company of North America (NAIC #43575)

BUSINESS ADDRESS: 436 WALNUT STREET, P.O. Box 1000, Philadelphia, PA 19106. PHONE: (215) 640–1000. UNDERWRITING LIMITATION b/: $11,198,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA,

ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Indemnity National Insurance Company (NAIC #18468)

BUSINESS ADDRESS: 4800 Old Kingston Pike, Suite 120, Knoxville, TN 37919. PHONE: (865) 934–4360. UNDERWRITING LIMITATION b/: $1,186,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, GA, KY, LA, MS, NV, NM, OK, SC, TN, TX, UT. INCORPORATED IN: Mississippi.

Independence Casualty and Surety Company (NAIC #10024) [7]

Indiana Lumbermens Mutual Insurance Company (NAIC #14265)

BUSINESS ADDRESS: 2005 Markert Street, Suite 1200, Philadelphia, PA 19103. PHONE: (267) 825–9206. UNDERWRITING LIMITATION b/: $1,541,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Inland Insurance Company (NAIC #23264)

BUSINESS ADDRESS: P.O. Box 80468, Lincoln, NE 68501. PHONE: (402) 435–4302. UNDERWRITING LIMITATION b/: $19,806,000. SURETY LICENSES c,f/: AZ, CO, IA, KS, MN, MO, MT, NE, ND, OK, SD, WY. INCORPORATED IN: Nebraska.

Insurance Company Of North America (NAIC #22713)

BUSINESS ADDRESS: 436 WALNUT STREET, P.O. Box 1000, Philadelphia, PA 19106. PHONE: (215) 640–1000. UNDERWRITING LIMITATION b/: $22,523,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the State of Pennsylvania (The) (NAIC #19429)

BUSINESS ADDRESS: 175 WATER STREET, 18TH FLOOR, NEW YORK, NY 10038. PHONE: (212) 770–7000. UNDERWRITING LIMITATION b/: $11,991,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the West (NAIC #27847)

BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186–5563. PHONE: (858) 350–2400 x-2550. UNDERWRITING LIMITATION b/: $54,776,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Insurors Indemnity Company (NAIC #43273)

BUSINESS ADDRESS: P.O. Box 2683, Waco, TX 76702–2683. PHONE: (254) 759–3703 x-3727. UNDERWRITING LIMITATION b/: $1,242,000. SURETY LICENSES c,f/: AR, NM, OK, TX. INCORPORATED IN: Texas.

INTEGRAND ASSURANCE COMPANY (NAIC #26778)

BUSINESS ADDRESS: PO Box 70128, San Juan, PR 00936–8128. PHONE: (787) 781–0707 x-200. UNDERWRITING LIMITATION b/: $8,455,000. SURETY LICENSES c,f/: PR, VI. INCORPORATED IN: Puerto Rico.

Integrity Mutual Insurance Company (NAIC #14303)

BUSINESS ADDRESS: P.O. Box 539, Appleton, WI 54912–0539. PHONE: (920) 734–4511. UNDERWRITING LIMITATION b/: $4,496,000. SURETY LICENSES c,f/: IL, IA, MN, OH, WI. INCORPORATED IN: Wisconsin.

International Fidelity Insurance Company (NAIC #11592) [8]

BUSINESS ADDRESS: One Newark Center, Newark, NJ 07102–5207. PHONE: (973) 624–7200. UNDERWRITING LIMITATION b/: $6,287,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

IRONSHORE INDEMNITY INC. (NAIC #23647)

BUSINESS ADDRESS: P.O. BOX 3407, NEW YORK, NY 10008. PHONE: (646) 826–6600. UNDERWRITING LIMITATION b/: $15,660,000. SURETY LICENSES c,f/: AL, AK, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

IRONSHORE SPECIALTY INSURANCE COMPANY (NAIC #25445)

BUSINESS ADDRESS: P.O. BOX 3407, New York, NY 10008. PHONE: (646) 826–6600. UNDERWRITING LIMITATION b/: $32,582,000. SURETY LICENSES c,f/: AZ. INCORPORATED IN: Arizona.

ISLAND INSURANCE COMPANY, LIMITED (NAIC #22845)

BUSINESS ADDRESS: P.O. Box 1520, Honolulu, HI 96806—1520. PHONE: (808) 564–8200. UNDERWRITING LIMITATION b/: $12,230,000. SURETY LICENSES c,f/: HI. INCORPORATED IN: Hawaii.

LEXINGTON NATIONAL INSURANCE CORPORATION (NAIC #37940)

BUSINESS ADDRESS: P.O. BOX 6098, LUTHERVILLE, MD 21094. PHONE: (410) 625–0800. UNDERWRITING LIMITATION b/: $1,560,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IN, IA, KS, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Maryland.

Lexon Insurance Company (NAIC #13307)

BUSINESS ADDRESS: 10002 Shelbyville Rd, Suite 100, Louisville, KY 40223. PHONE: (615) 553–9500. UNDERWRITING LIMITATION b/: $5,251,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Texas.

Liberty Insurance Corporation (NAIC #42404)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $22,324,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Liberty Mutual Fire Insurance Company (NAIC #23035)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $121,033,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Liberty Mutual Insurance Company (NAIC #23043)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $1,373,795,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

LM Insurance Corporation (NAIC #33600)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $11,370,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Lyndon Property Insurance Company (NAIC #35769)

BUSINESS ADDRESS: 14755 North Outer Forty Rd., Suite 400, St. Louis, MO 63017. PHONE: (636) 536–5600. UNDERWRITING LIMITATION b/: $14,514,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Manufacturers Alliance Insurance Company (NAIC #36897)

BUSINESS ADDRESS: P.O. Box 3031, Blue Bell, PA 19422–0754. PHONE: (610) 397–5000. UNDERWRITING LIMITATION b/: $6,182,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, ID, IN, KS, KY, LA, ME, MD, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, PA, RI, SC, SD, TN, UT, VT, VA, WA. INCORPORATED IN: Pennsylvania.

MARKEL INSURANCE COMPANY (NAIC #38970)

BUSINESS ADDRESS: 4521 Highwoods Parkway, Glen Allen, VA 23060. PHONE: (804) 747–0136. UNDERWRITING LIMITATION b/: $40,722,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Massachusetts Bay Insurance Company (NAIC #22306)

BUSINESS ADDRESS: 440 LINCOLN STREET, WORCESTER, MA 01653–0002. PHONE: (508) 853–7200. UNDERWRITING LIMITATION b/: $6,273,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Merchants Bonding Company (Mutual) (NAIC #14494)

BUSINESS ADDRESS: 2100 Fleur Drive, Des Moines, IA 50321–1158. PHONE: (515) 243–8171. UNDERWRITING LIMITATION b/: $8,495,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Merchants National Bonding, Inc. (NAIC #11595)

BUSINESS ADDRESS: 2100 Fleur Drive, Des Moines, IA 50321–1158. PHONE: (515) 243–8171. UNDERWRITING LIMITATION b/: $1,152,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Michigan Millers Mutual Insurance Company (NAIC #14508)

BUSINESS ADDRESS: P. O. Box 30060, Lansing, MI 48909–7560. PHONE: (517) 482–6211 x-7754. UNDERWRITING LIMITATION b/: $4,239,000. SURETY LICENSES c,f/: AZ, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NY, NC, ND, OH, OK, OR, PA, SD, TN, VA, WA, WI, WY. INCORPORATED IN: Michigan.

Mid-Century Insurance Company (NAIC #21687)

BUSINESS ADDRESS: P.O. BOX 4402, WOODLAND HILLS, CA 91365. PHONE: (323) 932–3200. UNDERWRITING LIMITATION b/: $98,644,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, FL, GA, HI, ID, IL, IN, IA, KS, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: California.

MID–CONTINENT CASUALTY COMPANY (NAIC #23418)

BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587–7221. UNDERWRITING LIMITATION b/: $12,606,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, IL, IN, IA, KS, KY, LA, MD, MN, MS, MO, MT, NE, NM, NC, ND, OH, OK, SC, SD, TN, TX, UT, VA, WA, WY. INCORPORATED IN: Ohio.

Motorists Commercial Mutual Insurance Company (NAIC #13331)

BUSINESS ADDRESS: 471 East Broad Street, Columbus, OH 43215. PHONE: (614) 225–8211. UNDERWRITING LIMITATION b/: $14,623,000. SURETY LICENSES c,f/: AK, AZ, CA, CO, CT, DE, DC, GA, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Motorists Mutual Insurance Company (NAIC #14621)

BUSINESS ADDRESS: 471 East Broad Street, Columbus, OH 43215. PHONE: (614) 225–8211. UNDERWRITING LIMITATION b/: $55,741,000. SURETY LICENSES c,f/: IN, KY, MI, OH, PA, WV. INCORPORATED IN: Ohio.

Motors Insurance Corporation (NAIC #22012)

BUSINESS ADDRESS: 300 GALLERIA OFFICENTRE, SOUTHFIELD, MI 48034. PHONE: (248) 263–6900. UNDERWRITING LIMITATION b/: $105,992,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Munich Reinsurance America, Inc. (NAIC #10227)

BUSINESS ADDRESS: 555 COLLEGE ROAD EAST—P.O. BOX 5241, PRINCETON, NJ 08543. PHONE: (609) 243–4200. UNDERWRITING LIMITATION b/: $516,231,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

National American Insurance Company (NAIC #23663)

BUSINESS ADDRESS: P.O. Box 9, Chandler, OK 74834. PHONE: (405) 258–0804. UNDERWRITING LIMITATION b/: $6,331,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Oklahoma.

National Casualty Company (NAIC #11991)

BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., 1–04–701, COLUMBUS, OH 43215–2220. PHONE: (480) 365–4000. UNDERWRITING LIMITATION b/: $13,014,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

NATIONAL FARMERS UNION PROPERTY AND CASUALTY COMPANY (NAIC #16217)

BUSINESS ADDRESS: One General Drive, Sun Prairie, WI 53596. PHONE: (608) 837–4440. UNDERWRITING LIMITATION b/: $4,041,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

National Fire Insurance Company of Hartford (NAIC #20478)

BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (312) 822–5000. UNDERWRITING LIMITATION b/: $12,102,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

National Indemnity Company (NAIC #20087)

BUSINESS ADDRESS: 3024 Harney Street, Omaha, NE 68131–3580. PHONE: (402) 916–3000. UNDERWRITING LIMITATION b/: $9,399,765,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

National Surety Corporation (NAIC #21881)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (312) 346–6400. UNDERWRITING LIMITATION b/: $12,901,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Illinois.

NATIONAL TRUST INSURANCE COMPANY (NAIC #20141)

BUSINESS ADDRESS: 6300 University Parkway, Sarasota, FL 34240–8424. PHONE: (800) 226–3224 x–2726. UNDERWRITING LIMITATION b/: $3,627,000. SURETY LICENSES c,f/: AZ, FL, GA, IL, IN, IA, KY, LA, MD, MI, MS, MO, NE, NC, OK, SC, TN, TX. INCORPORATED IN: Indiana.

National Union Fire Insurance Company of Pittsburgh, PA (NAIC #19445)

BUSINESS ADDRESS: 175 WATER STREET, 18TH FLOOR, NEW YORK, NY 10038. PHONE: (212) 770–7000. UNDERWRITING LIMITATION b/: $668,077,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Nationwide Mutual Insurance Company (NAIC #23787)

BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., 1–04–701, COLUMBUS, OH 43215–2220. PHONE: (614) 249–7111. UNDERWRITING LIMITATION b/: $1,174,083,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Ohio.

NAVIGATORS INSURANCE COMPANY (NAIC #42307)

BUSINESS ADDRESS: 400 Atlantic Street, 8th Floor, Stamford, CT 06901. PHONE: (203) 905–6090. UNDERWRITING LIMITATION b/: $89,395,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

New Hampshire Insurance Company (NAIC #23841) [9]

BUSINESS ADDRESS: 175 WATER STREET, 18TH FLOOR, NEW YORK, NY 10038. PHONE: (212) 770–7000. UNDERWRITING LIMITATION b/: $16,611,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

NGM Insurance Company (NAIC #14788)

BUSINESS ADDRESS: 55 WEST STREET, KEENE, NH 03431. PHONE: (904) 380–7282. UNDERWRITING LIMITATION b/: $93,443,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

NORTH AMERICAN SPECIALTY INSURANCE COMPANY (NAIC #29874)

BUSINESS ADDRESS: 650 ELM STREET, MANCHESTER, NH 03101. PHONE: (603) 644–6600. UNDERWRITING LIMITATION b/: $30,973,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

NOVA Casualty Company (NAIC #42552)

BUSINESS ADDRESS: 5 WATERSIDE CROSSING, SUITE 201, WINDSOR, CT 06095. PHONE: (860) 683–4250. UNDERWRITING LIMITATION b/: $9,174,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: New York.

Ohio Casualty Insurance Company (The) (NAIC #24074)

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $143,041,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Ohio Farmers Insurance Company (NAIC #24104)

BUSINESS ADDRESS: P. O. Box 5001, Westfield Center, OH 44251–5001. PHONE: (330) 887–0101. UNDERWRITING LIMITATION b/: $190,245,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Ohio Indemnity Company (NAIC #26565)

BUSINESS ADDRESS: 250 East Broad Street, 7th Floor, Columbus, OH 43215. PHONE: (614) 228–2800. UNDERWRITING LIMITATION b/: $4,527,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Ohio Security Insurance Company (NAIC #24082)

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $1,518,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Oklahoma Surety Company (NAIC #23426)

BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587–7221. UNDERWRITING LIMITATION b/: $1,662,000. SURETY LICENSES c,f/: AR, KS, LA, OH, OK, TX. INCORPORATED IN: Ohio.

OLD DOMINION INSURANCE COMPANY (NAIC #40231)

BUSINESS ADDRESS: 55 WEST STREET, KEENE, NH 03431. PHONE: (904) 380–7282. UNDERWRITING LIMITATION b/: $3,379,000. SURETY LICENSES c,f/: CT, DE, FL, GA, ME, MD, MA, NH, NY, NC, PA, RI, SC, TN, VT, VA. INCORPORATED IN: Florida.

Old Republic General Insurance Corporation (NAIC #24139)

BUSINESS ADDRESS: 307 NORTH MICHIGAN AVENUE, CHICAGO, IL 60601. PHONE: (312) 346–8100. UNDERWRITING LIMITATION b/: $49,409,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Old Republic Insurance Company (NAIC #24147)

BUSINESS ADDRESS: P.O. Box 789, Greensburg, PA 15601–0789. PHONE: (724) 834–5000. UNDERWRITING LIMITATION b/: $103,578,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Old Republic Surety Company (NAIC #40444)

BUSINESS ADDRESS: P.O. BOX 1635, MILWAUKEE, WI 53201–1635. PHONE: (262) 797–2640. UNDERWRITING LIMITATION b/: $5,606,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, MD, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

OneBeacon America Insurance Company (NAIC #20621) [10]

OneBeacon Insurance Company (NAIC #21970) [11]

Pacific Indemnity Company (NAIC #20346)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (908) 903–2000. UNDERWRITING LIMITATION b/: $292,221,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

PACIFIC INDEMNITY INSURANCE COMPANY (NAIC #18380)

BUSINESS ADDRESS: 348 WEST O'BRIEN DRIVE, HAGATNA, GU 96910. PHONE: (671) 477–1663. UNDERWRITING LIMITATION b/: $1,850,000. SURETY LICENSES c,f/: GU, MP. INCORPORATED IN: Guam.

PARTNER REINSURANCE COMPANY OF THE U.S. (NAIC #38636)

BUSINESS ADDRESS: ONE GREENWICH PLAZA, GREENWICH, CT 06830–6352. PHONE: (203) 485–4200. UNDERWRITING LIMITATION b/: $130,363,000. SURETY LICENSES c,f/: AL, AZ, CA, CO, DC, IL, KS, MI, MS, NE, NY, TX, UT, WA. INCORPORATED IN: New York.

PARTNERRE INSURANCE COMPANY OF NEW YORK (NAIC #10006)

BUSINESS ADDRESS: One Greenwich Plaza, Greenwich, CT 06830–6352. PHONE: (203) 485–4200. UNDERWRITING LIMITATION b/: $11,642,000. SURETY LICENSES c,f/: AL, AZ, CA, CO, DE, DC, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MT, NE, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: New York.

Pekin Insurance Company (NAIC #24228)

BUSINESS ADDRESS: 2505 COURT STREET, PEKIN, IL 61558–0001. PHONE: (309) 346–1161. UNDERWRITING LIMITATION b/: $11,870,000. SURETY LICENSES c,f/: AZ, IL, IN, IA, MI, OH, WI. INCORPORATED IN: Illinois.

Pennsylvania Insurance Company (NAIC #21962)[12]

Pennsylvania Manufacturers Indemnity Company (NAIC #41424)

BUSINESS ADDRESS: P.O. Box 3031, Blue Bell, PA 19422–0754. PHONE:

(610) 397–5000. UNDERWRITING LIMITATION b/: $7,220,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, ID, IN, KS, KY, LA, ME, MD, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, PA, RI, SC, SD, TN, UT, VT, VA, WA. INCORPORATED IN: Pennsylvania.

Pennsylvania Manufacturers' Association Insurance Company (NAIC #12262)

BUSINESS ADDRESS: P.O. Box 3031, Blue Bell, PA 19422–0754. PHONE: (610) 397–5000. UNDERWRITING LIMITATION b/: $26,607,000. SURETY LICENSES c,f/: AL, AK, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, WA, WV. INCORPORATED IN: Pennsylvania.

Pennsylvania National Mutual Casualty Insurance Company (NAIC #14990)

BUSINESS ADDRESS: P. O. Box 2361, Harrisburg, PA 17105–2361. PHONE: (717) 234–4941. UNDERWRITING LIMITATION b/: $56,883,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

PHILADELPHIA INDEMNITY INSURANCE COMPANY (NAIC #18058)

BUSINESS ADDRESS: One Bala Plaza, Suite 100, Bala Cynwyd, PA 19004–1403. PHONE: (610) 617–7900. UNDERWRITING LIMITATION b/: $233,738,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

PLATINUM UNDERWRITERS REINSURANCE, INC. (NAIC #10357) [13]

PLATTE RIVER INSURANCE COMPANY (NAIC #18619)

BUSINESS ADDRESS: P.O. Box 5900, Madison, WI 53705–0900. PHONE: (608) 829–4200. UNDERWRITING LIMITATION b/: $4,154,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

Plaza Insurance Company (NAIC #30945)

BUSINESS ADDRESS: 518 East Broad Street, Columbus, OH 43215. PHONE: (614) 464–5000. UNDERWRITING LIMITATION b/: $2,627,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

ProCentury Insurance Company (NAIC #21903)

BUSINESS ADDRESS: 550 Polaris Parkway, Westerville, OH 43082. PHONE: (614) 895–2000. UNDERWRITING LIMITATION b/: $4,871,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, DE, DC, GA, IL, IN, IA, KS, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OK, PA, SC, SD, TX, UT, WV, WI, WY. INCORPORATED IN: Michigan.

Progressive Casualty Insurance Company (NAIC #24260)

BUSINESS ADDRESS: P.O. BOX 89490, CLEVELAND, OH 44101–6490. PHONE: (440) 461–5000. UNDERWRITING LIMITATION b/: $161,138,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Progressive Northwestern Insurance Company (NAIC #42919)

BUSINESS ADDRESS: P.O. BOX 89490, CLEVELAND, OH 44101–6490. PHONE: (440) 461–5000. UNDERWRITING LIMITATION b/: $38,759,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, CT, DE, DC, GA, HI, ID, IN, IA, KS, KY, LA, ME, MD, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI. INCORPORATED IN: Ohio.

Protective Insurance Company (NAIC #12416)

BUSINESS ADDRESS: P.O. Box 2000, Carmel, IN 46082–2000. PHONE: (317) 636–9800 x-2632. UNDERWRITING LIMITATION b/: $27,273,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Regent Insurance Company (NAIC #24449)

BUSINESS ADDRESS: One General Drive, Sun Prairie, WI 53596. PHONE: (608) 837–4440. UNDERWRITING LIMITATION b/: $3,051,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Republic—Franklin Insurance Company (NAIC #12475)

BUSINESS ADDRESS: P. O. Box 530, Utica, NY 13503–0530. PHONE: (315) 734–2000. UNDERWRITING LIMITATION b/: $4,904,000. SURETY LICENSES c,f/: CT, DE, DC, GA, IL, IN, KS, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, TN, TX, VA, WI. INCORPORATED IN: Ohio.

RLI Indemnity Company (NAIC #28860)

BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, IL 61615. PHONE: (309) 692–1000. UNDERWRITING LIMITATION b/: $4,370,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

RLI Insurance Company (NAIC #13056)

BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, IL 61615. PHONE: (309) 692–1000. UNDERWRITING LIMITATION b/: $69,343,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Roche Surety and Casualty Company, Inc. (NAIC #42706)

BUSINESS ADDRESS: 1910 Orient Road, Tampa, FL 33619. PHONE: (813) 623–5042. UNDERWRITING LIMITATION b/: $848,000. SURETY LICENSES c,f/: AK, AZ, AR, CT, DE, FL, GA, HI, ID, IN, IA, KS, LA, MD, MI, MN, MS, MO, MT, NE., NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA. INCORPORATED IN: Florida.

Rockwood Casualty Insurance Company (NAIC #35505)

BUSINESS ADDRESS: 654 Main Street, Rockwood, PA 15557. PHONE: (814) 926–4661. UNDERWRITING LIMITATION b/: $6,330,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NV, NM, NY, NC, OH, OK, OR, PA, SC, SD, TX, UT, VA, WV. INCORPORATED IN: Pennsylvania.

SAFECO Insurance Company of America (NAIC #24740)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $127,892,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE., NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Safety National Casualty Corporation (NAIC #15105)

BUSINESS ADDRESS: 1832 Schuetz Road, St. Louis, MO 63146–3540. PHONE: (314) 995–5300. UNDERWRITING LIMITATION b/: $136,763,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE., NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Sagamore Insurance Company (NAIC #40460)

BUSINESS ADDRESS: 111 Congressional Blvd., Suite 500, Carmel, IN 46032. PHONE: (317) 636–9800 x–7433. UNDERWRITING LIMITATION b/: $12,466,000. SURETY LICENSES c,f/: AL, AK, AZ, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE., NJ, NM, NY, NC, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, WA, WV, WI, WY. INCORPORATED IN: Indiana.

SECURA INSURANCE, A Mutual Company (NAIC #22543)

BUSINESS ADDRESS: P.O. Box 819, Appleton, WI 54912–0819. PHONE: (920) 739–3161. UNDERWRITING LIMITATION b/: $33,382,000. SURETY LICENSES c,f/: AZ, AR, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE., NV, NM, ND, OH, OK, OR, PA, SD, TN, UT, WA, WI, WY. INCORPORATED IN: Wisconsin.

Selective Insurance Company of America (NAIC #12572)

BUSINESS ADDRESS: 40 WANTAGE AVENUE, BRANCHVILLE, NJ 07890. PHONE: (973) 948–3000. UNDERWRITING LIMITATION b/: $49,297,000. SURETY LICENSES c,f/: AL, AK, AR, CT, DE, DC, GA, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, MT, NE., NJ, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

Seneca Insurance Company, Inc. (NAIC #10936)

BUSINESS ADDRESS: 160 Water Street, New York, NY 10038–4922. PHONE: (212) 344–3000. UNDERWRITING LIMITATION b/: $13,415,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE., NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Sentry Insurance A Mutual Company (NAIC #24988)

BUSINESS ADDRESS: 1800 NORTH POINT DRIVE, STEVENS POINT, WI 54481–8020. PHONE: (715) 346–6000. UNDERWRITING LIMITATION b/: $392,929,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE., NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Sentry Select Insurance Company (NAIC #21180)

BUSINESS ADDRESS: 1800 NORTH POINT DRIVE, STEVENS POINT, WI 54481–8020. PHONE: (715) 346–6000. UNDERWRITING LIMITATION b/: $23,513,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE., NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

SERVICE INSURANCE COMPANY (NAIC #36560)

BUSINESS ADDRESS: 702 OBERLIN ROAD, RALEIGH, NC 27605–0800. PHONE: (919) 833–1600. UNDERWRITING LIMITATION b/: $3,467,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MI, MS, MO, MT, NE., NV, NM, NC, ND, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

SERVICE INSURANCE COMPANY INC. (THE) (NAIC #28240)

BUSINESS ADDRESS: 80 Main Street, West Orange, NJ 07052. PHONE: (973) 731–7650. UNDERWRITING LIMITATION b/: $650,000. SURETY LICENSES c,f/: CT, DE, MD, MA, NH, NJ, NY, PA, RI, VA. INCORPORATED IN: New Jersey.

SIRIUS AMERICA INSURANCE COMPANY (NAIC #38776)

BUSINESS ADDRESS: 140 BROADWAY—32ND FLOOR, NEW YORK, NY 10005–1108. PHONE: (212) 312–2500. UNDERWRITING LIMITATION b/: $62,059,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DC, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MS, MT, NE, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TX, UT, VA, WA, WV, WI. INCORPORATED IN: New York.

SOUTHWEST MARINE AND GENERAL INSURANCE COMPANY (NAIC #12294)

BUSINESS ADDRESS: 412 Mt. Kemble Ave, Suite 300C, Morristown, NJ 07960. PHONE: (800) 774–2755. UNDERWRITING LIMITATION b/: $5,745,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NV, NH, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

St. Paul Fire and Marine Insurance Company (NAIC #24767)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $330,162,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

ST. PAUL GUARDIAN INSURANCE COMPANY (NAIC #24775)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $2,613,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD,

TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

St. Paul Mercury Insurance Company (NAIC #24791)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $13,025,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Standard Fire Insurance Company (The) (NAIC #19070)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $121,517,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Star Insurance Company (NAIC #18023)

BUSINESS ADDRESS: 26255 American Drive, Southfield, MI 48034. PHONE: (248) 358–1100. UNDERWRITING LIMITATION b/: $32,428,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

StarNet Insurance Company (NAIC #40045)

BUSINESS ADDRESS: 11201 Douglas Avenue, Urbandale, IA 50322. PHONE: (515) 473–3174. UNDERWRITING LIMITATION b/: $11,125,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Starr Indemnity & Liability Company (NAIC #38318)

BUSINESS ADDRESS: 399 Park Avenue, 8th Floor, New York, NY 10022. PHONE: (646) 227–6400. UNDERWRITING LIMITATION b/: $183,233,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

State Auto Property and Casualty Insurance Company (NAIC #25127)

BUSINESS ADDRESS: 518 EAST BROAD STREET, COLUMBUS, OH 43215. PHONE: (614) 464–5000. UNDERWRITING LIMITATION b/: $62,890,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, WY. INCORPORATED IN: Iowa.

State Automobile Mutual Insurance Company (NAIC #25135)

BUSINESS ADDRESS: 518 EAST BROAD STREET, COLUMBUS, OH 43215. PHONE: (614) 464–5000. UNDERWRITING LIMITATION b/: $39,743,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

State Farm Fire and Casualty Company (NAIC #25143)

BUSINESS ADDRESS: ONE STATE FARM PLAZA, BLOOMINGTON, IL 61710. PHONE: (309) 766–2311. UNDERWRITING LIMITATION b/: $1,219,384,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Stillwater Property and Casualty Insurance Company (NAIC #16578)

BUSINESS ADDRESS: P.O. Box 45126, Jacksonville, FL 32232–5126. PHONE: (800) 849–6140. UNDERWRITING LIMITATION b/: $11,239,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

SureTec Insurance Company (NAIC #10916)

BUSINESS ADDRESS: 1330 POST OAK BLVD, SUITE 1100, HOUSTON, TX 77056. PHONE: (713) 812–0800. UNDERWRITING LIMITATION b/: $8,188,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

SURETY BONDING COMPANY OF AMERICA (NAIC #24047)

BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (312) 822–5000. UNDERWRITING LIMITATION b/: $821,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DE, DC, GA, ID, IL, IN, KS, MN, MO, MT, NE, NV, NM, NY, ND, OK, OR, SC, SD, TN, TX, UT, WV, WY. INCORPORATED IN: South Dakota.

Swiss Reinsurance America Corporation (NAIC #25364)

BUSINESS ADDRESS: 175 KING STREET, ARMONK, NY 10504–1606. PHONE: (913) 676–5200. UNDERWRITING LIMITATION b/: $425,983,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI. INCORPORATED IN: New York.

TEXAS PACIFIC INDEMNITY COMPANY (NAIC #20389)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (214) 754–0777. UNDERWRITING LIMITATION b/: $729,000. SURETY LICENSES c,f/: AR, OK, TX. INCORPORATED IN: Texas.

TRANSATLANTIC REINSURANCE COMPANY (NAIC #19453)

BUSINESS ADDRESS: One Liberty Plaza, 165 Broadway, NEW YORK, NY 10006. PHONE: (212) 365–2200. UNDERWRITING LIMITATION b/: $477,050,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, DE, DC, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, NE, NV, NJ, NM, NY, OH, OK, PA, SD, UT, WA, WI. INCORPORATED IN: New York.

Travelers Casualty and Surety Company (NAIC #19038)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183.

PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $406,716,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty and Surety Company of America (NAIC #31194)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $211,466,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty Insurance Company of America (NAIC #19046)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $56,618,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Indemnity Company (The) (NAIC #25658)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $663,341,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

TRAVELERS INDEMNITY COMPANY OF AMERICA (THE) (NAIC #25666)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $20,280,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Indemnity Company of Connecticut (The) (NAIC #25682)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $38,307,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Property Casualty Company of America (NAIC #25674)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $50,501,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

U.S. Specialty Insurance Company (NAIC #29599)

BUSINESS ADDRESS: 13403 Northwest Freeway, Houston, TX 77040. PHONE: (713) 462–1000. UNDERWRITING LIMITATION b/: $57,707,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

UNITED CASUALTY AND SURETY INSURANCE COMPANY (NAIC #36226)

BUSINESS ADDRESS: 1250 Hancock Street, Suite 803N, Quincy, MA 02169. PHONE: (617) 471–1112 x–109. UNDERWRITING LIMITATION b/: $474,000. SURETY LICENSES c,f/: CT, DC, FL, ME, MD, MA, NH, NJ, NY, PA, RI. INCORPORATED IN: Massachusetts.

United Fire & Casualty Company (NAIC #13021)

BUSINESS ADDRESS: P.O. BOX 73909, CEDAR RAPIDS, IA 52407–3909. PHONE: (319) 399–5700. UNDERWRITING LIMITATION b/: $58,240,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

UNITED FIRE & INDEMNITY COMPANY (NAIC #19496)

BUSINESS ADDRESS: P.O. BOX 73909, CEDAR RAPIDS, IA 52407–3909. PHONE: (319) 399–5700. UNDERWRITING LIMITATION b/: $1,713,000. SURETY LICENSES c,f/: AL, CO, IN, KY, LA, MS, MO, NM, TX. INCORPORATED IN: Texas.

United States Fidelity and Guaranty Company (NAIC #25887)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $246,623,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

United States Fire Insurance Company (NAIC #21113)

BUSINESS ADDRESS: 305 Madison Avenue, Morristown, NJ 07962. PHONE: (973) 490–6600. UNDERWRITING LIMITATION b/: $89,862,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Delaware.

United States Surety Company (NAIC #10656)

BUSINESS ADDRESS: 20 W. Aylesbury Road, Timonium, MD 21093. PHONE: (410) 453–9522. UNDERWRITING LIMITATION b/: $3,702,000. SURETY LICENSES c,f/: CT, DE, DC, FL, GA, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV. INCORPORATED IN: Maryland.

UNITED SURETY AND INDEMNITY COMPANY (NAIC #44423)

BUSINESS ADDRESS: P.O. BOX 2111, SAN JUAN, PR 00922–2111. PHONE: (787) 625–1105. UNDERWRITING LIMITATION b/: $5,532,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

Universal Surety Company (NAIC #25933)

BUSINESS ADDRESS: P.O. Box 80468, Lincoln, NE 68501. PHONE: (402) 435–4302. UNDERWRITING LIMITATIONb/: $13,531,000. SURETY LICENSES c,f/: AZ, AR, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NM,

ND, OH, OK, OR, SD, TX, UT, WA, WI, WY. INCORPORATED IN: Nebraska.

UNIVERSAL UNDERWRITERS INSURANCE COMPANY (NAIC #41181)

BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 18TH FLOOR, SCHAUMBURG, IL 60196–1056. PHONE: (847) 605–6000. UNDERWRITING LIMITATION b/: $33,889,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Utica Mutual Insurance Company (NAIC #25976)

BUSINESS ADDRESS: POST OFFICE BOX 530, UTICA, NY 13503–0530. PHONE: (315) 734–2000. UNDERWRITING LIMITATION b/: $75,978,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

VerTerra Insurance Company (NAIC #10024)

BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186–5563. PHONE: (858) 350–2400. UNDERWRITING LIMITATION b/: $2,981,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

Vigilant Insurance Company (NAIC #20397)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (212) 612–4000. UNDERWRITING LIMITATION b/: $29,231,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Washington International Insurance Company (NAIC #32778)

BUSINESS ADDRESS: 475 NORTH MARTINGALE ROAD, SCHAUMBURG, IL 60173. PHONE: (603) 644–6600. UNDERWRITING LIMITATION b/: $7,449,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

West American Insurance Company (NAIC #44393)

BUSINESS ADDRESS: 350 E. 96th Street, Indianapolis, IN 46240. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $4,517,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

WEST BEND MUTUAL INSURANCE COMPANY (NAIC #15350)

BUSINESS ADDRESS: 1900 South 18th Avenue, West Bend, WI 53095. PHONE: (262) 334–5571. UNDERWRITING LIMITATION b/: $82,312,000. SURETY LICENSES c,f/: IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, WI. INCORPORATED IN: Wisconsin.

Westchester Fire Insurance Company (NAIC #10030)

BUSINESS ADDRESS: 436 Walnut Street, P.O. Box 1000, Philadelphia, PA 19106. PHONE: (215) 640–1000. UNDERWRITING LIMITATION b/: $90,606,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Western National Mutual Insurance Company (NAIC #15377)

BUSINESS ADDRESS: P.O. BOX 1463, MINNEAPOLIS, MN 55440. PHONE: (952) 835–5350. UNDERWRITING LIMITATION b/: $34,995,000. SURETY LICENSES c,f/: AK, AZ, CO, ID, IL, IN, IA, KS, MD, MI, MN, MO, MT, NE, NV, NJ, NM, ND, OH, OR, PA, RI, SD, TX, UT, WA, WI. INCORPORATED IN: Minnesota.

Western Surety Company (NAIC #13188)

BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (312) 822–5000. UNDERWRITING LIMITATION b/: $135,982,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Dakota.

Westfield Insurance Company (NAIC #24112)

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251–5001. PHONE: (330) 887–0101. UNDERWRITING LIMITATION b/: $104,304,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Westfield National Insurance Company (NAIC #24120)

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251–5001. PHONE: (330) 887–0101. UNDERWRITING LIMITATION b/: $26,306,000. SURETY LICENSES c,f/: AZ, CA, CO, DE, FL, GA, IL, IN, IA, KY, MD, MI, MN, NM, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WV, WI. INCORPORATED IN: Ohio.

Westport Insurance Corporation (NAIC #39845)

BUSINESS ADDRESS: P.O. Box 2991, OVERLAND PARK, KS 66202–1391. PHONE: (913) 676–5200. UNDERWRITING LIMITATION b/: $124,631,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

XL Reinsurance America Inc. (NAIC #20583)

BUSINESS ADDRESS: SEAVIEW HOUSE, 70 SEAVIEW AVENUE, STAMFORD, CT 06902. PHONE: (203) 964–5200. UNDERWRITING LIMITATION b/: $169,308,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

XL Specialty Insurance Company (NAIC #37885)

BUSINESS ADDRESS: SEAVIEW HOUSE, 70 SEAVIEW AVENUE, STAMFORD, CT 06902. PHONE: (203) 964–5200. UNDERWRITING LIMITATION b/: $14,318,000. SURETY

LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Zurich American Insurance Company (NAIC #16535)

BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 18TH FLOOR, SCHAUMBURG, IL 60196–1056. PHONE: (847) 605–6000. UNDERWRITING LIMITATION b/: $732,711,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Certified Reinsurer Companies

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE REINSURING COMPANIES UNDER SECTION 223.3(b) OF TREASURY CIRCULAR NO. 297. [See Note (e)]

Alterra Reinsurance USA Inc. (NAIC #10829)

BUSINESS ADDRESS: Ten Parkway North, Deerfield, IL 60015. PHONE: (908) 630–2700. UNDERWRITING LIMITATION b/: $74,937,000. SURETY LICENSES c,f/:.

Odyssey Reinsurance Company (NAIC #23680)

BUSINESS ADDRESS: 300 FIRST STAMFORD PLACE, STAMFORD, CT 06902. PHONE: (203) 977–8000. UNDERWRITING LIMITATION b/: $285,283,000. SURETY LICENSES c,f/:.

Phoenix Insurance Company (The) (NAIC #25623)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $123,438,000. SURETY LICENSES c,f/:.

RENAISSANCE REINSURANCE U.S. INC. (NAIC #10357)

BUSINESS ADDRESS: 140 Broadway, Suite 4200, New York, NY 10005. PHONE: (212) 238–9600. UNDERWRITING LIMITATION b/: $53,137,000. SURETY LICENSES c,f/:.

ST. PAUL PROTECTIVE INSURANCE COMPANY (NAIC #19224)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $22,622,000. SURETY LICENSES c,f/:.

Footnotes

1. AMERICAN CONTRACTORS INDEMNITY COMPANY (NAIC #10216) is required by state law to conduct business in the state of Texas as TEXAS BONDING COMPANY. However, business is conducted in all other covered states as AMERICAN CONTRACTORS INDEMNITY COMPANY.
2. Arch Reinsurance Company (NAIC #10348) redomesticated from Nebraska to Delaware. The effective date of the redomestication is September 15, 2014.
3. CONTRACTORS BONDING AND INSURANCE COMPANY (NAIC #37206) redomesticated from Washington to Illinois. The effective date of the redomestication is December 31, 2014.
4. Darwin National Assurance Company (NAIC #16624) formally changed its name to Allied World Specialty Insurance Company. The effective date of the name change is October 28, 2014.
5. Granite State Insurance Company (NAIC #23809) redomesticated from Pennsylvania to Illinois. The effective date of the redomestication is December 31, 2014.
6. Harleysville Worcester Insurance Company (NAIC #26182) voluntarily relinquished its Treasury Certificate of Authority, effective June 30, 2015.
7. Independence Casualty and Surety Company (NAIC #10024) changed its name to VerTerra Insurance Company. The effective date of the name change is September 29, 2014.
8. International Fidelity Insurance Company's (NAIC #11592) name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular. Do not hesitate to contact the Company to verify the authenticity of a bond.
9. New Hampshire Insurance Company (NAIC #23840) redomesticated from Pennsylvania to Illinois. The effective date of the redomestication is December 31, 2014.
10. OneBeacon America Insurance Company (NAIC #20621) voluntarily relinquished its Treasury Certificate of Authority, effective June 30, 2015.
11. OneBeacon Insurance (NAIC #21970) voluntarily relinquished its Treasury Certificate of Authority, effective June 30, 2015.
12. Pennsylvania Insurance Company (NAIC #21962) voluntarily relinquished its Treasury Certificate of Authority, effective June 30, 2015.
13. PLATINUM UNDERWRITERS REINSURANCE, INC. (NAIC #10357) formally changed its name to RENAISSANCE REINSURANCE U.S. INC. The effective date of the name change is April 13, 2015.

Notes

(a) All Certificates of Authority expire June 30, and are renewable July 1, annually. Companies holding Certificates of Authority as acceptable sureties on Federal bonds are also acceptable as reinsuring companies.

(b) The Underwriting Limitations published herein are on a *per bond basis.* Treasury requirements do not limit the penal sum (face amount) of bonds which surety companies may provide. However, *when the penal sum exceeds a company's Underwriting Limitation, the excess must be protected* by co-insurance, reinsurance, or other methods in accordance with 31 CFR Section 223.10, Section 223.11. Treasury refers to a *bond of this type as an Excess Risk.* When Excess Risks on *bonds in favor of the United States are protected by reinsurance,* such reinsurance is to be effected by use of a *Federal reinsurance form* to be filed with the bond or within 45 days thereafter. In protecting such excess risks, the underwriting limitation in force on the day in which the bond was provided will govern absolutely. For further assistance, contact the Surety Bond Section at (202) 874–6850.

(c) A surety company *must be licensed in the State or other area in which it provides a bond,* but need not be licensed in the State or other area in which the principal resides or where the contract is to be performed [28 Op. Atty. Gen. 127, Dec. 24, 1909; 31 CFR Section 223.5 (b)]. The term ''other area'' includes the District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands.

License information in this Circular is provided to the Treasury Department by the companies themselves. *For updated license information, you may contact the company directly or the applicable State Insurance Department.* Refer to the list of state insurance departments at the end of this publication. For further assistance, contact the Surety Bond Section at (202) 874–6850.

(d) FEDERAL PROCESS AGENTS: Treasury Approved surety companies are required to appoint Federal process agents in accord with 31 U.S.C. 9306 and 31 CFR 224.

(e) Companies holding Certificates of Authority as acceptable reinsuring companies are acceptable only as reinsuring companies on Federal bonds and may not directly write Federal bonds.

(f) Some companies may be Approved *surplus lines carriers* in various states. Such approval may indicate that the company is *authorized to write surety in a particular state, even though the company is not licensed in the state.* Questions related to this may be directed to the appropriate State Insurance Department. Refer to the list of state insurance departments at the end of this publication.

State insurance departments	Telephone No.
Alabama, Montgomery 36104	(334) 269–3550
Alaska, Anchorage 99501–3567	(907) 269–7900
Arizona, Phoenix 85018–7256	(602) 364–2499
Arkansas, Little Rock 72201–1904	(501) 371–2600
California, Sacramento 95814	(213) 897–8921
Colorado, Denver 80202	(303) 894–7499
Connecticut, Hartford 06142–0816	(860) 297–3800
Delaware, Dover 19904	(302) 674–7300
District of Columbia, Washington 20002	(202) 442–7813
Florida, Tallahassee 32399–6502	(850) 413–3132
Georgia, Atlanta 30334	(404) 656–2056
Hawaii, Honolulu 96813	(808) 586–2790
Idaho, Boise 83720–0043	(208) 334–4250
Illinois, Springfield 62767–0001	(217) 782–4515
Indiana, Indianapolis 46204–2787	(317) 232–2385
Iowa, Des Moines 50319–0065	(515) 281–5705
Kansas, Topeka 66612–1678	(785) 296–3071
Kentucky, Frankfort 40602–0517	(502) 564–6082
Louisiana, Baton Rouge 70802	(225) 342–1200
Maine, Augusta 04333–0034	(207) 624–8475
Maryland, Baltimore 21202–2272	(410) 468–2000
Massachusetts, Boston 02110	(617) 521–7794
Michigan, Lansing 48933–1020	(517) 284–8800
Minnesota, St. Paul 55101–2198	(651) 539–1500
Mississippi, Jackson 39201	(601) 359–3569
Missouri, Jefferson City 65102	(573) 751–4126
Montana, Helena 59601	(406) 444–2040
Nebraska, Lincoln 68508	(402) 471–2201
Nevada, Carson City 89701–5753	(775) 687–0700
New Hampshire, Concord 03301	(603) 271–2261
New Jersey, Trenton 08625	(609) 292–5360
New Mexico, Santa Fe 87504–1269	(855) 427–5674
New York, New York 10004–2319	(800) 342–3736
North Carolina, Raleigh 27611	(919) 807–6750
North Dakota, Bismarck 58505–0320	(701) 328–2440
Ohio, Columbus 43215	(614) 644–2658
Oklahoma, Oklahoma City 73112	(405) 521–2828
Oregon, Salem 97301–3883	(503) 947–7980
Pennsylvania, Harrisburg 17120	(877) 881–6388
Puerto Rico, Santurce 00968	(787) 304–8686
Rhode Island, Providence 02903–4233	(401) 462–9500
South Carolina, Columbia 29202–3105	(803) 737–6160
South Dakota, Pierre 57501–3185	(605) 773–4104
Tennessee, Nashville 37243–0565	(615) 741–2218
Texas, Austin 78714	(800) 252–3439
Utah, Salt Lake City 84114–1201	(801) 538–3800
Vermont, Montpelier 05602	(802) 828–3301
Virginia, Richmond 23218	(804) 371–9741
Virgin Islands, St. Thomas 00802	(340) 774–7166
Washington, Olympia 98504–0256	(360) 725–7144
West Virginia, Charleston 25305–0540	(304) 558–3386
Wisconsin, Madison 53707–7873	(608) 266–3586
Wyoming, Cheyenne 82002–0440	(307) 777–7401

[FR Doc. 2015–16280 Filed 6–30–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). The IRS is soliciting comments concerning information collection requirements related to guidance for qualification as an acceptance agent, and execution of an agreement between an acceptance agent and the Internal Revenue Service relating to the issuance of certain taxpayer identifying numbers.

DATES: Written comments should be received on or before August 31, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to R. Joseph Durbala, Internal Revenue Service, Room 6129,

1111 Constitution Avenue NW., Washington, DC 20224, (202) 31–5746 or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Guidance for qualification as an acceptance agent, and execution of an agreement between an acceptance agent and the Internal Revenue Service relating to the issuance of certain taxpayer identifying numbers.

OMB Number: 1545–1499.

Revenue Procedure Number: Revenue Procedures 2006–10.

Abstract: Revenue Procedure 2006–10 describes application procedures for becoming an acceptance agent and the requisite agreement that an agent must execute with the Internal Revenue Service.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, not-for-profit institutions, Federal Government, and state, local or tribal governments.

Estimated Number of Respondents: 8,000.

Estimated Time per Respondent: 3 hrs., 12 minutes.

Estimated Total Annual Burden Hours: 24,960.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 23, 2015.

Christie Preston,

IRS, Reports Clearance Officer.

[FR Doc. 2015–16220 Filed 6–30–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Information Collection; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the Employee Plans Compliance Resolution System (EPCRS).

DATES: Written comments should be received on or before August 31, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 317–5746, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Employee Plans Compliance Resolution System (R.P. 2015–27, R.P. 2015–28)—including Forms 8950, 8951, 14568, 14568–A thru I.

OMB Number: 1545–1673.

Regulation Project Number: RP 2015–27 and RP 2015–28.

Form Number: Forms 8950, 8951, 14568, 14568–A thru I.

Abstract: The information requested in Revenue Procedure 2015–27 is required to enable the Internal Revenue Service to make determinations on the issuance of various types of closing agreements and compliance statements. The issuance of the agreements and statements allow individual plans to maintain their tax-qualified status. As a result, the favorable tax treatment of the benefits of the eligible employees is retained. Applicants under the Voluntary Correction Program (VCP) must file Forms 8950 and 8951, and the appropriate scheduled(s) to the applicable part of the model compliance statement, in order to request written approval from the IRS for a correction of a qualified plan that has failed to comply with the requirements of the Internal Revenue Code.

Current Actions: There is no change to this existing collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and business or other for-profit organizations, not-for profit institutions, and state, local or tribal governments.

Estimated Number of Responses: 14,300.

Estimated Time per Respondent: 13 hours, 21 minutes.

Estimated Total Annual Burden Hours: 190,941.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation,

maintenance, and purchase of services to provide information.

Approved: June 24, 2015.

Christie Preston,

IRS, Reports Clearance Officer.

[FR Doc. 2015–16222 Filed 6–30–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1127

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1127, Application for Extension of Time for Payment of Tax.

DATES: Written comments should be received on or before August 31, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 317–5746, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Extension of Time for Payment of Tax.

OMB Number: 1545–2131.

Form Number: 1127.

Abstract: Under IRC 6161, individual taxpayers and business taxpayers are allowed to request an extension of time for payment of tax shown or required to be shown on a return or for a tax due on a notice of deficiency. In order to be granted this extension, they must file Form 1127, providing evidence of undue hardship, inability to borrow, and collateral to ensure payment of the tax.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and Households, Businesses and other for-profit organizations.

Estimated Number of Respondents: 1,000.

Estimated Time per Respondent: 7 hours, 50 minutes.

Estimated Total Annual Burden Hours: 7,960.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 23, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–16221 Filed 6–30–15; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 80 Wednesday,

No. 126 July 1, 2015

Part II

Environmental Protection Agency

40 CFR Parts 87 and 1068

Proposed Finding That Greenhouse Gas Emissions From Aircraft Cause or Contribute to Air Pollution That May Reasonably Be Anticipated To Endanger Public Health and Welfare and Advance Notice of Proposed Rulemaking; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 87 and 1068

[EPA–HQ–OAR–2014–0828; FRL 9924–06–OAR]

RIN 2060–AS31

Proposed Finding That Greenhouse Gas Emissions From Aircraft Cause or Contribute to Air Pollution That May Reasonably Be Anticipated To Endanger Public Health and Welfare and Advance Notice of Proposed Rulemaking

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and advance notice of proposed rulemaking.

SUMMARY: In this action, the Administrator is proposing to determine that greenhouse gas concentrations in the atmosphere endanger the public health and welfare of current and future generations within the meaning of section 231(a) of the Clean Air Act. She proposes to make this finding specifically with respect to the same six well-mixed greenhouse gases (GHGs)—carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride—that together were defined as the air pollution in the 2009 Endangerment Finding under section 202(a) of the Clean Air Act and that together constitute the primary cause of the climate change problem. The Administrator is also proposing to find that greenhouse gas emissions from certain classes of engines used in aircraft are contributing to air pollution—the mix of greenhouse gases in the atmosphere—that endangers public health and welfare under section 231(a) of the Clean Air Act. Concurrent with these proposed findings, the EPA is issuing an Advance Notice of Proposed Rulemaking to provide an overview of and seek input on a variety of issues related to setting an international CO_2 standard for aircraft at the International Civil Aviation Organization (ICAO), ICAO's progress in establishing global aircraft standards that achieve meaningful reductions in CO_2 emissions, and (provided the EPA promulgates final endangerment and cause and contribute findings for aircraft engine GHG emissions) the potential use of section 231 of the Clean Air Act to adopt and implement corresponding aircraft engine GHG emission standards domestically, ensuring transparency and the opportunity for public comment.

DATES: *Comments.* Comments must be received on or before August 31, 2015.

Public Hearing. The EPA will hold a public hearing on August 11, 2015 in Washington, DC, at the William Jefferson Clinton East Building, Room 1153, 101 Constitution Avenue NW., Washington, DC 20004. If no one contacts the EPA requesting to speak at the hearing for this proposal by July 13, 2015 the public hearing will not take place and will be cancelled with no further notice. Speakers should contact Ms. JoNell Iffland (see **FOR FURTHER INFORMATION CONTACT**) to request to speak at the hearing. The last day to pre-register in advance to speak at the hearing will be August 6, 2015. The hearing will start at 10:00 a.m. local time and continue until everyone has had a chance to speak. 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. If you require the service of a translator or special accommodations such as audio description, please let us know at the time of registration. For further information on the public hearing or to register to speak at the hearing, *please see* section I.B below or go to *http://www.epa.gov/otaq/aviation.htm.*

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2014–0828, by one of the following methods:

- *Online: www.regulations.gov* Follow the on-line instructions for submitting comments.
- *Email: A-and-R-Docket@epamail.epa.gov* Attention Docket ID No. EPA–HQ–OAR–2014–0828.
- *Fax:* (202) 566–9744, Attention Docket ID No. EPA–HQ–OAR–2014–0828.
- *Mail:* U.S. Postal Service, send comments to Air and Radiation Docket and Information Center, Environmental Protection Agency, Mail Code: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Attention Docket ID No. EPA–HQ–OAR–2014–0828.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA West, EPA Docket Center, EPA West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004. Attention Docket ID No. EPA–HQ–OAR–2014–0828. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2014–0828. See section I.B on ''Public Participation'' for more information about submitting written comments. 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 whose disclosure 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 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 and with any disk or CD–ROM 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, or any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at: *http://www.epa.gov/dockets.* For additional instructions on submitting comments, go to section I.B of this document.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2014–0828. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy in the EPA's docket. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Docket and Information Center, EPA/DC, EPA WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open

from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT:

JoNell Iffland, Office of Transportation and Air Quality, Assessment and Standards Division (ASD), Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; Telephone number: (734) 214–4454; Fax number: (734) 214–4816; Email address: *iffland.jonell@epa.gov*. Please use this contact information for general questions about this rulemaking, to request a hearing, to determine if a hearing will be held, and to register to speak at the hearing, if one is held.

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I. General Information

A. Does this action apply to me?

These proposed findings, if finalized, would trigger new duties that would apply to the EPA, but would not themselves apply new requirements to other entities outside the federal government. Specifically, if the EPA issues final findings that greenhouse gas emissions from certain classes of engines—those used in certain aircraft—cause or contribute to air pollution which endangers public health or welfare, then the EPA would have a duty under section 231 of the Clean Air Act to promulgate aircraft engine emission standards applicable to emissions of that air pollutant from those classes of engines. Only those standards would apply to and have an effect on other entities outside the federal government. Entities potentially interested in this proposed action are those that manufacture and sell aircraft engines and aircraft in the United States. Categories that may be regulated in a future regulatory action include:

Category	NAICS [a] Code	SIC [b] Code	Examples of potentially affected entities
Industry	3364412	3724	Manufacturers of new aircraft engines.
Industry	336411	3721	Manufacturers of new aircraft.

[a] North American Industry Classification System (NAICS).
[b] Standard Industrial Classification (SIC) code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in this proposed action. This table lists the types of entities that the EPA is now aware could potentially have an interest in this proposed action. If the EPA issues final affirmative findings under section 231(a) regarding greenhouse gases, the EPA would then be required to undertake a separate notice and comment rulemaking to issue emission standards applicable to greenhouse gas emissions from the classes of aircraft engines that the EPA finds cause or contribute in such a finding, and the FAA would be required to Prescribe regulations to insure compliance with these emissions standards pursuant to section 232 of the Clean Air Act. Other types of entities not listed in the table could also be interested and potentially affected by subsequent actions at some future time. If you have any questions regarding the scope of this proposed action, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Public Participation

The EPA requests comment on all aspects of the proposed aircraft endangerment and cause or contribute findings and the Advance Notice of Proposed Rulemaking (ANPR). This section describes how you can participate in this process.

If you submitted comments on the issues raised by this proposal in dockets for other, earlier Agency efforts (*e.g.,* the 2009 Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202 of the Clean Air Act or the Advance Notice of Proposed Rulemaking on Regulating Greenhouse Gases under the Clean Air Act), you must still submit your comments to the docket for this action (EPA–HQ–OAR–2014–0828) by the deadline if you want them to be considered.

1. What should I consider as I prepare my comments for the EPA?

We are opening a formal comment period by publishing this document. We will accept comments during the period indicated in the **DATES** section. If you have an interest in the proposed aircraft endangerment and cause or contribute findings and/or the ANPR described in this document, we encourage you to comment on any aspect of this rulemaking.

Tips for Preparing Your Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

Do not submit information to the EPA containing CBI through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, you must submit a copy of the comment that does not contain the information claimed as CBI for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. Public Hearing

If a hearing is held, it will provide interested parties the opportunity to present data, views or arguments concerning the proposed action. The EPA will make every effort to accommodate all speakers who arrive and register. Because this hearing, if held, will be at a U.S. government facility, individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. Please note that 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 buildings where the public hearings 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. 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 oral comments and supporting information presented at the public hearings.

Speakers should contact Ms. JoNell Iffland (see **FOR FURTHER INFORMATION CONTACT**) if they will need specific equipment, or if there are other special needs related to providing comments at the hearing. Oral testimony will be limited to no more than 10 minutes for each commenter, although we may need to adjust the time for each speaker if there is a large turnout. The EPA requests that commenters provide the EPA with three copies of their oral testimony in hard copy form the day of the hearing or an electronic copy in advance of the hearing date. Verbatim transcripts of the hearings and written

statements will be included in the docket for the rulemaking. The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule.

Information regarding the hearing (including information as to whether or not one will be held) will be available at *http://www.epa.gov/otaq/aviation.htm*. Again, if we do not receive a request to speak at the August 11, 2015 public hearing by July 13, 2015 the hearing will be cancelled.

C. Did the EPA conduct a peer review before issuing this notice?

As outlined in section IV.A of this action, the EPA's approach to providing the technical and scientific information to inform the Administrator's judgment regarding the question of whether greenhouse gases endanger public health and welfare was to rely primarily upon the recent, major assessments by the U.S. Global Change Research Program (USGCRP), the Intergovernmental Panel on Climate Change (IPCC), and the National Research Council (NRC) of the National Academies. These assessments draw synthesis conclusions across thousands of individual peer-reviewed studies that appear in scientific journals, and the reports themselves undergo additional peer review. The EPA has considered the processes and procedures employed by the USGCRP, IPCC, and the NRC, and has determined that these assessments have been adequately peer reviewed in a manner commensurate with the EPA's Peer Review Policy [1] and the guidelines in Office of Management and Budget's (OMB) Final Information Quality Bulletin for Peer Review (''OMB Bulletin'') for highly influential scientific assessments. According to guidelines in the EPA's Peer Review Handbook, if the Agency has determined that information has already been subject to adequate peer review, then it is not necessary to have further peer review of that information.[2]

The EPA also cites data from its annual Inventory of U.S. Greenhouse Gas Emissions and Sinks report,[3] which the Agency has determined to have been adequately reviewed in accordance with the OMB Bulletin and the EPA's Peer Review Handbook. For the presentation of emissions inventory information to support the cause or contribute finding, the EPA disaggregated the existing data in one area of the GHG Inventory (for the General Aviation Jet Fuel Category) and had the disaggregation methodology and results peer reviewed in accordance with the EPA's Peer Review Handbook. The EPA Science Advisory Board reviewed this approach to the underlying technical and scientific information supporting this action, and concluded that the approach had precedent and the action will be based on well-reviewed information. All relevant peer review documentation is located in the docket for today's action (EPA–HQ–OAR–2014–0828).

D. Children's Environmental Health

As described in detail in section IV of this preamble, the scientific evidence and conclusions in the USGCRP, IPCC, and the NRC assessment reports cited in the 2009 Endangerment Finding [4] indicate that children are uniquely vulnerable to climate change related health effects given behavioral, developmental, and physiological factors. The new assessment literature published since 2009 strengthens these conclusions by providing more detailed findings regarding children's vulnerabilities and projected impacts they may experience.

These assessments describe that children will be disproportionately impacted by climate change given the unique physiological and developmental factors that occur during this lifestage. Impacts to children are expected from heat waves, air pollution, infectious and waterborne illnesses, and mental health effects resulting from extreme weather events. In addition, the assessments find that climate change will influence production of pollen that affects asthma and other allergic respiratory diseases, to which children are among those especially susceptible.

E. Environmental Justice

As described in detail in section IV below, the scientific evidence and conclusions in the USGCRP, IPCC, and the NRC assessment reports cited in the 2009 Endangerment Finding indicate that certain populations are most vulnerable to the health and welfare effects of climate change, including the elderly, the poor, and indigenous peoples in the United States, particularly Alaska Natives. The more recent assessment reports strengthen these conclusions by providing more detail regarding these populations' vulnerabilities and projected impacts they may experience.

In addition, the most recent assessment reports provide new analysis about how low-income populations and some populations defined jointly by ethnic/racial characteristics and geographic location are vulnerable to certain climate change health impacts, raising environmental justice concerns. Factors that contribute to increased vulnerability to the health effects of climate change include limited resources to adapt to and recover from climate impacts, as well as existing health disparities (*e.g.,* higher prevalence of chronic health conditions such as diabetes).

II. Introduction: Overview and Context for This Proposal

A. Summary

Pursuant to section 231(a)(2)(A) of the Clean Air Act (CAA or Act), the Administrator proposes to find that greenhouse gas (GHG) emissions from aircraft engines used in certain types of aircraft (referred to as ''covered aircraft'' throughout this notice) contribute to air pollution that endangers public health and welfare. Covered aircraft would be those aircraft to which ICAO has agreed the international CO_2 standard would apply: [5] subsonic jet aircraft with a maximum takeoff mass (MTOM) greater than 5,700 kilograms, and subsonic propeller-driven (*e.g.,* turboprop) aircraft with a MTOM greater than 8,618 kilograms. Examples of covered aircraft would include smaller jet aircraft such as the Cessna Citation CJ2+ and the Embraer E170, up to and including the largest commercial jet aircraft—the Airbus A380 and the Boeing 747. Other examples of covered aircraft would include larger turboprop aircraft, such as the ATR 72 and the Bombardier Q400.

In this proposed action, the EPA relies primarily on the extensive scientific and technical evidence in the record supporting the Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act; Final Rule, 74 FR 66496, (December 15, 2009) (collectively

[1] U.S. EPA, 2006: *EPA Peer Review Policy.* Available at *http://www.epa.gov/peerreview/* (Last accessed May 12, 2015).

[2] U.S. EPA, 2012: *EPA Peer Review Handbook, Third Edition.* Available at *http://www.epa.gov/peerreview/pdfs/peer_review_handbook_2012.pdf* (Last accessed May 12, 2015).

[3] U.S. EPA, 2015: *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2013,* 564 pp. Available at *http://www.epa.gov/climatechange/ghgemissions/usinventoryreport.html#fullreport*, (Last accessed May 12, 2015).

[4] U.S. EPA, 2009: *Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act; Final Rule,* 74 FR 66496 (December 15, 2009) (''2009 Endangerment Finding''); 74 FR 18886 (April 24, 2009) (''Proposed 2009 Endangerment Finding'').

[5] ICAO, 2013: *CAEP/9 Agreed Certification Requirement for the Aeroplane CO2 Emissions Standards,* Circular (Cir) 337, AN/192, Available at: *http://www.icao.int/publications/catalogue/cat_2015_en.pdf.* The ICAO Circular 337 is found on page 85 of the catalog and is copyright protected; Order No. CIR337 (last accessed May 12, 2015.

referred to as the 2009 Endangerment Finding in this action). This includes the major, peer-reviewed scientific assessments that were used to address the question of whether GHGs in the atmosphere endanger public health and welfare, and on the analytical framework and conclusions upon which the EPA relied in making that finding. The Administrator's view is that the body of scientific evidence amassed in the record for the 2009 Endangerment Finding also compellingly supports an endangerment finding under CAA section 231(a). Furthermore, this proposed finding under section 231 reflects the EPA's careful consideration not only of the scientific and technical record for the 2009 Endangerment Finding, but also of science assessments released since 2009, which, as illustrated below, strengthen and further support the judgment that GHGs in the atmosphere may reasonably be anticipated to endanger public health and welfare. No information or analyses published since late 2009 suggest that it would be reasonable for the EPA to now reach a different or contrary conclusion for purposes of CAA section 231(a)(2)(A) than the Agency reached for purposes of section 202(a). However, as explained below, in proposing this finding for purposes of section 231, we are not reopening or revising our prior findings under CAA section 202.

The Administrator is proposing to define the ''air pollution'' referred to in section 231(a)(2)(A) of the CAA to be the mix of six well-mixed GHGs: CO_2, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. This is the same definition that was used for the finding for purposes of section 202(a). It is the Administrator's judgment that the total body of scientific evidence compellingly supports a positive endangerment finding that elevated concentrations of the six well-mixed GHGs constitute air pollution that endangers both the public health and the public welfare of current and future generations within the meaning of section 231(a) of the Clean Air Act.

Under section 231 of the CAA, the Administrator must also determine whether emissions of any air pollutant from a class or classes of aircraft engines cause or contribute to the air pollution that may reasonably be anticipated to endanger public health or welfare. Following the rationale outlined in the 2009 Endangerment Finding, the Administrator in this action is proposing to use the same definition of the air pollutant as was used for purposes of section 202(a) for purposes of making the cause or contribute determination under section 231(a)—that is, the aggregate group of the same six well-mixed GHGs. Based on the data summarized in section V, the Administrator is proposing to find that GHG emissions from aircraft engines used in covered aircraft, contribute to the air pollution that endangers public health and welfare under section 231(a).

The Administrator's proposed findings come in response to a citizen petition submitted by Friends of the Earth, Oceana, the Center for Biological Diversity, and Earthjustice (Petitioners) requesting that the EPA issue an endangerment finding and standards under section 231(a)(2)(A) of the Act for the GHG emissions from aircraft. The EPA is not proposing or taking action under any other provision of the CAA. Further, the EPA anticipates that ICAO will adopt a final CO_2 emissions standard in February 2016. This proposal, and any final endangerment and cause or contribute findings for aircraft engine GHG emissions, are also part of preparing for a possible subsequent domestic rulemaking process to adopt standards that are of at least equivalent stringency as the anticipated ICAO CO_2 standards. Once an international standard is finalized by ICAO, member states are then required to adopt standards that are of at least equivalent stringency to those set by ICAO. Section II. D provides additional discussion of the international aircraft standard-setting process.

B. Background Information Helpful to Understanding This Proposal

1. Greenhouse Gases and Their Effects

GHGs in the atmosphere effectively trap some of the Earth's heat that would otherwise escape to space. GHGs are both naturally occurring and anthropogenic. The primary GHGs directly emitted by human activities include CO_2, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Of these six gases, two (CO_2 and nitrous oxide) are emitted by aircraft engines.

These six gases, once emitted, remain in the atmosphere for decades to centuries. Thus, they become well mixed globally in the atmosphere and their concentrations accumulate when emissions exceed the rate at which natural processes remove them from the atmosphere. Observations of the Earth's globally averaged combined land and ocean surface temperature over the period 1880 to 2012 show a warming of 0.85 [0.65 to 1.06] degrees Celsius or 1.53 [1.17 to 1.91] degrees Fahrenheit.[6] The heating effect caused by the human-induced buildup of these and other GHGs in the atmosphere, plus other human activities (*e.g.,* land use change and aerosol emissions), is extremely likely (>95 percent likelihood) to be the cause of most of the observed global warming since the mid-20th century.[7] A detailed explanation of climate change and its impact on health, society, and the environment is included in the record for the 2009 Endangerment Finding. The relevant scientific information from that record has also been included in the docket for this proposed determination under CAA section 231 (EPA–HQ–OAR–02914–0828). Section IV of this preamble discusses this information, as well as information from the most recent scientific assessments, in the context of the Administrator's proposed endangerment finding under CAA section 231.

The U.S. transportation sector constitutes a meaningful part of total U.S. and global anthropogenic GHG emissions. In 2013, aircraft remained the single largest GHG-emitting transportation source not yet subject to any GHG regulations. Aircraft clearly contribute to U.S. transportation emissions, accounting for 11 percent of all U.S transportation GHG emissions and representing more than 3 percent of total U.S. GHG emissions in 2013.[8] Globally, U.S. aircraft GHG emissions represent 29 percent of all global aircraft emissions and 0.5 percent of total global GHG emissions. Section V of this preamble provides detailed information on aircraft GHG emissions in the context of the Administrator's proposed cause or contribute finding under CAA section 231.

2. Statutory Basis for This Proposal

Section 231(a)(2)(A) of the CAA states that ''The Administrator shall, from time to time, issue proposed emission standards applicable to the emission of any air pollutant from any class or classes of aircraft engines which in [her] judgment causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare.''

[6] ''IPCC, 2013: *Summary for Policymakers. In: Climate Change 2013: The Physical Science Basis.* Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, 29 pp.

[7] Ibid.

[8] U.S. EPA, 2015: *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2013,* 564 pp. Available at *http://www.epa.gov/climatechange/ghgemissions/usinventoryreport.html#fullreport,* (last accessed May 12, 2015).

Before the Administrator may issue standards addressing emissions of GHGs under section 231, the Administrator must satisfy a two-step test. First, the Administrator must decide whether, in her judgment, the air pollution under consideration may reasonably be anticipated to endanger public health or welfare. Second, the Administrator must decide whether, in her judgment, emissions of an air pollutant from certain classes of aircraft engines cause or contribute to this air pollution.[9] If the Administrator answers both questions in the affirmative, she must issue standards under section 231. *See Massachusetts* v. *EPA,* 549 U.S. 497,533 (2007) (interpreting analogous provision in CAA section 202). Section III of this preamble summarizes the legal framework for this proposed action under CAA section 231. Typically, past endangerment and cause or contribute findings have been proposed concurrently with proposed standards under various sections of the CAA, including section 231. Comment has been taken on these proposed findings as part of the notice and comment process for the emission standards. *See, e.g.,* Rulemaking for non-road compression-ignition engines under section 213(a)(4) of the CAA, Proposed Rule at 58 FR 28809, 28813–14 (May 17, 1993), Final Rule at 59 FR 31306, 31318 (June 17, 1994); Rulemaking for highway heavy-duty diesel engines and diesel sulfur fuel under sections 202(a) and 211(c) of the CAA, Proposed Rule at 65 FR 35430 (June 2, 2000), and Final Rule 66 FR 5002 (January 18, 2001). However, there is no requirement that the Administrator propose the endangerment and cause or contribute findings concurrently with proposed standards. See 74 FR 66502 (December 26, 2001), (explaining that nothing in section 202(a) requires the EPA to propose or issue endangerment and cause or contribute findings in the same rulemaking, and that Congress left the EPA discretion to choose an approach that satisfied the requirements of section 202(a)). The same analysis applies to section 231(a)(2)(A), which is analogous to section 202(a). The EPA is choosing to propose these findings at this time for a number of reasons, including its previous commitment to issue such proposed findings in response to a 2007 citizens' petition.[10]

The Administrator is applying the rulemaking provisions of CAA section 307(d) to this action, pursuant to CAA section 307(d)(1)(V), which provides that the provisions of 307(d) apply to ''such other actions as the Administrator may determine.'' [11] Any standard setting rulemaking under section 231 will also be subject to the notice and comment rulemaking procedures under 307(d), as provided in CAA section 307(d)(1)(F) (applying the provisions of 307(d) to the promulgation or revision of any aircraft emission standard under section 231). Thus, these proposed findings will be subject to the same rulemaking requirements that would apply if the proposed findings were part of a standard-setting rulemaking.

C. The EPA's Responsibilities Under the Clean Air Act

The CAA provides broad authority to combat air pollution to protect public health and welfare. Cars, trucks, construction equipment, airplanes, and ships, as well as a broad range of electric generation, industrial, commercial and other facilities, are subject to various CAA programs. Implementation of the Act over the past four decades has resulted in significant reductions in air pollution while the nation's economy has continued to grow.

1. The EPA's Regulation of Greenhouse Gases

In *Massachusetts* v. *EPA,* 549 U.S. 497 (2007), the Supreme Court found that GHGs are air pollutants that can be regulated under the CAA. The Court held that the Administrator must determine whether emissions of GHGs from new motor vehicles cause or contribute to air pollution which may reasonably be anticipated to endanger public health and/or welfare, or whether the science is too uncertain to make a reasoned decision. In making these decisions, the Administrator was bound by the provisions of section 202(a) of the CAA. The Supreme Court decision resulted from a petition for rulemaking under section 202(a) filed by more than a dozen environmental, renewable energy, and other organizations.

Following the Supreme Court decision, the EPA proposed (74 FR 18886, April 24, 2009) and then finalized (74 FR 66496, December 15, 2009) the 2009 Endangerment Finding, which can be summarized as follows:

- Endangerment Finding: The Administrator found that the then-current and projected concentrations of the six key well-mixed GHGs—CO_2, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride—in the atmosphere threaten the public health and welfare of current and future generations.
- Cause or Contribute Finding: The Administrator found that the combined emissions of these well-mixed GHGs from new motor vehicles and new motor vehicle engines contribute to the GHG pollution which threatens public health and welfare.

The findings did not themselves impose any requirements on industry or other entities. However, these findings compelled the EPA to promulgate GHG emission standards for new motor vehicles under section 202(a). Subsequently, in May 2010 the EPA, in collaboration with the National Highway Traffic Safety Administration (NHTSA), finalized Phase 1 GHG emission standards for light-duty vehicles (2012–2016 model years).[12] This was followed in August 2011 by adoption of the first-ever GHG emission standards for heavy-duty engines and vehicles (2014–2018 model years).[13] On August 29, 2012, the second phase of the GHG emission standards for light-duty vehicles (2017–2025 model years) was finalized further reducing GHG emissions from light-duty vehicles.[14] In 2014, the President directed the EPA and the Department of Transportation to set standards by March 2016 that further increase fuel efficiency and reduce GHG emissions from medium- and heavy-duty vehicles.[15]

[9] To clarify the distinction between air pollution and air pollutant, the air pollution is the atmospheric concentrations and can be thought of as the total, cumulative stock of GHGs in the atmosphere. The air pollutants, on the other hand, are the emissions of GHGs and can be thought of as the flow that changes the size of the total stock.

[10] Center for Biological Diversity, Center for Food Safety, Friends of the Earth, International Center for Technology Assessment, and Oceana, 2007: Petition for Rulemaking Under the Clean Air Act to Reduce the Emissions of Air Pollutants from Aircraft the Contribute to Global Climate Change, December 5. Available at *http://www.epa.gov/otaq/aviation.htm* (last accessed May 12, 2015).

[11] As the Administrator is applying the provisions of section 307(d) to this rulemaking under section 307(d)(1)(V), we need not determine whether those provisions would apply to this action under section 307(d)(1)(F).

[12] U.S. EPA, 2010: *Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule,* 75 FR 25324 (May 7, 2010).

[13] US EPA, 2011: *Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles; Final Rule,* 76 **Federal Register** 57106 (September 15, 2011).

[14] U.S. EPA, 2012: *2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards; Final Rule,* 77 FR 62623 (October 15, 2012).

[15] Executive Office of the President, 2014: *Remarks by the President on Fuel Efficiency Standards of Medium and Heavy-Duty Vehicles,* Office of the Press Secretary, February 18. Available at: *http://www.whitehouse.gov/the-press-office/*

Continued

The GHG rules for cars and trucks have been supported by a broad range of stakeholders, including states, major automobile and truck manufacturers, and environmental and labor organizations. Together these new standards for cars and trucks are resulting in significant reductions in GHG emissions, and over the lifetime of these vehicles GHG emissions will have been reduced by 6 billion metric tons.[16] [17]

On June 25, 2013, President Obama announced a Climate Action Plan that set forth a series of executive actions to further reduce GHGs, prepare the U.S. for the impacts of climate change, and lead international efforts to address global climate change.[18] As part of the Climate Action Plan, the President issued a Presidential Memorandum directing the EPA to work expeditiously to complete carbon pollution standards for the power sector.[19] In response, in January 2014, the EPA proposed carbon pollution standards for new electric utility generating units.[20] This was followed in June 2014, by proposed standards to address carbon pollution from modified and reconstructed power plants [21] and from existing power plants.[22]

In the Climate Action Plan, the President also indicated that the U.S. was working internationally to make progress in a variety of areas and specifically noted the progress being made by ICAO to develop global CO_2 emission standards for aircraft.[23] The proposed endangerment and cause or contribute findings for aircraft GHG emissions under section 231(a)(2)(A) of the CAA are a preliminary but necessary first step to begin to address GHG emissions from the aviation sector, the highest-emitting category of transportation sources that the EPA has not yet addressed. As presented in more detail in Section V of this preamble, total U.S. aircraft GHG emissions in 2013 represented 11 percent of GHG emissions from the U.S. transportation sector,[24] and in 2010, the latest year with complete global emissions data, U.S. aircraft GHG emissions represented 29 percent of global aircraft GHG emissions.[25] [26] U.S. aircraft GHG emissions are projected to increase by almost 50 percent over the next two decades.[27] See section V of this preamble for more information about the data sources that compose the aircraft GHG emissions inventory.

2. Background on the Aircraft Petition, 2008 ANPR, and D.C. District Court Decision

Section 231(a)(2)(A) of the CAA directs the Administrator of the EPA to, from time to time, propose aircraft engine emissions standards applicable to the emission of any air pollutant from any classes of aircraft engines which in her judgment causes or contributes to air pollution which may reasonably be anticipated to endanger public health or welfare.

On December 5, 2007, Friends of the Earth, Oceana, the Center for Biological Diversity, Earthjustice, and others (Petitioners) sent a letter to the EPA petitioning the Agency to undertake rulemaking regarding GHG emissions from aircraft.[28] Specifically, Petitioners requested that the EPA make a finding that GHG emissions from aircraft engines ''may reasonably be anticipated to endanger public health and welfare'' and that the EPA promulgate standards for GHG emissions from aircraft.

Following the Supreme Court's decision in *Massachusetts* v. *EPA* in 2007, the EPA issued an ANPR in 2008 presenting information relevant to potentially regulating GHGs under the Act, and soliciting public comment on how to respond to the Court's ruling and the potential ramifications of the Agency's decision to regulate GHGs under the CAA. This ANPR described and solicited comment on numerous petitions the Agency had received to regulate GHG emissions from both stationary and mobile sources, including aircraft. 73 FR 44354, 44468–44473 (July 30, 2008). With regard to aircraft, the Agency sought comment on the impact of aircraft operations on GHG emissions and the potential for reductions in GHG emissions from these operations.

In response to the ANPR, the EPA received comments from a wide range of aviation sector stakeholders including industry trade groups, individual manufacturers, states and local governments, and nongovernmental organizations (NGOs). Industry groups and individual manufacturers stressed that fuel costs (and market forces) created an economic incentive to reduce fuel consumption and thus GHG emissions. One industry association indicated its commitment to achieve an additional 30 percent fuel efficiency improvement by 2025. Another commenter identified engine technologies that were improving fuel efficiency by more than 15 percent in the next generation of aircraft. With regard to CO_2 engine emissions standards, these commenters felt that

2014/02/18/remarks-president-fuel-efficiency-standards-medium-and-heavy-duty-vehicl (last accessed May 12, 2015).

[16] U.S. EPA. ''EPA and NHTSA Set Standards to Reduce Greenhouse Gases and *Improve Fuel Economy for Model Years 2017–2025 Cars and Light Trucks.*'' Office of Transportation and Air Quality Document No. EPA–420–F–12–051, August 2012. Available at *http://www.epa.gov/otaq/climate/documents/420f12051.pdf* (last accessed May 26, 2015). See also US EPA, 2012: *Regulatory Impact Analysis: Final Rulemaking for 2017–2025 Light-Duty Vehicle Greenhouse Gas Emissions Standards and Corporation Average Fuel Economy Standards,* August, Document No. EPA–420–R–12–016, Table 7.4–2. Available at: *http://www.epa.gov/oms/climate/documents/420r12016.pdf* (last accessed May 12, 2015).

[17] 76 FR 57106 (September 15, 2011).

[18] Executive Office of the President, 2013: *The President's Climate Action Plan,* June 25. Available at: *http://www.whitehouse.gov/sites/default/files/image/president27sclimateactionplan.pdf* (last accessed May 26, 2015).

[19] Executive Office of the President, 2013: *Presidential Memorandum—Power Sector Carbon Pollution Standards,* Office of the Press Secretary, June 25. Available at: *http://www.whitehouse.gov/the-press-office/2013/06/25/presidential-memorandum-power-sector-carbon-pollution-standards* (last accessed May 12, 2015).

[20] U.S. EPA, 2014: *Standards of Performance for Greenhouse Gas Emissions From New Stationary Sources: Electric Utility Generating Units; Proposed Rule,* 79 FR 1430 (January 8, 2014).

[21] U.S. EPA, 2014: *Carbon Pollution Standards for Modified and Reconstructed Stationary Sources: Electric Utility Generating Units; Proposed Rules,* 79 FR 34960 (June 18, 2014).

[22] U.S. EPA, 2014: *Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units; Proposed Rule,* 79 FR 34830 (June 18, 2014).

[23] Executive Office of the President, 2013: *The President's Climate Action Plan* at 21, June. Available at: *http://www.whitehouse.gov/sites/default/files/image/president27sclimateactionplan.pdf* (last accessed May 12, 2015).

[24] U.S. EPA, 2015: *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2013,* 564 pp. Available at *http://www.epa.gov/climatechange/ghgemissions/usinventoryreport.html#fullreport* (last accessed May 12, 2015).

[25] Ibid.

[26] IPCC, 2014: *Climate Change 2014: Mitigation of Climate Change.* Contribution of Working Group III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Edenhofer, O., R. Pichs-Madruga, Y. Sokona, E. Farahani, S. Kadner, K. Seyboth, A. Adler, I. Baum, S. Brunner, P. Eickemeier, B. Kriemann, J. Savolainen, S. Schlömer, C. von Stechow, T. Zwickel and J.C. Minx (eds.)]. Cambridge University Press, pp. 599–670.

[27] As discussed in section V.B.2.c., fuel burn growth rates for air carriers and general aviation aircraft operating on jet fuel are projected to grow by 49 percent from 2010 to 2035, and this provides a scaling factor for growth in GHG emissions which would increase at a similar rate as the fuel burn by 2030, 2035, and 2040. FAA, 2015: *FAA Aerospace Forecast Fiscal Years 2015–2035,* 134 pp. Available at *https://www.faa.gov/about/office_org/headquarters_offices/apl/aviation_forecasts/aerospace_forecasts/2015–2035/media/2015_National_Forecast_Report.pdf* (last accessed May 12, 2015).

[28] Center for Biological Diversity, Center for Food Safety, Friends of the Earth, International Center for Technology Assessment, and Oceana, 2007: *Petition for Rulemaking Under the Clean air Act to Reduce the Emissions of Air Pollutants from Aircraft the Contribute to Global Climate Change,* December 5. Available at *http://www.epa.gov/otaq/aviation.htm* (last accessed May 12, 2015).

international CO_2 standards for aircraft engines were not necessary and that, if pursued, such standards would burden the industry and necessitate the development of new test procedures if CO_2 emissions standards were based on aircraft cruise conditions instead of landing and takeoff operations (LTO). Industry commenters also argued that other potential approaches to reducing aircraft related emissions, such as averaging of GHGs among existing aircraft fleets and cap-and-trade schemes as existed in the European Union, were beyond the scope of the EPA's authority under section 231 of the CAA. Finally, industry commenters noted that any program developed by the EPA should incentivize market forces and provide for flexibility.

State/local governments and NGO commenters felt strongly that the EPA had clear authority to find endangerment under section 231 and that there were multiple options to reduce aircraft emissions, so that the Agency must set a GHG emissions standard for aircraft engines as states were preempted from doing so under CAA section 233. These commenters also argued that GHG standards for aircraft engines could provide aircraft manufacturers the incentive to renew or redesign aircraft and to adopt advanced engines brought to market. In addition these commenters suggested that an engine GHG standard could be set as a function of thrust similar to ICAO's standard for oxides of nitrogen (NO_X) [29] and should also include provisions for an averaging, banking, and trading (ABT) program.[30] Some commenters also stated their support for fleet-wide (in-use fleet) emission reductions through a cap-and-trade system. Finally, these stakeholders stated that, absent the EPA rulemaking, quick international actions were unlikely and that the EPA should engage internationally to push for action on reducing CO_2 emissions from aircraft.

On July 31, 2008, Earthjustice, on behalf of Petitioners, notified the EPA of its intent to file suit under CAA section 304(a) against the EPA for the Agency's alleged unreasonable delay in responding to its aircraft petition and in making an endangerment finding under section 231. On June 11, 2010, Petitioners filed a complaint against the EPA in the U.S. District Court for the District of Columbia claiming that, among other things, the EPA had unreasonably delayed because it had failed to answer the 2007 Petition and to determine whether or not GHG emissions from aircraft cause or contribute to air pollution which may reasonably be anticipated to endanger public health and/or welfare.

The District Court found that while CAA section 231 generally confers broad discretion to the EPA in determining what standards to promulgate, section 231(a)(2)(A) imposed a nondiscretionary duty on the EPA to make a finding with respect to endangerment from aircraft GHG emissions. *Center for Biological Diversity, et al.* v. *EPA,* 794 F. Supp. 2d 151 (D.D.C. 2011). This ruling was issued in response to EPA's motion to dismiss the case on jurisdictional grounds and did not address the merits of the Plaintiffs' claims regarding the Agency's alleged unreasonable delay. Therefore, it did not include an order for the EPA to make such a finding by a certain date. In a subsequent ruling on the merits, the Court found that the Plaintiffs had not shown that EPA had unreasonably delayed in making an endangerment determination regarding GHG emissions from aircraft. *Center for Biological Diversity, et al.* v. *EPA,* No. 1:10–985 (D.D.C. March, 20, 2012). Thus, the Court did not find the EPA to be liable based on the Plaintiffs' claims and did not place the Agency under a remedial order to make an endangerment finding or to issue standards. The Plaintiffs did not appeal this ruling to the U.S. Court of Appeals for the D.C. Circuit.

The EPA issued a Response to the Aircraft Petition [31] on June 27, 2012 stating our intention to move forward with a proposed endangerment finding for aircraft GHG emissions under section 231, while explaining that it would take the Agency significant time to complete this action. The EPA explained that the Agency would not begin this effort until after the U.S. Court of Appeals completed its then-pending review of the previous section 202 Endangerment Finding, since the then-awaited ruling might provide important guidance for the EPA in conducting future GHG endangerment findings. The EPA further explained that after receiving the Court of Appeal's ruling, it would take at least 22 months from that point for the Agency to conduct an additional finding regarding aircraft GHG emissions.

Meanwhile, the Court upheld EPA's section 202 findings in a decision of a three-judge panel on June 26, 2012, and denied petitions for rehearing of that decision on December 20, 2012. *Coalition for Responsible Regulation, Inc.,* v. *EPA,* 684 F.3d 102 (D.C. Cir. 2012), reh'g denied 2012 U.S. App. LEXIS 26315, 25997 (D.C. Cir. 2012).[32] Given these rulings, we are proceeding with this proposed findings regarding aircraft engine GHG emissions as a further step toward responding to the Petition for Rulemaking.

D. U.S. Aircraft Regulations and the International Community

The EPA and the Federal Aviation Administration (FAA) traditionally work within the standard-setting process of ICAO's Committee on Aviation Environmental Protection (CAEP) to establish international emission standards and related requirements. Historically, under this approach, international emission standards have first been adopted by ICAO, and subsequently the EPA has initiated rulemakings under CAA section 231 to establish domestic standards equivalent to ICAO's standards where appropriate. This approach has been affirmed as reasonable by the U.S. Court of Appeals for the D.C. Circuit. *NACAA* v. *EPA,* 489 F.3d 1221, 1230–32 (D.C. Cir. 2007). After EPA promulgates aircraft engine emissions standards, CAA section 232 requires the FAA to issue subsequent regulations to ensure compliance with these standards when issuing certificates under its United States Code Title 49 authority. In exercising the EPA's standard-setting and FAA's enforcement authorities, we expect to proceed using a similar approach for the future CAA section 231 aircraft engine

[29] Sections II.D.1 and II.E provide an overview of the history ICAO's regulation of aircraft engine NO_X emissions from 1981 through 2012 and the EPA's adoption of equivalent aircraft engine NO_X standards under the CAA.

[30] ABT programs have been utilized in a number of Clean Air Act programs to provide greater flexibilities that lower overall costs by allowing a manufacturer to comply with performance standards through averaging emissions among the vehicles it manufactures. Companies that achieve extra pollution reductions can bank these as 'credits'' and then 'trade or sell' emission credits to other companies, typically those that face higher costs to control pollution. Well-designed ABT programs can sometimes achieve greater emissions reductions at less cost and provide incentives for technology innovation.

[31] U.S. EPA, 2012: *Memorandum in Response to Petition Regarding Greenhouse Gas Emissions from Aircraft,* June 14. Available at *http://www.epa.gov/otaq/aviation.htm* (last accessed May 12, 2015) and Docket EPA–HQ–OAR–2014–0828.

[32] Petitions for *certiorari* were filed in the Supreme Court, and the Supreme Court granted six of those petitions but ''agreed to decide only one question: ''Whether EPA permissibly determined that its regulation of greenhouse gas emissions from new motor vehicles triggered permitting requirements under the Clean Air Act for stationary sources that emit greenhouse gases''. *Utility Air Reg. Group* v. *EPA,* 134 S. Ct. 2427, 2438 (2014); *see also Virginia* v. *EPA,* 134 S. Ct. 418 (2013), *Pac. Legal Found.* v. *EPA,* 134 S. Ct. 418 (2013), and *CRR,* 134 S. Ct. 468 (2013) (all denying cert.). Thus, the Supreme Court did not disturb the D.C. Circuit's holding that affirmed the 2009 Endangerment Finding.

GHG standard (which may take the form of a CO_2 standard), provided the EPA issues final positive endangerment and cause or contribute findings under CAA section 231. This approach is contingent on ICAO's adoption of an international aircraft CO_2 standard that is consistent with CAA section 231 and is appropriate for domestic needs in the United States.

1. International Regulations and U.S. Obligations

As noted above, we have worked with the FAA since 1973, and later with ICAO, to develop domestic and international standards and other recommended practices pertaining to aircraft engine emissions. ICAO is a United Nations (UN) specialized agency, established in 1944 by the Convention on International Civil Aviation (Chicago Convention), ''in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically.'' [33] ICAO sets standards and regulations necessary for aviation safety, security, efficiency, capacity and environmental protection, and serves as the forum for cooperation in all fields of international civil aviation. ICAO works with the Chicago Convention's member States and global aviation organizations to develop international Standards and Recommended Practices (SARPs), which member States reference when developing their legally-enforceable national civil aviation regulations. The U.S. is currently one of 191 participating ICAO member States.[34] [35]

In the interest of global harmonization and international air commerce, the Chicago Convention urges its member States to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures and organization. The Chicago Convention also recognizes that member States may adopt standards that are more stringent than those agreed upon by ICAO. Any member State which finds it impracticable to comply in all respects with any international standard or procedure, or which deems it necessary to adopt regulations or practices differing in any particular respect from those established by an international standard, is required to give immediate notification to ICAO of the differences between its own practice and that established by the international standard.[36]

ICAO's work on the environment focuses primarily on those problems that benefit most from a common and coordinated approach on a worldwide basis, namely aircraft noise and engine emissions. Standards and Recommended Practices (SARPs) for the certification of aircraft noise and aircraft engine emissions are covered by Annex 16 of the Chicago Convention. To continue to address aviation environmental issues, in 2004, ICAO established three environmental goals: (1) Limit or reduce the number of people affected by significant aircraft noise; (2) limit or reduce the impact of aviation emissions on local air quality; and (3) limit or reduce the impact of aviation greenhouse gas emissions on the global climate.

The Convention has a number of other features that govern international commerce. First, member States that wish to use aircraft in international transportation must adopt emissions standards and other recommended practices that are at least as stringent as ICAO's standards. Member States may ban the use of any aircraft within their airspace that does not meet ICAO standards.[37] Second, member States are required to recognize the airworthiness certificates of any State whose standards are at least as stringent as ICAO's standards, thereby assuring that aircraft of any member State will be permitted to operate in any other member State.[38] Third, to ensure that international commerce is not unreasonably constrained, a member State which elects to adopt more stringent domestic emission standards is obligated to notify ICAO of the differences between its standards and ICAO standards.[39]

ICAO's CAEP, which consists of Members and Observers from States, intergovernmental and non-governmental organizations representing aviation industry and environmental interests, undertakes ICAO's technical work in the environmental field. The Committee is responsible for evaluating, researching, and recommending measures to the ICAO Council that address the environmental impacts of international civil aviation. CAEP's terms of reference indicate that ''CAEP's assessments and proposals are pursued taking into account: technical feasibility; environmental benefit; economic reasonableness; interdependencies of measures (for example, among others, measures taken to minimize noise and emissions); developments in other fields; and international and national programs.'' [40] CAEP is composed of various task groups, work groups, and other committees whose contributing members include atmospheric, economic, aviation, environmental, and other professionals interested in and knowledgeable about aviation and environmental protection. The ICAO Council reviews and adopts the recommendations made by CAEP. It then reports to the ICAO Assembly, the highest body of the Organization, where the main policies on aviation environmental protection are adopted and translated into Assembly Resolutions.

At CAEP meetings, the U.S. is represented by the FAA and plays an active role.[41] The EPA has historically been a principal participant in various ICAO/CAEP working groups and other international venues, assisting and advising FAA on aviation emissions, technology, and policy matters. In turn, the FAA assists and advises the EPA on

[33] ICAO, 2006: *Convention on International Civil Aviation, Ninth Edition,* Document 7300/9. Available at: *http://www.icao.int/publications/catalogue/cat_2015_en.pdf* (last accessed May 12, 2015).

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[34] Members of ICAO's Assembly are generally termed member States or contracting States. These terms are used interchangeably throughout this preamble.

[35] There are currently 191 Contracting States according to ICAO's Web site: *www.icao.int* (last accessed May 12, 2015).

[36] ICAO, 2006: *Doc 7300-Convention on International Civil Aviation, Ninth edition,* Document 7300/9. Available at *http://www.icao.int/publications/catalogue/cat_2015_en.pdf* (last accessed May 12, 2015). The ICAO Document 7300 is found on page 1 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. 7300.

[37] ICAO, 2006: *Convention on International Civil Aviation, Article 87, Ninth Edition,* Document 7300/9. Available *at http://www.icao.int/publications/catalogue/cat_2015_en.pdf* (last accessed May 12, 2015). The ICAO Circular 337 is found on page 85 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. CIR337.

[38] ICAO, 2006: *Convention on International Civil Aviation, Article 33, Ninth Edition,* Document 7300/9. Available at *http://www.icao.int/publications/catalogue/cat_2015_en.pdf* (last accessed May 12, 2015). The ICAO Circular 337 is found on page 85 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. CIR337.

[39] ICAO, 2006: *Convention on International Civil Aviation, Article 38, Ninth Edition,* Document 7300/9. Available at *http://www.icao.int/publications/catalogue/cat_2015_en.pdf* (last accessed May 12, 2015). The ICAO Document 7300 is found on page 1 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. 7300.

[40] CAEP's terms of reference are available at *http://www.icao.int/environmental-protection/Pages/Caep.aspx#ToR* (last accessed May 12, 2015).

[41] Pursuant to the President's memorandum of August 11, 1960 (and related Executive Order No. 10883 from 1960), the Interagency Group on International Aviation (IGIA) was established to facilitate coordinated recommendations to the Secretary of State on issues pertaining to international aviation. The DOT/FAA is the chair of IGIA, and as such, the FAA represents the U.S. on environmental matters at CAEP.

aviation technology and certification matters. If ICAO adopts a CAEP proposal for a new environmental standard, it then becomes part of ICAO standards and recommended practices (Annex 16 to the Chicago Convention).[42] [43]

The first international standards and recommended practices for aircraft engine emissions were recommended by CAEP's predecessor, the Committee on Aircraft Engine Emissions (CAEE), and adopted by ICAO in 1981.[44] These standards limited aircraft engine emissions of hydrocarbons, carbon monoxide, and NO_X. The 1981 standards applied to newly manufactured engines, which are those engines built after the effective date of the regulations—also referred to as in-production engines. In 1993, ICAO adopted a CAEP/2 proposal to tighten the original NO_X standard by 20 percent and amend the test procedures.[45] These 1993 standards applied both to newly-certified turbofan engines, which are those engine models that received their initial type certificate after the effective date of the regulations—also referred to as newly-certified engines or new engine designs—and to in-production engines, but with different effective dates for newly-certified engines and in-production engines. In 1995, CAEP/3 recommended a further tightening of the NO_X standards by 16 percent and additional test procedure amendments, but in 1997 the ICAO Council rejected this stringency proposal and approved only the test procedure amendments. At the CAEP/4 meeting in 1998, the Committee adopted a similar 16 percent NO_X reduction proposal, which ICAO approved in 1998. The CAEP/4 standards applied only to new engine designs certified (or newly-certified engines) after December 31, 2003 (*i.e.,* unlike the CAEP/2 standards, the CAEP/4 requirements did not apply to in-production engines). In 2004, CAEP/6 recommended a 12 percent NO_X reduction, which ICAO approved in 2005.[46] [47] The CAEP/6 standards applied to new engine designs certified after December 31, 2007. In 2010, CAEP/8 recommended a further tightening of the NO_X standards by 15 percent for new engine designs certified after December 31, 2013.[48] [49] The Committee also recommended that the CAEP/6 standards be applied to in-production engines (eliminating the production of CAEP/4 compliant engines with the exception of spare engines). ICAO approved these recommendations in 2011, then equivalent standards (to CAEP/6 and CAEP/8 standards) were promulgated domestically in 2012 by the EPA in consultation with FAA.[50]

2. The International Community's Reasons for Addressing Aircraft GHG Emissions

In October 2010, the 37th Assembly (Resolution A37–19) of ICAO requested the development of an ICAO CO_2 emissions standard.[51] Also, Resolution A37–19 provided a framework towards the achievement of an environmentally sustainable future for international aviation. With this Resolution, the ICAO Assembly agreed to a global aspirational goal for international aviation of improving annual fuel efficiency by two percent and stabilizing CO_2 emissions at 2020 levels.[52] The Resolution included the following statements regarding ICAO policies and practices related to climate change.

—. . . ICAO and its member States recognize the importance of providing continuous leadership to international civil aviation in limiting or reducing its emissions that contribute to global climate change;

—Reemphasizing the vital role which international aviation plays in global economic and social development and the need to ensure that international aviation continues to develop in a sustainable manner;

—. . . the ultimate objective of the United Nations Framework Convention on Climate Change (UNFCCC) is to achieve stabilization of greenhouse gas (GHG) concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system; and

—Acknowledging that international aviation emissions, currently accounting for less than 2 per cent of total global CO_2 emissions, are projected to grow as a result of the continued development of the sector.

As the above statements indicate, reducing climate impacts of international aviation is a critical element of ICAO's strategic objective of achieving environmental protection and sustainable development of air transport. ICAO is currently pursuing a comprehensive set of measures to reduce aviation's climate impact, including alternative fuels, CO_2 emissions technology-based standards, operational improvements, and market based measures. The development and adoption of a CO_2 emissions standard is an important part of ICAO's comprehensive set of measures.

3. Relationship of the EPA's Proposed Endangerment and Cause or Contribute Findings to International Aircraft Standards

As described earlier, the EPA and the FAA work within the ICAO/CAEP standard setting process to establish international emission standards and related requirements. Under this approach international emission standards have first been adopted by

[42] ICAO, 2008: *Aircraft Engine Emissions,* International Standards and Recommended Practices, Environmental Protection, Annex 16, Volume II, Third Edition, July. Available at *http://www.icao.int/publications/catalogue/cat_2015_en.pdf* (last accessed May 12, 2015). The ICAO Circular 337 is found on page 85 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. CIR337.

[43] CAEP develops new emission standards based on an assessment of the technical feasibility, cost, and environmental benefit of potential requirements.

[44] ICAO, 2008: *Aircraft Engine Emissions: Foreword,* International Standards and Recommended Practices, Environmental Protection, Annex 16, Volume II, Third Edition, July. Available at *http://www.icao.int/publications/catalogue/cat_2015_en.pdf* (last accessed May 12, 2015). The ICAO Annex 16 Volume II is found on page 19 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. AN16–2.

[45] CAEP conducts its work over a period of years. Each work cycle is numbered sequentially and that identifier is used to differentiate the results from one CAEP to another by convention. The first technical meeting on aircraft emission standards was CAEP's successor, *i.e.,* CAEE. The first meeting of CAEP, therefore, is referred to as CAEP/2.

[46] CAEP/5 did not address new aircraft engine emission standards.

[47] ICAO, 2008: *Aircraft Engine Emissions,* Annex 16, Volume II, Third Edition, July 2008, Amendment 5 effective on July 11, 2005. Available at *http://www.icao.int/publications/catalogue/cat_2015_en.pdf* (last accessed May 12, 2015). The ICAO Annex 16 Volume II is found on page 19 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. AN16–2.

[48] CAEP/7 did not address new aircraft engine emission standards.

[49] ICAO, 2010: *Committee on Aviation Environmental Protection (CAEP), Report of the Eighth Meeting, Montreal, February 1–12, 2010,* CAEP/8–WP/80 Available in Docket EPA–HQ–OAR–2010–0687.

[50] ICAO, 2011: *Aircraft Engine Emissions,* Annex 16, Volume II, Third Edition, July 2008, Amendment 7 effective on July 18, 2011. Available at *http://www.icao.int/publications/catalogue/cat_2015_en.pdf* (last accessed May 12, 2015). The ICAO Annex 16 Volume II is found on page 19 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. AN16–2/E/10 (last accessed February 5, 2015). U.S. EPA, 2012: *Control of Air Pollution from Aircraft and Aircraft Engines; Emission Standards and Test Procedures; Final Rule,* 77 FR 36342 (June 18, 2012).

[51] A consolidated statement of continuing policies and practices related to environmental protection (known as Assembly Resolutions) is revised and updated by the Council every three years for adoption by the ICAO Assembly. ICAO, 2010: *Resolutions Adopted by the Assembly, 37th Session, Montreal, September 29–October 8, 2010,* Provisional Edition, November.

[52] The global aspirational goal for international aviation of improving annual fuel efficiency by 2 percent is for the annual international civil aviation in-service fleet. Fuel efficiency is measured on the basis of the volume of fuel used per revenue tonne kilometer performed. (ICAO, CAEP, *Aspirational Goals and Implementation Options,* HLM–ENV/09–WP/5, High-Level Meeting on International Aviation and Climate Change, Presented by the Secretariat, Montreal, October 7 to 9, 2009. Available at *http://www.icao.int/Meetings/AMC/MA/High%20Level%202009/hlmenv_wp005_en.pdf* (last accessed May 12, 2015).

ICAO (with U.S. participation and agreement), and subsequently the EPA has initiated rulemakings under CAA section 231 to establish domestic aircraft engine emission standards that are of at least equivalent stringency as ICAO's standards. This approach has been affirmed as reasonable by the U.S. Court of Appeals for the D.C. Circuit. *NACAA* v. *EPA,* 489 F.3d 1221, 1230–32 (D.C. Cir. 2007). In exercising the EPA's standard-setting authority, provided the EPA makes positive endangerment and cause or contribute findings under CAA section 231 and ICAO adopts an international aircraft CO_2 standard that is consistent with CAA section 231 and is appropriate for domestic needs in the United States, the EPA expects to proceed along a similar approach for the future CAA section 231 aircraft GHG standard (or aircraft CO_2 standard).

We anticipate that ICAO/CAEP will adopt a final aircraft CO_2 emissions standard in February 2016. This proposal, and any final endangerment and cause or contribute finding for aircraft GHG emissions, are part of preparing for the possible subsequent domestic rulemaking process to adopt standards that are of at least equivalent stringency as the anticipated ICAO CO_2 standards. These findings, which are factual and science-based, encompass a determination of whether GHG emissions from aircraft cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare. If positive findings are made, the EPA will be obligated under section 231 of the CAA to set emission standards applicable to GHG emissions from the classes of aircraft engines for which the EPA makes the cause or contribute finding. If positive findings are not made, the EPA will not have triggered its obligation to set GHG emission standards under CAA section 231.

The EPA has worked diligently over the past four years within the ICAO/CAEP process on a range of technical issues regarding aircraft CO_2 emission standards. The ANPR that accompanies this proposal, in Section VI, discusses the issues arising in the ongoing international proceedings and U.S. input to CAEP regarding the international CO_2 standard to help ensure transparency about this process. In addition, in the ANPR the EPA requests public comments on a variety of issues to assist the Agency in developing its position with regard to these issues and the aircraft engine GHG emission standards that it may potentially adopt under the CAA.

E. The EPA's Regulation of Aircraft Emissions

As required by the CAA, the EPA has been engaged in reducing harmful air pollution from aircraft engines for over 40 years. In 1973, the EPA began to regulate gaseous exhaust emissions, smoke, and fuel venting from aircraft engines.[53] We have occasionally revised these regulations. In a 1997 rulemaking, for example, we made our emission standards and test procedures more consistent with those of ICAO's CAEP for turbofan engines used in commercial aviation with rated thrusts greater than 26.7 kilonewtons. These ICAO requirements are generally referred to as CAEP/2 standards.[54] That action included new NO_X emission standards for newly manufactured commercial turbofan engines (as described earlier, those engines built after the effective date of the regulations that were already certified to pre-existing standards—also referred to as in-production engines) [55] and for newly-certified commercial turbofan engines (as described earlier, those engine models that received their initial type certificate after the effective date of the regulations—also referred to as new engine designs).[56] It also included a carbon monoxide emission standard for in-production commercial turbofan engines.[57] In 2005, we promulgated more stringent NO_X emission standards for newly-certified commercial turbofan engines.[58] That final rule brought the U.S. standards closer to alignment with ICAO CAEP/4 requirements that became effective in 2004. In 2012, we issued more stringent two-tiered NO_X emission standards for newly-certified and in-production commercial and non-commercial turbofan aircraft engines, and these NO_X standards align with ICAO's CAEP/6 and CAEP/8 requirements that became effective in 2013 and 2014, respectively.[59] [60]

The EPA's actions to regulate certain pollutants emitted from aircraft engines come directly from its authority in section 231 of the CAA, and we have aligned the U.S. emissions requirements with those promulgated by ICAO. In addressing CO_2 emissions, however, ICAO has moved to regulating a whole aircraft. This ICAO extension beyond pollutant emissions from engines to the whole aircraft was described in a 2013 ICAO circular.[61] Several factors are considered when addressing whole-aircraft CO_2 emissions, as the CO_2 emissions are influenced by aerodynamics, weight, and engine-specific fuel consumption. Since each of these factors may affect aircraft engine fuel consumption, they ultimately affect CO_2 emissions. Rather than viewing CO_2 as a measurable emission from engines, therefore, ICAO now addresses CO_2 emissions as a characteristic applicable to the entirety of the aircraft based on fuel consumption. In this proposed action, we are giving advance notice that the EPA may propose to adopt domestic GHG emission standards (which may take the form of CO_2 standards) for aircraft engines used in covered aircraft as an outgrowth of the international negotiations that commenced in 2010 under the auspices ICAO/CAEP. Such standards could then discharge the EPA's duties under CAA sections 231(a)(2)(A) and 231(a)(3), if triggered by final positive endangerment and cause or contribute findings, to ''issue proposed emission standards applicable to the emission of'' GHG

[53] U.S. EPA, 1973: *Emission Standards and Test Procedures for Aircraft; Final Rule,* 38 FR 19088 (July 17, 1973).

[54] The full CAEP membership meets every three years and each session is denoted by a numerical identifier. For example, the second meeting of CAEP is referred to as CAEP/2, and CAEP/2 occurred in 1994.

[55] This does not mean that in 1997 we promulgated requirements for the re-certification or retrofit of existing in-use engines.

[56] In the existing EPA regulations, 40 CFR part 87, newly-certified aircraft engines are described as engines of a type or model of which the date of manufacture of the first individual production model was after the implementation date. Newly manufactured aircraft engines are characterized as engines of a type or model for which the date of manufacturer of the individual engine was after the implementation date.

[57] U.S. EPA, 1997: *Control of Air Pollution from Aircraft and Aircraft Engines; Emission Standards and Test Procedures; Final Rule,* 62 FR 25355 (May 8, 1997).

[58] U.S. EPA, 2005: *Control of Air Pollution from Aircraft and Aircraft Engines; Emission Standards and Test Procedures; Final Rule,* 70 FR 2521 (November 17, 2005).

[59] U.S. EPA, 2012: *Control of Air Pollution from Aircraft and Aircraft Engines; Emission Standards and Test Procedures; Final Rule,* 77 FR 36342 (June 18, 2012).

[60] While ICAO's standards were not limited to ''commercial'' aircraft engines, our 1997 standards were explicitly limited to commercial engines, as our finding that NO_X and carbon monoxide emissions from aircraft engines cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare was so limited. See 62 FR 25358 (May 8, 1997). In the 2012 rulemaking, we expanded the scope of that finding and of our standards pursuant to Section 231(a)(2)(A) of the Clean Air Act to include such emissions from both commercial and non-commercial aircraft engines based on the physical and operational similarities between commercial and noncommercial civilian aircraft and to bring our standards into full alignment with ICAO's.

[61] ICAO, 2013: *CAEP/9 Agreed Certification Requirement for the Aeroplane CO_2 Emissions Standard*, Circular (Cir) 337, AN/192. Available at *http://www.icao.int/publications/catalogue/cat_2015_en.pdf* (last accessed May 12, 2015). The ICAO Circular 337 is found on page 85 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. CIR337.

from aircraft engines and to issue final ''regulations with such modifications as [she] deems appropriate.''

III. Legal Framework for This Action

The EPA has previously made an endangerment finding for GHGs under Title II of the CAA, in the 2009 Endangerment Finding for section 202(a) source categories. In the 2009 Endangerment Finding, the EPA explained its legal framework for making an endangerment finding under section 202(a) of the CAA (74 FR 18886, 18890–94 (April 24, 2009), and 74 FR 66496, 66505–10 (December 15, 2009)). The text in section 202(a) that was the basis for the 2009 Endangerment Finding addresses ''the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in [the Administrator's] judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare.'' Similarly, section 231(a)(2)(A) concerns ''the emission of any air pollutant from any class or classes of aircraft engines which in [the Administrator's] judgment causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare.'' Thus, the text of the CAA section concerning aircraft emissions in section 231(a)(2)(A) mirrors the text of CAA section 202(a) that was the basis for the 2009 Endangerment Finding.

The EPA's approach in the 2009 Endangerment Finding (described below in Sections III.A and III.B) was affirmed by the U.S. Court of Appeals for the D.C. Circuit in *Coalition for Responsible Regulation, Inc.* v. *EPA,* 684 F.3d 102 (D.C. Cir. 2012), reh'g denied 2012 U.S. App. LEXIS 26313, 26315, 25997 (D.C. Cir 2012) (*CRR*). In particular, the D.C. Circuit ruled that the 2009 Endangerment Finding (including the agency's denial of petitions for reconsideration of that Finding) was not arbitrary or capricious, was consistent with the U.S. Supreme Court's decision in *Massachusetts* v. *EPA* and the text and structure of the CAA, and was adequately supported by the administrative record. *CRR,* 684 F.3d at 116–128. The D.C. Circuit found that the EPA had based its decision on ''substantial scientific evidence'' and noted that the EPA's reliance on major scientific assessments was consistent with the methods that decision-makers often use to make a science-based judgment. *Id.* at 120–121. Petitions for certiorari were filed in the Supreme Court, and the Supreme Court granted six of those petitions but ''agreed to decide only one question: 'Whether EPA permissibly determined that its regulation of greenhouse gas emissions from new motor vehicles triggered permitting requirements under the Clean Air Act for stationary sources that emit greenhouse gases.' '' *Utility Air Reg. Group* v. *EPA,* 134 S. Ct. 2427, 2438 (2014); see also *Virginia* v. *EPA,* 134 S. Ct. 418 (2013), *Pac. Legal Found.* v. *EPA,* 134 S. Ct. 418 (2013), and *CRR,* 134 S. Ct. 468 (2013) (all denying cert.). Thus, the Supreme Court did not disturb the D.C. Circuit's holding that affirmed the 2009 Endangerment Finding. Accordingly, the Agency proposes that it is reasonable to use that same approach under section 231(a)(2)(A)'s similar endangerment text, and as explained in the following discussion, is acting consistently with that judicially sanctioned framework for purposes of this proposed section 231 finding.

Two provisions of the CAA govern this proposal. Section 231(a)(2)(A) sets forth a two-part predicate for regulatory action under that provision: Endangerment and cause or contribute. Section 302 of the Act contains definitions of the terms ''air pollutant'' and ''welfare'' used in section 231(a)(2)(A). These statutory provisions are discussed below.

A. Section 231(a)(2)(A)—Endangerment and Cause or Contribute

As noted above, section 231(a)(2)(A) of the CAA (like section 202(a)) calls for the Administrator to exercise her judgment and make two separate determinations: First, whether the relevant kind of air pollution—here, GHGs—may reasonably be anticipated to endanger public health or welfare, and second, whether emissions of any air pollutant from classes of the sources in question (aircraft engines under section 231 and new motor vehicles or engines under section 202) cause or contribute to this air pollution.[62]

The Administrator interprets the two-part test required under section 231(a)(2)(A) as being the same as that explained in the 2009 Endangerment Finding. (*See* 74 FR 66505–06, December 15, 2009.) As in the section 202(a) context, this analysis entails a scientific judgment by the Administrator about the potential risks posed by GHG emissions to public health and welfare. *See CRR,* 684 F.3d at 117–118.[63]

In making this scientific judgment, the Administrator is guided by five principles. First, the Administrator is required to protect public health and welfare. She is not asked to wait until harm has occurred but instead must be ready to take regulatory action to prevent harm before it occurs.[64] The Administrator is thus to consider both current and future risks.

Second, the Administrator is to exercise judgment by weighing risks, assessing potential harms, and making reasonable projections of future trends and possibilities. It follows that when exercising her judgment the Administrator balances the likelihood and severity of effects. This balance involves a sliding scale: On one end the severity of the effects may be significant, but the likelihood low, while on the other end the severity may be less significant, but the likelihood high.[65] At different points along this scale, the Administrator is permitted to find endangerment. Accordingly, the Administrator need not set a precise or minimum threshold of risk or harm as part of making an endangerment finding, but rather may base her determination on '' 'a lesser risk of greater harm . . . or a greater risk of lesser harm' or any combination in between.'' *CRR,* 684 F.3d at 123 (quoting *Ethyl Corp.* v. *EPA,* 541 F.2d, 1, 18 (D.C. Cir. 1976)).

Third, because scientific knowledge is constantly evolving, the Administrator may be called upon to make decisions while recognizing the uncertainties and limitations of the data or information available, as risks to public health or welfare may involve the frontiers of scientific or medical knowledge.[66] At the same time, the Administrator must exercise reasoned decision making, and avoid speculative inquiries.

Fourth, the Administrator is to consider the cumulative impact of sources of a pollutant in assessing the risks from air pollution, and is not to look only at the risks attributable to a single source or class of sources. We additionally note that in making an endangerment finding, the Administrator is not limited to

[62] *See CRR,* 684 F.3d at 117 (explaining two-part analysis under section 202(a)).

[63] When agencies such as the EPA make determinations based on review of scientific data within their technical expertise, those decisions are given an ''extreme degree of deference'' by the D.C. Circuit, and as that court noted in reviewing the 2009 endangerment finding, ''although we perform a searching and careful inquiry into the facts underlying the agency's decisions, we will presume the validity of the agency action as long as a rational basis for it is presented.'' *CRR,* 684 F.3d at 120 (internal citations and marks omitted).

[64] *See id.* at 121–122.

[65] *See id.* at 122–123 (noting that the § 202(a)(1) inquiry ''necessarily entails a case-by-case, sliding scale approach'' because endangerment is '' 'composed of reciprocal elements of risk and harm, or probability and severity' '' (quoting *Ethyl Corp.* v. *EPA,* 541 F.2d, 1, 18 (D.C. Cir. 1976)).

[66] See *id.* at 121–122.

considering only those impacts that can be traced to the amount of air pollution directly attributable to the GHGs emitted by the subject source classes. Such an approach would collapse the two prongs of the test by requiring that any climate change impacts upon which an endangerment determination is made result solely from the GHG emissions of aircraft. *See* 74 FR 66542, December 15, 2009 (explaining the same point in the context of analogous language in section 202(a)). Similarly, the Administrator is not, in making the endangerment and cause or contribute findings, to consider the effect of emissions reductions from the resulting standards.[67] The threshold endangerment and cause or contribute criteria are separate and distinct from the standard setting criteria that apply if the threshold findings are met, and they serve a different purpose. Indeed, the more serious the endangerment to public health and welfare, the more important it may be that action be taken to address the actual or potential harm even if no one action alone can solve the problem, and a series of actions is called for.

Fifth, the Administrator is to consider the risks to all parts of our population, including those who are at greater risk for reasons such as increased susceptibility to adverse health effects. If vulnerable subpopulations are especially at risk, the Administrator is entitled to take that point into account in deciding the question of endangerment. Here too, both likelihood and severity of adverse effects are relevant. As explained previously in the 2009 Endangerment Finding and as reiterated below for this proposed section 231 finding, vulnerable subpopulations face serious health risks as a result of climate change.

As the Supreme Court recognized in *Massachusetts* v. *EPA,* 549 U.S. at 534, the EPA may make an endangerment finding despite the existence of ''some residual uncertainty'' in the scientific record. *See also CRR,* 684 F.2d at 122. Thus, this framework recognizes that regulatory agencies such as the EPA must be able to deal with the reality that ''[m]an's ability to alter his environment has developed far more rapidly than his ability to foresee with certainty the effects of his alterations.'' *See Ethyl Corp* v. *EPA,* 541 F.2d 1, 6 (D.C. Cir.), cert. denied 426 U.S. 941 (1976). Both ''the Clean Air Act 'and common sense * * * demand regulatory action to prevent harm, even if the regulator is less than certain that harm is otherwise inevitable.' '' *See Massachusetts* v. *EPA,* 549 U.S. at 506, n.7 (citing *Ethyl Corp.*); *see also CRR,* 684 F.3d at 121–122.

In the 2009 Endangerment Finding, the Administrator recognized that the scientific context for an action addressing climate change was unique at that time because there was a very large and comprehensive base of scientific information that had been developed over many years through a global consensus process involving numerous scientists from many countries and representing many disciplines. 74 FR 66506, December 15, 2009. That informational base has since grown. The Administrator also previously recognized that there are varying degrees of uncertainty across many of these scientific issues, which remains true. It is in this context that she is exercising her judgment and applying the statutory framework in this proposed section 231 finding. Further discussion of the language in section 231(a)(2)(A), and parallel language in 202(a), is provided below to explain more fully the basis for this interpretation, which the D.C. Circuit upheld in the 202(a) context.

1. The Statutory Language

The interpretation described above flows from the statutory language itself. The phrase ''may reasonably be anticipated'' and the term ''endanger'' in section 231(a)(2)(A) (as in section 202(a)) authorize, if not require, the Administrator to act to prevent harm and to act in conditions of uncertainty. They do not limit her to merely reacting to harm or to acting only when certainty has been achieved; indeed, the references to anticipation and to endangerment imply that to fail to look to the future or to less than certain risks would be to abjure the Administrator's statutory responsibilities. As the D.C. Circuit explained, the language ''may reasonably be anticipated to endanger public health or welfare'' in CAA § 202(a) requires a ''precautionary, forward-looking scientific judgment about the risks of a particular air pollutant, consistent with the CAA's precautionary and preventive orientation.'' *CRR,* 684 F.3d at 122 (internal citations omitted). The court determined that ''[r]equiring that EPA find 'certain' endangerment of public health or welfare before regulating greenhouse gases would effectively prevent EPA from doing the job that Congress gave it in § 202(a)—utilizing emission standards to prevent reasonably anticipated endangerment from maturing into concrete harm.'' *Id.* The same language appears in section 231(a)(2)(A), and the same interpretation applies in that context.

Moreover, by instructing the Administrator to consider whether emissions of an air pollutant cause or contribute to air pollution in the second part of the two-part test, the Act makes clear that she need not find that emissions from any one sector or class of sources are the sole or even the major part of an air pollution problem. The use of the term ''contribute'' clearly indicates that such emissions need not be the sole or major cause of the pollution. Finally, the phrase ''in [her] judgment'' authorizes the Administrator to weigh risks and to consider projections of future possibilities, while also recognizing uncertainties and extrapolating from existing data.

Finally, when exercising her judgment in making both the endangerment and cause-or-contribute findings, the Administrator balances the likelihood and severity of effects. Notably, the phrase ''in [her] judgment'' modifies both ''may reasonably be anticipated'' and ''cause or contribute.''

2. How the Origin of the Current Statutory Language Informs the EPA's Interpretation of Section 231(a)(2)(A)

In the proposed and final 2009 Endangerment Finding, the EPA explained that when Congress revised the section 202(a) language that governed that finding, along with other provisions, as part of the 1977 amendments to the CAA, it was responding to decisions issued by the D.C. Circuit in *Ethyl Corp.* v. *EPA* regarding the pre-1977 version of section 211(c) of the Act. 74 FR 18891, (April 24, 2009); *see also* 74 FR 66506, (December 15, 2009). Section 231 was one of those other CAA provisions included in the 1977 amendments; therefore, the Agency's discussion for the 2009 Endangerment Finding regarding the history of section 202 and how it supports the EPA's approach is also relevant for section 231. The legislative history of those amendments, particularly the report by the House Committee on Interstate and Foreign Commerce, demonstrates that the EPA's interpretation of the section 231(a)(2)(A) language as set forth here in support of the Agency's section 231 finding (which is the same as its interpretation of the parallel language in section 202(a) as explained in the 2009 Endangerment Finding), is fully consistent with Congress' intention in crafting these provisions. See H.R. Rep. 95–294 (1977),

[67] As the D.C. Circuit explained in reviewing the 2009 Endangerment Finding under analogous language in section 202(a): ''At bottom, § 202(a)(1) requires EPA to answer only two questions: Whether particular 'air pollution'—here, greenhouse gases—'may reasonably be anticipated to endanger public health or welfare,' and whether motor-vehicle emissions 'cause, or contribute to' that endangerment.'' *CRR,* 648 F.3d at 117.

as reprinted in 4 A Legislative History of the Clean Air Act Amendments of 1977 (1978) at 2465 (hereinafter LH).[68]

The legislative history clearly indicates that the House Committee believed the *Ethyl Corp.* decisions posed several ''crucial policy questions'' regarding the protection of public health and welfare. H.R. Rep. 95–294 at 48, 4 LH at 2515.[69] The following paragraphs summarize the *en banc* decision in *Ethyl Corp.* v. *EPA* and describe how the House Committee revised the endangerment language in the 1977 amendments to the CAA to serve several purposes consistent with that decision. In particular, the language: (1) Emphasizes the preventive or precautionary nature of the CAA [70]; (2) authorizes the Administrator to reasonably project into the future and weigh risks; (3) assures the consideration of the cumulative impact of all sources; (4) instructs that the health of susceptible individuals, as well as healthy adults, should be part of the analysis; and (5) indicates an awareness of the uncertainties and limitations in information available to the Administrator. H.R. rep. 95–294 at 49–50, 4 LH 2516–17.[71]

In revising the statutory language, Congress relied heavily on the *en banc* decision in *Ethyl Corp.* v. *EPA,* which reversed a 3-judge panel opinion regarding an EPA rule restricting the content of lead in leaded gasoline.[72] After reviewing the relevant facts and law, the full court evaluated the statutory language at issue to see what level of ''certainty [was] required by the Clean Air Act before EPA may act.'' 541 F.2d at 7.

The petitioners argued that the statutory language ''will endanger'' required proof of actual harm, and that the actual harm had to come from emissions from the fuels in and of themselves. *Id.* at 12, 29. The *en banc* court rejected this approach, finding that the term ''endanger'' allowed the Administrator to act when harm is threatened, and did not require proof of actual harm. *Id.* at 13. ''A statute allowing for regulation in the face of danger is, necessarily, a precautionary statute.'' *Id.* Optimally, the court held, regulatory action would not only precede, but prevent, a perceived threat. *Id.*

The court also rejected petitioner's argument that any threatened harm must be ''probable'' before regulation was authorized. Specifically, the court recognized that danger ''is set not by a fixed probability of harm, but rather is composed of reciprocal elements of risk and harm, or probability and severity.'' *Id.* at 18. Next, the court held that the EPA's evaluation of risk is necessarily an exercise of judgment, and that the statute did not require a factual finding. *Id.* at 24. Thus, ultimately, the Administrator must ''act, in part on 'factual issues,' but largely 'on choices of policy, on an assessment of risks, [and] on predictions dealing with matters on the frontiers of scientific knowledge * * *.'' *Id.* at 29 (citations omitted). Finally, the *en banc* court agreed with the EPA that even without the language in section 202(a) (which is also in section 231(a)(2)(A)) regarding ''cause or contribute to,'' it was appropriate for the EPA to consider the cumulative impact of lead from numerous sources, not just the fuels being regulated under section 211(c). *Id.* at 29–31.

The dissent in the original *Ethyl Corp.* decision and the en banc opinion were of ''critical importance'' to the House Committee which proposed the revisions to the endangerment language in the 1977 amendments to the CAA. H.R. Rep. 95–294 at 48, 4 LH at 2515. The Committee addressed those questions with the language that now appears in section 231(a)(2)(A) and several other CAA provisions—''emission of any air pollutant * * * which in [the Administrator's] judgment causes, or contributes to, air pollution which may reasonably be anticipated to endanger public health or welfare.''

As noted above in section III.A.1, the phrase ''in [her] judgment'' calls for the Administrator to make a comparative assessment of risks and projections of future possibilities, consider uncertainties, and extrapolate from limited data. Thus, the Administrator must balance the likelihood of effects with the severity of the effects in reaching her judgment. The Committee emphasized that the Administrator's exercise of ''judgment'' [73] may include making projections, assessments and estimates that are reasonable, as opposed to a speculative or '' 'crystal ball' inquiry.'' Moreover, procedural safeguards apply to the exercise of judgment, and final decisions are subject to judicial review. Also, the phrase ''in [her] judgment'' modifies both the phrases ''cause and contribute'' and ''may reasonably be anticipated,'' as discussed above. H.R. Rep. 95–294 at 50–51, 4 LH at 2517–18.

As the Committee further explained, the phrase ''may reasonably be anticipated'' points the Administrator in the direction of assessing current and future risks rather than waiting for proof of actual harm. This phrase is also intended to instruct the Administrator to consider the limitations and difficulties inherent in information on public health and welfare. H.R. Rep. 95–294 at 51, 4 LH at 2518.[74]

Finally, the phrase ''cause or contribute'' ensures that all sources of the contaminant which contribute to air pollution are considered in the endangerment analysis (*e.g.,* not a single source or category of sources). It is also intended to require the Administrator to consider all sources of exposure to a pollutant (for example, food, water, and air) when determining risk. *Id.*

3. Additional Considerations for the Cause or Contribute Analysis

By instructing the Administrator to consider whether emissions of an air pollutant cause or contribute to air pollution, the statute is clear that she need not find that emissions from any one sector or class of sources are the sole or even the major part of an air pollution problem. The use of the term

[68] The committee explained that its action addressed not only section 211(c)(1)(A) but rather the entire proposal, and would thus apply its interpretation to all other sections of the Act relating to public health protection. 4 LH at 2516. It also noted that it had used the same basic formulation in section 202 and section 231, as well as in other sections. *Id.* at 2517.

[69] The Supreme Court recognized that the current language in section 202(a)(1), which uses the same formulation as that in section 231(a)(2)(A), is ''more protective'' than the 1970 version that was similar to the section 211 language before the D.C. Circuit in *Ethyl Corp. Massachusetts* v. *EPA,* 549 U.S. at 506, fn 7.

[70] *See* H.R. Rep. 95–294 at 49, 4 LH at 2516 (''To emphasize the preventive or precautionary nature of the Act, *i.e.* to assure that regulatory action can effectively prevent harm before it occurs'').

[71] Congress also standardized this language across the various sections of the CAA which address emissions from both stationary and mobile sources. H.R. Rep. 95–294 at 50, 4 LH at 2517; section 401 of the CAA Amendments of 1977.

[72] At the time of the 1973 rules requiring the reduction of lead in leaded gasoline, section 211(c)(1)(A) of the CAA stated that the Administrator may promulgate regulations that: ''Control or prohibit the manufacture, introduction into commerce, offering for sale, or sale of any fuel or fuel additive for use in a motor vehicle or motor vehicle engine (A) if any emissions product of such fuel or fuel additive will endanger the public health or welfare * * *.'' CAA 211(c)(1)(A) (1970).

[73] Throughout this Notice under CAA section 231, as throughout the previous Notices concerning the 2009 Endangerment Finding under section 202, the judgments on endangerment and cause or contribute are described as a finding or findings. This is for ease of reference only, and is not intended to imply that the Administrator's judgment is solely a fact finding exercise; rather, the Administrator's exercise of judgment is to consider and weigh multiple factors when applying the scientific information to the statutory criteria.

[74] Thus, the statutory language does not require that the EPA prove the effects of climate change ''beyond a reasonable doubt.'' Indeed, such an approach is inconsistent with the concepts of reasonable anticipation and endangerment embedded in the statute. *See also CRR,* 684 F.3d at 121–122.

contribute clearly indicates a lower threshold than the sole or major cause.

Moreover, like the section 202(a) language that governed the 2009 Endangerment Finding, the statutory language in section 231(a)(2)(A) does not contain a modifier on its use of the term ''contribute.'' Unlike other CAA provisions, it does not require ''significant'' contribution. Compare, *e.g.,* CAA sections 111(b); 213(a)(2), (4). Congress made it clear that the Administrator is to exercise her judgment in determining contribution, and authorized regulatory controls to address air pollution even if the air pollution problem results from a wide variety of sources. While the endangerment test looks at the entire air pollution problem and the risks it poses, the cause or contribute test is designed to authorize the EPA to identify and then address what may well be many different sectors, classes, or groups of sources that are each part of the problem.

As explained for the 2009 Endangerment Finding, the D.C. Circuit has discussed the concept of contribution in the CAA, and its case law supports the EPA's interpretation that the level of contribution need not be significant. 74 FR 66542, December 15, 2009. In *Catawba County* v. *EPA,* 571 F.3d 20 (D.C. Cir. 2009), the court upheld EPA's PM[2.5] attainment and nonattainment designation decisions, analyzing CAA section 107(d), which requires EPA to designate an area as nonattainment if it ''contributes to ambient air quality in a nearby area'' not attaining the national ambient air quality standards. *Id.* at 35. The court noted that it had previously held that the term ''contributes'' is ambiguous in the context of CAA language. *See EDF* v. *EPA,* 82 F.3d 451, 459 (D.C. Cir. 1996). ''[A]mbiguities in statutes within an agency's jurisdiction to administer are delegations of authority to the agency to fill the statutory gap in reasonable fashion.'' 571 F.3d at 35 (citing *Nat'l Cable & Telecomms. Ass'c* v. *Brand X Internet Servs,* 545 U.S. 967, 980 (2005)). The court then proceeded to consider and reject petitioners' argument that the verb ''contributes'' in CAA section 107(d) necessarily connotes a significant causal relationship. Specifically, the D.C. Circuit again noted that the term is ambiguous, leaving it to EPA to interpret in a reasonable manner. In the context of this discussion, the court noted that ''a contribution may simply exacerbate a problem rather than cause it * * *.'' 571 F.3d at 39.

This is consistent with the D.C. Circuit's discussion of the concept of contribution in the context of CAA section 213 and rules for nonroad vehicles in *Bluewater Network* v. *EPA,* 370 F.3d 1 (D.C. Cir. 2004). In that case, industry argued that section 213(a)(3) requires a finding of a significant contribution before the EPA can regulate, while the EPA's view was that the CAA requires a finding only of contribution. *Id.* at 13. Section 213(a)(3), like section 231(a)(2)(A), is triggered by a finding that certain sources ''cause, or contribute to,'' air pollution, while an adjacent provision, section 213(a)(2), is triggered by a finding of a ''significant'' contribution. The court looked at the ''ordinary meaning of 'contribute' '' when upholding the EPA's reading. After referencing dictionary definitions of ''contribute,'' the court also noted that ''[s]tanding alone, the term has no inherent connotation as to the magnitude or importance of the relevant 'share' in the effect; certainly it does not incorporate any 'significance' requirement.'' 370 F.3d at 13.[75] The court found that the bare ''contribute'' language invests the Administrator with discretion to exercise judgment regarding what constitutes a sufficient contribution for the purpose of making a cause or contribute finding. *Id.* at 14.[76]

Like the statutory language considered in *Catawba County* and *Bluewater Network,* as well as the section 202(a) language that governed the Agency's previous findings for GHGs emitted by other types of mobile sources, section 231(a)(2)(A) refers to contribution and does not specify that the contribution must be significant before an affirmative finding can be made. To be sure, any finding of a ''contribution'' requires some threshold to be met; a truly trivial or *de minimis* ''contribution'' might not count as such. The Administrator therefore has ample discretion in exercising her reasonable judgment and determining whether, under the circumstances presented, the cause or contribute criterion has been met.[77] As noted above, in addressing provisions in section 202(a), the D.C. Circuit has explained that the Act at the endangerment finding step did not require the EPA to identify a precise numerical value or ''a minimum threshold of risk or harm before determining whether an air pollutant endangers.'' *CRR,* 684 F.3d at 122–123. Accordingly, EPA ''may base an endangerment finding on 'a lesser risk of greater harm . . . or a greater risk of lesser harm' or any combination in between.'' *Id.* (quoting *Ethyl Corp.,* 541 F.2d at 18). Recognizing the substantial record of empirical data and scientific evidence that the EPA relied upon in the 2009 Endangerment Finding, the court determined that its ''failure to distill this ocean of evidence into a specific number at which greenhouse gases cause 'dangerous' climate change is a function of the precautionary thrust of the CAA and the multivariate and sometimes uncertain nature of climate science, not a sign of arbitrary or capricious decision-making.'' *Id.* at 123. As the language in section 231(a)(2)(A) is analogous to that in section 202(a), it is clearly reasonable to apply this interpretation to the endangerment determination under section 231(a)(2)(A). Moreover, the logic underlying this interpretation supports the general principle that under CAA section 231 the EPA is not required to identify a specific minimum threshold of contribution from potentially subject source categories in determining whether their emissions ''cause or contribute'' to the endangering air pollution. The reasonableness of this principle is further supported by the fact that section 231 does not impose on the EPA a requirement to find that such contribution is ''significant,'' let alone the sole or major cause of the endangering air pollution. This context further supports the EPA's interpretation that section 231(a)(2)(A) requires some level of contribution that, while exceeding *de minimis* or trivial thresholds, does not need to rise to a pre-determined numerical level of significance.

In addition, when exercising her judgment in making a cause or contribute determination, the Administrator not only considers the cumulative impact, but also looks at the totality of the circumstances (*e.g.,* the air pollutant, the air pollution, the nature of the endangerment, the type or classes of sources at issue, the number of sources in the source sector or class, and the number and type of other source sectors or categories that may emit the air

[75] Specifically, the decision noted that '' 'contribute' means simply 'to have a share in any act or effect,' Webster's Third New International Dictionary 496 (1993), or 'to have a part or share in producing,' 3 Oxford English Dictionary 849 (2d ed. 1989).'' *Id.* at 13.

[76] The court explained, ''[t]he repeated use of the term 'significant' to modify the contribution required for all nonroad vehicles, coupled with the omission of this modifier from the 'cause, or contribute to' finding required for individual categories of new nonroad vehicles, indicates that Congress did not intend to require a finding of 'significant contribution' for individual vehicle categories.'' *Id.* at 13.

[77] Section V discusses the evidence in this case that supports the proposed finding of contribution. The EPA need not determine at this time the circumstances in which emissions would be trivial or de minimis and would not warrant a finding of contribution.

pollutant) when determining whether the emissions ''justify regulation'' under the CAA. *See Catawba County,* 571 F.3d at 39 (discussing EPA's interpretation of the term ''contribute'' under CAA § 107(d) and finding it reasonable for the agency to adopt a totality of the circumstances approach); *see also* 74 FR at 66542, (December 15, 2009). Further discussion of this issue can be found in sections IV and V of this preamble.

B. Air Pollutant, Public Health and Welfare

The CAA defines both ''air pollutant'' and ''welfare.'' Air pollutant is defined as: ''Any air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term 'air pollutant' is used.'' CAA section 302(g). Greenhouse gases fit well within this capacious definition. See *Massachusetts* v. *EPA,* 549 U.S. at 532. They are ''without a doubt'' physical chemical substances emitted into the ambient air. *Id.* at 529. Section V below contains further discussion of the ''air pollutant'' for purposes of this section 231 proposed contribution finding, which uses the same definition of air pollutant as the EPA adopted for purposes of the 2009 Endangerment Finding.

Regarding ''welfare,'' the CAA states that ''[a]ll language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants.'' CAA section 302(h). This definition is quite broad. Importantly, it is not an exclusive list due to the use of the term ''includes, but is not limited to, * * *.'' Effects other than those listed here may also be considered effects on welfare.

Moreover, the terms contained within the definition are themselves expansive. For example, deterioration to property could include damage caused by extreme weather events. Effects on vegetation could include impacts from changes in temperature and precipitation as well as from the spreading of invasive species or insects. Prior welfare effects evaluated by the EPA in other contexts include impacts on vegetation, as well as reduced visibility, changes in nutrient balance and acidity of the environment, soiling of buildings and statues, and erosion of building materials. *See, e.g.,* Final Secondary National Ambient Air Quality Standards for Oxides of Nitrogen and Sulfur, 77 FR 20218, April 3, 2012; Control of Emissions from Nonroad Large Spark Ignition Engines and Recreational Engines (Marine and Land-Based), 67 FR 68242, November 8, 2002; Final Heavy-Duty Engine and Vehicle Standards and Highway Diesel Sulfur Control Requirements, 66 FR 5002, January 18, 2001.

Although the CAA defines ''effects on welfare'' as discussed above, there are no definitions of ''public health'' or ''public welfare'' in the Clean Air Act. The Supreme Court has discussed the concept of ''public health'' in the context of whether costs can be considered when setting National Ambient Air Quality Standards. *Whitman* v. *American Trucking Ass'n,* 531 U.S. 457 (2001). In *Whitman,* the Court imbued the term with its most natural meaning: ''The health of the public.'' *Id.* at 466. When considering public health, the EPA has looked at morbidity, such as impairment of lung function, aggravation of respiratory and cardiovascular disease, and other acute and chronic health effects, as well as mortality. *See, e.g.,* Final National Ambient Air Quality Standard for Ozone, 73 FR 16436, March 27, 2008.

IV. The Proposed Endangerment Finding Under CAA Section 231

This section describes the Administrator's proposed endangerment finding under CAA section 231(a)(2) and its basis. Beginning with the air pollution under consideration, the Administrator is proposing to use the same definition of the ''air pollution'' under CAA section 231(a)(2) as that used under CAA section 202(a)(1), namely the mix of six well-mixed GHGs mentioned above: CO_2, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. As described in section IV.A below, it is the Administrator's view that the reasons detailed in the 2009 Endangerment Finding for defining the scope and nature of the air pollution to be these six well-mixed GHGs remain valid and well-supported by the current science and are therefore reasonable bases for adopting the same definition of ''air pollution'' in this section 231(a)(2)(A) finding. Information from the new scientific assessments described in section IV.B below provides further support that the six well-mixed GHGs are the primary cause and driver of climate change. The Administrator considered other climate-forcing agents both in the 2009 Endangerment Finding and in this action; however, these substances are not included in the air pollution definition proposed in this action for the reasons discussed below in section IV.B.4.

The Administrator is proposing to find, for purposes of CAA section 231(a)(2)(A), that elevated concentrations of the six well-mixed GHGs constitute air pollution that endangers both the public health and the public welfare of current and future generations. The Administrator's view is that the body of scientific evidence amassed in the record for the 2009 Endangerment Finding compellingly supports an endangerment finding under CAA section 231(a). Information from the new scientific assessments described in section IV.B below provides further support and justification for this proposed finding.

Section IV.A below summarizes the 2009 Endangerment Finding under CAA section 202, explains the approach EPA took in compiling an extensive record to inform the Administrator's judgment on that finding, and describes the recent judicial affirmation of the 2009 Endangerment Finding. Section IV.B provides a summary of new scientific assessments that strengthen or provide further scientific evidence, in addition to that which the Administrator relied upon in making her prior judgment, for a finding that GHGs endanger public health and welfare.[78] Finally, section IV.C summarizes the Administrator's conclusion for purposes of section 231, in light of the evidence, analysis, and conclusions that led to the 2009 Endangerment Finding as well as more recent evidence, that emissions of the six well-mixed GHGs in the atmosphere endanger public health and welfare.

A. Scientific Basis of the 2009 Endangerment Finding Under CAA Section 202(a)(1)

In the 2009 Endangerment Finding, the Administrator found that elevated concentrations of the well-mixed GHGs in the atmosphere may reasonably be

[78] While the EPA is providing a summary of newer scientific assessments below, the EPA is also relying on the same scientific and technical evidence discussed in the notices for the 2009 Endangerment Finding in this proposed finding for purposes of CAA section 231. See sections III of the 2009 Proposed Endangerment Finding and sections III and IV of the 2009 Endangerment Finding.

anticipated to endanger public health and welfare of current and future generations. *See, e.g.,* 74 FR 66516, December 15, 2009. The Administrator reached this judgment by carefully considering a significant body of scientific evidence and public comments submitted to the Agency. The sections below summarize the scope and nature of the relevant air pollution for the 2009 Endangerment Finding, as well as the public health and welfare considerations within the finding.

1. The Definition of Air Pollution in the 2009 Endangerment Finding

The Administrator defined the scope and nature of the relevant air pollution as the aggregate group of six key, well-mixed GHGs: CO_2, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.[79] The Administrator considered five primary reasons for focusing on this aggregate group as the air pollution in the 2009 Endangerment Finding: (1) They share common physical properties that influence their climate effects; (2) on the basis of these common physical properties, they have been determined to be the primary cause of human-induced climate change, are the best-understood driver of climate change, and are expected to remain the key driver of future climate change; (3) they are the common focus of climate change science research and policy analyses and discussions; (4) using the combined mix of these gases as the definition (versus an individual gas-by-gas approach) is consistent with the science, because risks and impacts associated with GHG-induced climate change are not assessed on an individual gas-by-gas basis; and (5) using the combined mix of these gases is consistent with past EPA practice, where separate substances from different sources, but with common properties, may be treated as a class (*e.g.,* oxides of nitrogen, particulate matter, volatile organic compounds).[80]

The common physical properties these six GHGs share that are relevant to the climate change problem include the following: All are long-lived in the atmosphere;[81] all become globally well mixed in the atmosphere, resulting in similar GHG concentrations around the globe regardless of geographic location of emissions; all trap outgoing heat that would otherwise escape to space; and all are directly emitted as GHGs rather than becoming a GHG in the atmosphere after emission of a precursor gas. The Administrator acknowledged that other anthropogenic climate forcers also play a role in climate change but for various scientific and policy reasons, these substances were not included in the air pollution definition.[82]

As explained in more detail in the 2009 Endangerment Finding, the EPA made the judgment that the scientific evidence is compelling that elevated concentrations of heat-trapping GHGs are the root cause of recently observed climate change and that the scientific record showed that most of the observed increase in global average temperatures since the mid-20th century is very likely due to the observed increase in anthropogenic GHG concentrations. The attribution of observed climate change to anthropogenic activities was based on multiple lines of evidence.[83] The first line of evidence arises from our basic physical understanding of the effects of changing concentrations of GHGs, natural factors, and other human impacts on the climate system. The second line of evidence arises from indirect, historical estimates of past climate changes that suggest that the changes in global surface temperature over the last several decades are unusual. The third line of evidence arises from the use of computer-based climate models to simulate the likely patterns of response of the climate system to different forcing mechanisms (both natural and anthropogenic).

2. Public Health Impacts Detailed in the 2009 Endangerment Finding

Climate change resulting from anthropogenic GHG emissions threatens multiple aspects of public health.[84] In determining that the well-mixed GHG air pollution is reasonably anticipated to endanger public health for current and future generations, the Administrator noted her view that climate change can increase the risk of morbidity and mortality.[85] In making that public health finding, the Administrator considered direct temperature effects, air quality effects, the potential for changes in vector-borne diseases, and the potential for changes in the severity and frequency of extreme weather events. In addition, the Administrator considered whether and how susceptible populations may be particularly at risk. As explained in more detail in the 2009 Endangerment Finding, with respect to direct temperature effects, by raising average temperatures, climate change increases the likelihood of heat waves, which are associated with increased deaths and illnesses. Climate change is also expected to lead to reductions in cold-related mortality. The 2009 Endangerment Finding, while noting uncertainty about how heat and cold related mortality would change in the future, also pointed to a USGCRP assessment report discussion that increases in heat-related mortality due to global warming in the United States was unlikely to be compensated for by decreases in cold-related mortality (74 FR 66525, December 15, 2009). With regard to air quality effects, climate change is expected to increase ozone pollution over broad areas of the country, including large metropolitan population centers, and thereby increase the risks of respiratory infection, aggravation of asthma, and premature death. Other public health threats stem from the potential for increased deaths, injuries, infectious and waterborne diseases, stress-related disorders, and other adverse effects associated with increased hurricane intensity and increased frequency of intense storms and heavy precipitation associated with climate change. In addition, climate change is expected to be associated with an increase in the spread of food-, water-, and vector-borne diseases in susceptible populations. Climate change also has the potential to change aeroallergen production (for example, through lengthening the growing season for allergen-producing plants), and subsequent human exposures could increase allergenic illnesses. Children, the elderly, and the poor are among the most vulnerable to climate-related health effects.

3. Public Welfare Impacts Detailed in the 2009 Endangerment Finding

Climate change resulting from anthropogenic GHG emissions also threatens multiple aspects of public welfare.[86] In determining that the well-

[79] 74 FR 66516, December 15, 2009.

[80] 74 FR 66517 to 66519, December 15, 2009.

[81] We use ''long-lived'' here to mean that the gas has a lifetime in the atmosphere sufficient to become globally well-mixed throughout the entire atmosphere, which requires a minimum atmospheric lifetime of about one year. IPCC also refers to these six greenhouse gases as long-lived. According to the most recent IPCC Fifth Assessment Report (2014), methane has an atmospheric lifetime of about 12 years. One of the most commonly used hydrofluorocarbons (HFC–134a) has a lifetime of about 13 years. Nitrous oxide has a lifetime of around 130 years; sulfur hexafluoride over 3,000 years; and some perfluorocarbons up to 10,000 to 50,000 years. CO_2 is sometimes approximated as having a lifetime of roughly 100 years, but for a given amount of CO_2 emitted a better description is that some fraction of the atmospheric increase in concentration is quickly absorbed by the oceans and terrestrial vegetation, some fraction of the atmospheric increase will only slowly decrease over a number of years, and a small portion of the increase will remain for many centuries or more.

[82] 74 FR 66519 to 66521, December 15, 2009.

[83] 74 FR 66518, December 15, 2009.

[84] 74 FR 66524 to 66530, December 15, 2009.

[85] 74 FR 66524, December 15, 2009.

[86] 74 FR 66530 to 66536, December 15, 2009.

mixed GHG air pollution is reasonably anticipated to endanger public welfare for current and future generations, the Administrator considered the multiple pathways by which GHG air pollution and resultant climate change affect public welfare by evaluating the numerous and far-ranging risks to food production and agriculture; forestry; water resources; sea level rise and coastal areas; energy, infrastructure, and settlements; and ecosystems and wildlife. The Administrator also considered impacts on the U.S. population from climate change effects occurring outside of the United States. As explained in more detail in the 2009 Endangerment Finding, the potential serious adverse impacts of extreme events, such as wildfires, flooding, drought, and extreme weather conditions provided strong support for the determination. Climate change is expected to place large areas of the country at serious risk of reduced water supplies, increased water pollution, and increased occurrence of extreme events such as floods and droughts. Coastal areas are expected to face increased risks from storm and flooding damage to property, as well as adverse impacts from rising sea level such as land loss due to inundation, erosion, wetland submergence and habitat loss. Climate change is expected to result in an increase in peak electricity demand, and extreme weather from climate change threatens energy, transportation, and water resource infrastructure. Climate change may exacerbate existing environmental pressures in certain settlements, particularly in Alaskan indigenous communities. Climate change is also very likely to fundamentally change U.S. ecosystems over the 21st century and to lead to predominantly negative consequences for biodiversity, ecosystem goods and services, and wildlife. Though there may be some benefits for agriculture and forestry in the next few decades, the body of evidence points towards increasing risks of net adverse impacts on U.S. food production, agriculture and forest productivity as average temperature continues to rise. Looking across all sectors discussed above, the risk and the severity of adverse impacts on public welfare are expected to increase over time. Lastly, these impacts are global and may exacerbate problems outside the United States that raise humanitarian, trade, and national security issues for the United States.

4. The Science Upon Which the Agency Relied

As outlined in section III.A of the 2009 Endangerment Finding,[87] the EPA's approach to providing the technical and scientific information to inform the Administrator's judgment regarding the question of whether GHGs endanger public health and welfare was to rely primarily upon the recent, major assessments by the USGCRP, the IPCC, and the NRC. These assessments addressed the scientific issues that the EPA was required to examine, were comprehensive in their coverage of the GHG and climate change issues, and underwent rigorous and exacting peer review by the expert community, as well as rigorous levels of U.S. government review, in which the EPA took part. Primary reliance on the major scientific assessments provided assurance that the Administrator was basing her judgment on the best available, well-vetted science that reflected the consensus of the climate science research community. The major findings of the USGCRP, IPCC, and NRC assessments supported the Administrator's determination that elevated concentrations of GHGs in the atmosphere may reasonably be anticipated to endanger the public health and welfare of current and future generations. The EPA presented this scientific support at length in the comprehensive record for the 2009 Endangerment Finding. Relevant sections of documents from the 2009 Endangerment Finding record have been placed in the docket for this proposed finding under CAA section 231.

The EPA then reviewed ten administrative petitions for reconsideration of the Endangerment Finding in 2010.[88] In the Reconsideration Denial, the Administrator denied those petitions on the basis of the Petitioners' failure to provide substantial support for their argument that the EPA should revise the Endangerment Finding and their objections' lack of ''central relevance'' to the Finding. The EPA prepared an accompanying three-volume Response to Petitions document to provide additional information, often more technical in nature, in response to the arguments, claims, and assertions by the Petitioners to reconsider the Endangerment Finding.[89]

The 2009 Endangerment Finding and the 2010 Reconsideration Denial were challenged in a lawsuit before the U.S. Court of Appeals for the D.C. Circuit.[90] On June 26, 2012, the Court upheld the Endangerment Finding and the Reconsideration Denial, ruling that the Finding (including the Reconsideration Denial) was not arbitrary or capricious, was consistent with the U.S. Supreme Court's decision in *Massachusetts* v. *EPA* (which affirmed the EPA's authority to regulate greenhouse gases) [91] and the text and structure of the CAA, and was adequately supported by the administrative record.[92] The Court also agreed with the EPA that the Petitioners had ''not provided substantial support for their argument that the Endangerment Finding should be revised.'' [93] The Court found that the EPA had based its decision on ''substantial scientific evidence,'' observing that ''EPA's scientific evidence of record included support for the proposition that greenhouse gases trap heat on earth that would otherwise dissipate into space; that this 'greenhouse effect' warms the climate; that human activity is contributing to increased atmospheric levels of greenhouse gases; and that the climate system is warming,'' as well as providing extensive scientific evidence for EPA's determination that anthropogenically induced climate change threatens both public health and welfare.[94] The court further noted that the EPA's reliance on assessments was consistent with the methods decision-makers often use to make a science-based judgment.[95] Moreover, the Court supported the EPA's reliance on the major scientific assessment reports conducted by USGCRP, IPCC, and NRC and found:

> The EPA evaluated the processes used to develop the various assessment reports, reviewed their contents, and considered the depth of the scientific consensus the reports

[87] 74 FR 66510 to 66512, December 15, 2009.

[88] Administrative petitions are available from *http://www.epa.gov/climatechange/endangerment/petitions.html* (last accessed May 12, 2015), and in the docket for the 2009 Endangerment Finding: EPA–HQ–OAR–2009–017.

[89] U.S. EPA, 2010: *Denial of the Petitions to Reconsider the Endangerment and Cause or Contribute Findings for Greenhouse Gases Under section 202(a) of the Clean Air Act,* 75 FR 49557 (August 13, 2010) (''Reconsideration Denial''). In that notice, the EPA thoroughly considered the scientific and technical information relevant to the petitions. In addition to the other information discussed in the present notice, the EPA is also relying on the scientific and technical evidence discussed in that prior notice for purposes of its proposed determination under CAA section 231. See section III of the Reconsideration Denial.

[90] *Coalition for Responsible Regulation, Inc.* v. *Environmental Protection Agency,* 684 F.3d 102 (D.C. Cir. 2012),), reh'g en banc denied, 2012 U.S. App. LEXIS 25997, 26313, 26315 (D.C. Cir. 2012) (*CRR*).

[91] 549 U.S. 497 (2007).

[92] *CRR,* 684 F.3d at 117–27.

[93] *Id.* at 125

[94] *Id.* at 120–121.

[95] *Id.* at 121

represented. Based on these evaluations, the EPA determined the assessments represented the best source material to use in deciding whether GHG emissions may be reasonably anticipated to endanger public health or welfare. . . . It makes no difference that much of the scientific evidence in large part consisted of ''syntheses'' of individual studies and research. Even individual studies and research papers often synthesize past work in an area and then build upon it. This is how science works. The EPA is not required to re-prove the existence of the atom every time it approaches a scientific question.[96]

In addition, the EPA's reliance on the major assessments to inform the Administrator's judgment allowed for full and explicit recognition of scientific uncertainty regarding the endangerment posed by the atmospheric buildup of GHGs. The Administrator considered the fact that ''some aspects of climate change science and the projected impacts are more certain than others.'' [97] The D.C. Circuit subsequently noted that ''the existence of some uncertainty does not, without more, warrant invalidation of an endangerment finding.'' [98]

As noted above the Supreme Court granted some of the petitions for *certiorari* that were filed, while denying others, but agreed to decide only the question: ''Whether EPA permissibly determined that its regulation of greenhouse gas emissions from new motor vehicles triggered permitting requirements under the Clean Air Act for stationary sources that emit greenhouse gases.'' [99] Thus, the Supreme Court did not disturb the D.C. Circuit's holding that affirmed the 2009 Endangerment Finding.

B. Recent Science Further Supports the Administrator's Judgment That the Six Well-Mixed Greenhouse Gases Endanger Public Health and Welfare

Since the closure of the administrative record concerning the 2009 Endangerment Finding (including the denial of petitions for reconsideration), a number of new major, peer-reviewed scientific assessments have been released. The EPA carefully reviewed the updated scientific conclusions in these assessments, largely to evaluate whether they would lead the EPA in this CAA section 231(a)(2)(A) finding to propose a different interpretation of, or place more or less weight on, the major findings reflected in the previous assessment reports that underpinned the Administrator's judgment that the six well-mixed GHGs endanger public health and welfare. From its review, the EPA finds that these new assessments are largely consistent with, and in many cases strengthen and add to, the already compelling and comprehensive scientific evidence detailing the role of the six well-mixed GHGs in driving climate change, detailed in the 2009 Endangerment Finding. Therefore, the new scientific assessments do not provide any reasonable basis on which to propose under CAA section 231(a)(2)(A) a different conclusion than the one the EPA reached in 2009 under CAA section 202(a). Rather, they provide further support for this proposed finding under section 231. In particular, the new assessments discussed in this preamble provide additional detail regarding public health impacts, particularly on groups and people at certain lifestages especially vulnerable to climate change including children, the elderly, low-income communities and individuals, indigenous groups, and communities of color.

The subsections below present brief summaries of the relevant key findings from the new major peer-reviewed scientific assessments, which include the following:

- IPCC's 2013–2014 Fifth Assessment Report (AR5) [100]
- IPCC's 2012 ''Special Report on Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation'' (SREX) [101]
- USGCRP's 2014 ''Climate Change Impacts in the United States: the Third National Climate Assessment'' (NCA3) [102]
- NRC's 2010 ''Ocean Acidification: A National Strategy to Meet the Challenges of a Changing Ocean'' (Ocean Acidification) [103]
- NRC's 2011 ''Climate Change, the Indoor Environment, and Health'' (Indoor Environment) [104]
- NRC's 2011 ''Report on Climate Stabilization Targets: Emissions, Concentrations, and Impacts over Decades to Millennia'' (Climate Stabilization Targets) [105]
- NRC's 2011 ''National Security Implications for U.S. Naval Forces'' (National Security Implications) [106]
- NRC's 2011 ''Understanding Earth's Deep Past: Lessons for Our Climate Future'' (Understanding Earth's Deep Past) [107]
- NRC's 2012 ''Sea Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future'' (Sea Level Rise) [108]
- NRC's 2013 ''Climate and Social Stress: Implications for Security Analysis'' (Climate and Social Stress) [109]

[96] *Id.* at 120.

[97] 74 FR at 66524, December 15, 2009.

[98] *CRR,* 684 F.3d at 121.

[99] *Utility Air Reg. Group* v. *EPA,* 134 S. Ct. 2427, 2438 (2014) (internal marks and citations omitted). *See also Virginia* v. *EPA,* 134 S. Ct. 418 (2013), *Pac. Legal Found.* v. *EPA,* 134 S. Ct. 418 (2013), and *CRR,* 134 S. Ct. 468 (2013) (all denying cert.).

[100] IPCC, 2013: *Climate Change 2013: The Physical Science Basis.* Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, 1535 pp, doi:10.1017/CBO9781107415324; IPCC, 2014: *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects.* Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Field, C.B., V.R. Barros, D.J. Dokken, K.J. Mach, M.D. Mastrandrea, T.E. Bilir, M. Chatterjee, K.L. Ebi, Y.O. Estrada, R.C. Genova, B. Girma, E.S. Kissel, A.N. Levy, S. MacCracken, P.R. Mastrandrea, and L.L. White (eds.)]. Cambridge University Press, 1132 pp; IPCC, 2014: *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part B: Regional Aspects.* Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Barros, V.R., C.B. Field, D.J. Dokken, M.D. Mastrandrea, K.J. Mach, T.E. Bilir, M. Chatterjee, K.L. Ebi, Y.O. Estrada, R.C. Genova, B. Girma, E.S. Kissel, A.N. Levy, S. MacCracken, P.R. Mastrandrea, and L.L. White (eds.)]. Cambridge University Press, 688 pp; and IPCC, 2014: *Climate Change 2014: Mitigation of Climate Change.* Contribution of Working Group III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Edenhofer, O., R. Pichs-Madruga, Y. Sokona, E. Farahani, S. Kadner, K. Seyboth, A. Adler, I. Baum, S. Brunner, P. Eickemeier, B. Kriemann, J. Savolainen, S. Schlömer, C. von Stechow, T. Zwickel and J.C. Minx (eds.)]. Cambridge University Press, 1435 pp.

[101] IPCC, 2012: *Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation.* A Special Report of Working Groups I and II of the Intergovernmental Panel on Climate Change [Field, C.B., V. Barros, T.F. Stocker, D. Qin, D.J. Dokken, K.L. Ebi, M.D. Mastrandrea, K.J. Mach, G.-K. Plattner, S.K. Allen, M. Tignor, and P.M. Midgley (eds.)]. Cambridge University Press, 582 pp.

[102] Melillo, Jerry M., Terese (T.C.) Richmond, and Gary W. Yohe, Eds., 2014: *Climate Change Impacts in the United States: The Third National Climate Assessment.* U.S. Global Change Research Program, 841 pp.

[103] NRC, 2010: *Ocean Acidification: A National Strategy to Meet the Challenges of a Changing Ocean.* The National Academies Press, 188 pp.

[104] NRC Institute of Medicine, 2011: *Climate Change, the Indoor Environment, and Health.* Washington, DC: The National Academies Press, 272 pp.

[105] NRC 2011: *Climate Stabilization Targets: Emissions, Concentrations, and Impacts over Decades to Millennia.* The National Academies Press, 298 pp.

[106] NRC, 2011: *National Security Implications of Climate Change for U.S. Naval Forces.* The National Academies Press, 226 pp.

[107] NRC, 2011: *Understanding Earth's Deep Past: Lessons for Our Climate Future.* The National Academies Press, 212 pp.

[108] NRC, 2012: *Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future.* The National Academies Press, 201 pp.

[109] NRC, 2013: *Climate and Social Stress: Implications for Security Analysis.* The National Academies Press, 280 pp.

• NRC's 2013 ''Abrupt Impacts of Climate Change'' (Abrupt Impacts) [110]
• NRC's 2014 ''The Arctic in the Anthropocene: Emerging Research Questions'' (Arctic) [111].

1. More Recent Evidence That Elevated Atmospheric Concentrations of the Six Greenhouse Gases Are the Root Cause of Observed Climate Change

The EPA has carefully reviewed the recent assessments regarding elevated concentrations of the six well-mixed GHGs in the atmosphere. The EPA finds that the new assessments of the IPCC, USGCRP, and NRC support and strengthen the science underlying the 2009 Endangerment Finding that the six well-mixed GHGs are the root cause of recently observed climate change. Key findings are described briefly here.

According to the IPCC AR5, observations of the Earth's globally averaged combined land and ocean surface temperature over the period 1880 to 2012 show a warming of 0.85 [0.65 to 1.06] degrees Celsius or 1.53 [1.17 to 1.91] degrees Fahrenheit.[112] The IPCC AR5 concludes that the global average net effect of the increase in atmospheric GHG concentrations, plus other human activities (*e.g.,* land use change and aerosol emissions), on the global energy balance since 1750 has been one of warming. This total net heating effect, referred to as ''forcing,'' is estimated to be 2.3 Watts per square meter (W/m2), which has increased from the previous 2007 IPCC Fourth Assessment Report (AR4) total net estimate of 1.6 Watts per square meter (W/m2) that was referred to in the record for the 2009 Endangerment Finding. The reasons for this increase include continued increases in GHG concentrations, as well as reductions in the estimated negative forcing due to aerosols. The IPCC AR5 rates the level of confidence [113] in their radiative forcing estimates as ''high'' for methane and ''very high'' for CO_2 and nitrous oxide.

The new assessments also have greater confidence in attributing recent warming to human causes. The IPCC AR5 stated that it is extremely likely (>95 percent likelihood) that human influences have been the dominant cause of warming since the mid-20th century, which is a stronger statement than the AR4 conclusion that it is very likely (>90 percent likelihood) that most of the increase in temperature since the mid-20th century was due to the increase in GHG concentrations. The AR4 conclusion was referred to in the record for the 2009 Endangerment Finding. In addition, the IPCC AR5 found that concentrations of CO_2 and several other of the major GHGs are higher than they have been in at least 800,000 years. This is an increase from what was reported in IPCC AR4, which found higher concentrations than in at least 650,000 years.

The USGCRP NCA3 states that there is very high confidence [114] that the global climate change of the past 50 years is primarily due to human activities. Human activities are affecting climate through increasing atmospheric levels of heat-trapping gases, through changing levels of various particles that can have either a heating or cooling influence on the atmosphere, and through activities such as land use changes that alter the reflectivity of the Earth's surface and cause climatic warming and cooling effects. The USGCRP concludes that ''considering all known natural and human drivers of climate since 1750, a strong net warming from long-lived greenhouse gases produced by human activities dominates the recent climate record.'' [115]

These recent and strong conclusions attributing recent observed global warming to human influence have been made despite what some have termed a warming slowdown or ''hiatus'' over the past 15 years or so. The IPCC AR5 notes that global mean surface temperature exhibits substantial natural decadal and interannual variability, such that trends based on short records are very sensitive to the beginning and end dates and do not in general reflect long-term climate trends. As an example, the IPCC AR5 notes that the rate of warming over the 15 year period from 1998–2012 was less than that over the period 1951–2012. This short term variability does not alter the long-term climate trend that the IPCC AR5 finds after its review of independently verified observational records: ''Each of the past three decades has been successively warmer at the Earth's surface than all the previous decades in the instrumental record, and the first decade of the 21st century has been the warmest.'' [116] [117]

The NRC Climate Stabilization Targets assessment concludes that CO_2 emissions are currently altering the atmosphere's composition and will continue to alter Earth's climate for thousands of years. The NRC Understanding Earth's Deep Past assessment finds that ''the magnitude and rate of the present greenhouse gas increase place the climate system in what could be one of the most severe increases in radiative forcing of the global climate system in Earth history.'' [118] This assessment finds that if no emissions reductions are made CO_2 concentrations by the end of the century are projected to increase to levels that Earth has not experienced for more than 30 million years.

2. More Recent Evidence That Greenhouse Gases Endanger Public Health

The EPA has carefully reviewed the key conclusions in the recent assessments regarding human-induced climate change risks and impacts on public health. The EPA finds that the new assessments are consistent with or strengthen the underlying science considered in the 2009 Endangerment Finding regarding public health effects from changes in temperature, air quality, extreme weather, and climate-sensitive diseases and aeroallergens. These key findings are described briefly here.

[110] NRC, 2013: *Abrupt Impacts of Climate Change: Anticipating Surprises.* The National Academies Press, 250 pp.

[111] NRC, 2014: *The Arctic in the Anthropocene: Emerging Research Questions.* The National Academies Press, 220 pp.

[112] ''IPCC, 2013: *Summary for Policymakers. In: Climate Change 2013: The Physical Science Basis.* Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, 29 pp.

[113] The IPCC expresses levels of confidence using five qualifiers: very low, low, medium, high, and very high. These levels are based on a qualitative evaluation of the robustness of the evidence (considering the type, amount, quality, and consistency of evidence such as data, mechanistic understanding, theory, models, and expert judgment) and the degree of agreement among the findings.

[114] The NCA expresses levels of confidence using four qualifiers: low, medium, high, and very high. These levels are based on the strength and consistency of the observed evidence; the skill, range, and consistency of model projections; and insights from peer-reviewed sources.

[115] Melillo, Jerry M., Terese (T.C.) Richmond, and Gary W. Yohe, Eds., 2014: *Climate Change Impacts in the United States: The Third National Climate Assessment.* U.S. Global Change Research Program, p. 741

[116] IPCC, 2013: *Climate Change 2013: The Physical Science Basis.* Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, p. 161.

[117] Furthermore, we would note that according to both NOAA and NASA, 2014 was the warmest year in the modern instrumental record for globally averaged surface temperature, and that the ten warmest years, with the exception of 1998, have now occurred since 2000. Available at *http://www.giss.nasa.gov/research/news/20150116/* (last accessed May 12, 2015).

[118] NRC, 2011: *Understanding Earth's Deep Past: Lessons for Our Climate Future.* The National Academies Press, p. 138.

Regarding temperature effects, the conclusions of the assessment literature cited in the 2009 Endangerment Finding were uncertain with respect to the exact balance of how heat- versus cold-related mortality will change in the future, but noted that the available evidence suggested that the increased risk from heat would exceed the decreased risk from cold in a warming climate. The most recent assessments now have greater confidence that increases in heat-related mortality will be larger than the decreases in cold-related mortality. The USGCRP NCA3 concludes that, ''While deaths and injuries related to extreme cold events are projected to decline due to climate change, these reductions are not expected to compensate for the increase in heat-related deaths.'' [119] The IPCC AR5 also notes a potential benefit of climate change could include ''modest reductions in cold-related mortality and morbidity in some areas due to fewer cold extremes (low confidence),'' [120] but that, ''[o]verall, we conclude that the increase in heat-related mortality by mid-century will outweigh gains due to fewer cold periods.'' [121]

Regarding air quality effects, the assessment literature cited in the 2009 Endangerment Finding concluded that climate change is expected to increase regional ozone pollution, with associated risks in respiratory illnesses and premature death, but that the directional effect of climate change on ambient particulate matter levels was less certain. The USGCRP NCA3 similarly concludes that, ''Climate change is projected to harm human health by increasing ground-level ozone and/or particulate matter air pollution in some locations. . . . There is less certainty in the responses of airborne particles to climate change than there is about the response of ozone.'' [122] The IPCC AR5 finds that ozone and particulate matter have been associated with adverse health effects in many locations in North America, and that ozone concentrations could increase under future climate change scenarios if emissions of precursors were held constant. For particulate matter, both the USGCRP NCA3 and IPCC AR5 discuss increasing wildfire risk under climate change, and explain that wildfire smoke exposure can lead to various respiratory and cardiovascular impacts. The NRC Indoor Environment assessment identifies potential adverse health risks associated with climate-change induced alterations in the indoor environment, including possible exposure to air pollutants like ozone via changes in outdoor air quality. Other risks include potential for alterations in indoor allergens due to climate change-related increases in outdoor pollen levels, potential chemical exposures due to greater use of pesticides to address changes in geographic ranges of pest species, and dampness/mold associated symptoms and illness due to potential flooding and water damage in buildings from projected climate change-related increases in storm intensity and extreme precipitation events in some regions of the United States.

Regarding extreme weather events (*e.g.,* storms, heavy precipitation, and, in some regions of the United States, floods and droughts), the conclusions of the assessment literature cited in the 2009 Endangerment Finding found potential for increased deaths, injuries, infectious and waterborne diseases, and stress-related disorders. Similarly, the USGCRP NCA3 discusses elevated waterborne disease outbreaks and the potential for mold contamination and degraded indoor air quality following heavy precipitation. Other impacts include mortality associated with flooding and impacts on mental health, such as anxiety and post-traumatic stress disorder. The IPCC AR5 also discusses death and injury in coastal zones and regions vulnerable to inland flooding. The USGCRP NCA3 and the IPCC AR5 both find that climate change may increase exposure to and health risks associated with drought conditions, which includes impacts from wildfires, dust storms, extreme heat events, flash flooding, degraded water quality, reduced water quantity, and water-related diseases. The IPCC SREX assessment projects further increases in some extreme weather and climate events during this century, and specifically notes that changes in extreme weather events have implications for disaster risk in the health sector.

The effects of climate change on climate-sensitive diseases were also cited in the 2009 Endangerment Finding, including a likely increase in the spread of several food and water-borne pathogens among susceptible populations, and the potential for range expansion of some zoonotic disease carriers such as the Lyme disease-carrying tick. The new assessment literature similarly focuses on increased exposure risk for some diseases under climate change, finding that increasing temperatures may expand or shift the ranges of some disease vectors like mosquitoes, ticks, and rodents. The IPCC AR5 notes that climate change may influence the ''growth, survival, persistence, transmission, or virulence of pathogens'' [123] that cause food and water-borne disease. The USGCRP NCA3 notes that uncertainty remains regarding future projections of increased human burden of vector-borne disease, given complex interacting factors such as ''local, small-scale differences in weather, human modification of the landscape, the diversity of animal hosts, and human behavior that affects vector-human contact, among other factors.'' [124]

Regarding aeroallergens, the assessment literature cited in the 2009 Endangerment Finding found potential for climate change to affect the prevalence and severity of allergy symptoms, but that definitive data or conclusions were lacking on how climate change might impact aeroallergens in the United States. The most recent assessments now express greater confidence that climate change will influence production of pollen, which in turn could affect the incidence of asthma and other allergic respiratory illnesses such as allergic rhinitis, as well as effects on conjunctivitis and dermatitis. Both the USGCRP NCA3 and the IPCC AR5 found that increasing temperature has lengthened the allergenic pollen season for ragweed, and that increased CO_2 by itself can elevate production of plant-based allergens. The IPCC AR5 concludes that in North America, ''warming will lead

[119] Melillo, Jerry M., Terese (T.C.) Richmond, and Gary W. Yohe, Eds., 2014: *Climate Change Impacts in the United States: The Third National Climate Assessment.* U.S. Global Change Research Program, p. 224.

[120] IPCC, 2014: *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects.* Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Field, C.B., V.R. Barros, D.J. Dokken, K.J. Mach, M.D. Mastrandrea, T.E. Bilir, M. Chatterjee, K.L. Ebi, Y.O. Estrada, R.C. Genova, B. Girma, E.S. Kissel, A.N. Levy, S. MacCracken, P.R. Mastrandrea, and L.L. White (eds.)]. Cambridge University Press, p. 713.

[121] Ibid. at p. 721.

[122] Melillo, Jerry M., Terese (T.C.) Richmond, and Gary W. Yohe, Eds., 2014: *Climate Change Impacts in the United States: The Third National Climate Assessment.* U.S. Global Change Research Program, p. 222.

[123] IPCC, 2014: *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects.* Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Field, C.B., V.R. Barros, D.J. Dokken, K.J. Mach, M.D. Mastrandrea, T.E. Bilir, M. Chatterjee, K.L. Ebi, Y.O. Estrada, R.C. Genova, B. Girma, E.S. Kissel, A.N. Levy, S. MacCracken, P.R. Mastrandrea, and L.L. White (eds.)]. Cambridge University Press, p. 726.

[124] Melillo, Jerry M., Terese (T.C.) Richmond, and Gary W. Yohe, Eds., 2014: *Climate Change Impacts in the United States: The Third National Climate Assessment.* U.S. Global Change Research Program, p. 225.

to further changes in the seasonal timing of pollen release (high confidence).'' [125]

The assessment literature cited in the 2009 Endangerment Finding concluded that certain populations, including children, the elderly, and the poor, are most vulnerable to climate-related health effects. The 2009 Endangerment Finding also described climate change impacts facing indigenous peoples in the United States, particularly Alaska Natives. The new assessment literature strengthens these conclusions by providing more detailed findings regarding these populations' vulnerabilities and the projected impacts they may experience. In addition, the most recent assessment reports provide new analysis about how some populations defined jointly by ethnic/racial characteristics and geographic location may be vulnerable to certain climate change health impacts. The following paragraphs summarize information from the most recent assessment reports on these vulnerable populations.

The USGCRP NCA3 finds that, ''Climate change will, absent other changes, amplify some of the existing health threats the nation now faces. Certain people and communities are especially vulnerable, including children, the elderly, the sick, the poor, and some communities of color.'' [126] Limited resources make low-income populations more vulnerable to ongoing climate-related threats, less able to adapt to anticipated changes, and less able to recover from climate change impacts. Low-income populations also face higher prevalence of chronic health conditions than higher income groups, which increases their vulnerability to the health effects of climate change.

According to the USGCRP NCA3 and IPCC AR5, some populations defined jointly by ethnic/racial characteristics and geographic location are more vulnerable to certain health effects of climate change due to factors such as existing health disparities (*e.g.,* higher prevalence of chronic health conditions), increased exposure to health stresses, and social factors that affect local resilience and ability to recover from impacts.

The USGCRP NCA3 also finds that climate change, in addition to chronic stresses such as extreme poverty, is affecting indigenous peoples' health in the United States through impacts such as reduced access to traditional foods, decreased water quality, and increasing exposure to health and safety hazards. The IPCC AR5 finds that climate change-induced warming in the Arctic and resultant changes in environment (*e.g.,* permafrost thaw, effects on traditional food sources) have significant observed and projected impacts on the health and well-being of Arctic residents, especially indigenous peoples. Small, remote, predominantly-indigenous communities are especially vulnerable given their ''strong dependence on the environment for food, culture, and way of life; their political and economic marginalization; existing social, health, and poverty disparities; as well as their frequent close proximity to exposed locations along ocean, lake, or river shorelines.'' [127] In addition, increasing temperatures and loss of Arctic sea ice increases the risk of drowning for those engaged in traditional hunting and fishing.

The USGCRP NCA3 concludes that children will suffer disproportionately from climate change given the unique physiological and developmental factors that occur during this lifestage. Impacts on children are expected from heat waves, air pollution, infectious and waterborne illnesses, and mental health effects resulting from extreme weather events. The IPCC AR5 indicates that children are among those especially susceptible to most allergic diseases, as well as health effects associated with heat waves, storms, and floods.

Both the USGCRP and IPCC conclude that climate change will increase health risks facing the elderly. Older people are at much higher risk of mortality during extreme heat events. Pre-existing health conditions also make older adults susceptible to cardiac and respiratory impacts of air pollution and to more severe consequences from infectious and waterborne diseases. Limited mobility among older adults can also increase health risks associated with extreme weather and floods.

3. More Recent Evidence That Greenhouse Gases Endanger Public Welfare

The EPA has carefully reviewed the recent scientific conclusions in the assessments regarding human-induced climate change impacts on public welfare.[128] The EPA finds that they are largely consistent with or strengthen the underlying science supporting the 2009 Endangerment Finding regarding public welfare effects on food production and agriculture; forestry; water resources; sea level rise and coastal areas; energy, infrastructure, and settlements; ecosystems and wildlife; and impacts on the U.S. population from climate change effects occurring outside of the United States. These key findings are described briefly here.

Regarding agriculture, the assessment literature cited in the 2009 Endangerment Finding found potential for increased CO_2 levels to benefit yields of certain crops in the short-term, but with considerable uncertainty. The body of evidence pointed towards increasing risk of net adverse impacts on U.S. food production and agriculture over time, with the potential for significant disruptions and crop failure in the future. The most recent assessments now have greater confidence that climate change will negatively affect U.S. agriculture over this century. Specifically, the USGCRP NCA3 concludes, ''While some U.S. regions and some types of agricultural production will be relatively resilient to climate change over the next 25 years or so, others will increasingly suffer from stresses due to extreme heat, drought, disease, and heavy downpours. From mid-century on, climate change is projected to have more negative impacts on crops and livestock across the country.'' [129] The IPCC AR5 concludes, ''Overall yields of major crops in North America are projected to decline

[125] IPCC, 2014: *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part B: Regional Aspects.* Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Barros, V.R., C.B. Field, D.J. Dokken, M.D. Mastrandrea, K.J. Mach, T.E. Bilir, M. Chatterjee, K.L. Ebi, Y.O. Estrada, R.C. Genova, B. Girma, E.S. Kissel, A.N. Levy, S. MacCracken, P.R. Mastrandrea, and L.L. White (eds.)]. Cambridge University Press, Cambridge, p. 1465–1466.

[126] Melillo, Jerry M., Terese (T.C.) Richmond, and Gary W. Yohe, Eds., 2014: *Climate Change Impacts in the United States: The Third National Climate Assessment.* U.S. Global Change Research Program, p. 221.

[127] IPCC, 2014: *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part B: Regional Aspects.* Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Barros, V.R., C.B. Field, D.J. Dokken, M.D. Mastrandrea, K.J. Mach, T.E. Bilir, M. Chatterjee, K.L. Ebi, Y.O. Estrada, R.C. Genova, B. Girma, E.S. Kissel, A.N. Levy, S. MacCracken, P.R. Mastrandrea, and L.L. White (eds.)]. Cambridge University Press, Cambridge, p. 1581.

[128] The CAA states that ''[a]ll language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants.'' CAA section 302(h). This language is quite broad. Importantly, it is not an exclusive list due to the use of the term ''includes, but is not limited to, ...'' Effects other than those listed here may also be considered effects on welfare.

[129] Melillo, Jerry M., Terese (T.C.) Richmond, and Gary W. Yohe, Eds., 2014: *Climate Change Impacts in the United States: The Third National Climate Assessment.* U.S. Global Change Research Program, p. 16.

modestly by mid-century and more steeply by 2100 among studies that do not consider adaptation (very high confidence).'' [130] The IPCC AR5 notes that in the absence of extreme events, climate change may benefit certain regions and crops, but that in North America significant harvest losses have been observed due to recent extreme weather events. In addition, the IPCC SREX assessment specifically notes that projected changes in extreme weather events will increase disaster risk in the agriculture sector.

Regarding forestry, the assessment literature cited in the 2009 Endangerment Finding found that near term benefits to forest growth and productivity in certain parts of the country from elevated CO_2 concentrations and temperature increases to date are offset by longer term risks from wildfires and the spread of destructive pests and disease that present serious adverse risks for forest productivity. The most recent assessments provide further support for this conclusion. Both the USGCRP NCA3 and the IPCC AR5 conclude that climate change is increasing risks to forest health from fire, tree disease and insect infestations, and drought. The IPCC AR5 also notes risks to forested ecosystems associated with changes in temperature, precipitation amount, and CO_2 concentrations, which can affect species and ecological communities, leading to ecosystem disruption, reorganization, movement or loss. The NRC Arctic assessment states that climate change is likely to have a large negative impact on forested ecosystems in the high northern latitudes due to the effects of permafrost thaw and greater wildfire frequency, extent, and severity. The NRC Climate Stabilization Targets assessment found that for an increase in global average temperature of 1 to 2°C above pre-industrial levels, the area burnt by wildfires in western North America will likely more than double.

Regarding water resources, the assessment literature cited in the 2009 Endangerment Finding concluded that increasing temperatures and increased variability in precipitation associated with climate change will impact water quality and quantity through changes in snowpack, increased risk of floods, drought, and other concerns such as water pollution. Similarly, the new assessments further support projections of water resource impacts associated with increased floods and short-term drought in most U.S. regions. The USGCRP NCA3 also finds that, ''[c]limate change is expected to affect water demand, groundwater withdrawals, and aquifer recharge, reducing groundwater availability in some areas.'' [131] The IPCC AR5 finds that in part of the western United States, ''water supplies are projected to be further stressed by climate change, resulting in less water availability and increased drought conditions.'' [132] The IPCC AR5 also projects that climate change will degrade surface water quality, including the Great Lakes, and will negatively affect drinking water treatment/distribution and sewage collection systems.

The assessment literature cited in the 2009 Endangerment Finding found that the most serious potential adverse effects to coastal areas are the increased risk of storm surge and flooding in coastal areas from sea level rise and more intense storms. Coastal areas also face other adverse impacts from sea level rise such as land loss due to inundation, erosion, wetland submergence, and habitat loss. The most recent assessments provide further evidence in line with the science supporting the 2009 Endangerment Finding. The USGCRP NCA3 finds that, ''Sea level rise, combined with coastal storms, has increased the risk of erosion, storm surge damage, and flooding for coastal communities, especially along the Gulf Coast, the Atlantic seaboard, and in Alaska.'' [133]

The IPCC AR5, the USGCRP NCA3, and three of the new NRC assessments provide estimates of projected global sea level rise. These estimates, while not always directly comparable as they assume different emissions scenarios and baselines, are at least 40 percent larger than, and in some cases more than twice as large as, the projected rise estimated in the IPCC AR4 assessment, which was referred to in the 2009 Endangerment Finding.[134] The NRC Sea Level Rise assessment projects a global sea level rise of 0.5 to 1.4 meters by 2100, which is sufficient to lead to a relative rise in sea level even around the northern coasts of Washington State, where the land is still rebounding from the disappearance of the great ice sheets. The NRC National Security Implications assessment suggests that ''the Department of the Navy should expect roughly 0.4 to 2 meters global average sea-level rise by 2100.'' [135] The NRC Climate Stabilization Targets assessment states that an increase of 3°C will lead to a sea level rise of 0.5 to 1 meter by 2100. While these NRC and IPCC assessments continue to recognize and characterize the uncertainty inherent in accounting for ice sheet processes, these revised estimates are consistent with the assessments underlying the 2009 Endangerment Finding.

Regarding climate impacts on energy, infrastructure, and settlements, the 2009 Endangerment Finding cited the assessment literature's findings that temperature increases will change heating and cooling demand; that declining water quantity may adversely impact the availability of cooling water and hydropower in the energy sector; and that changes in extreme weather events will threaten energy, transportation, water, and other key societal infrastructure, particularly on the coast. The most recent assessments provide further evidence in line with the science supporting the 2009 Endangerment Finding. For example, the USGCRP NCA3 finds that, ''Coastal infrastructure, including roads, rail lines, energy infrastructure, airports, port facilities, and military bases, are increasingly at risk from sea level rise and damaging storm surges.'' [136] The NRC Arctic assessment identifies threats to human infrastructure in the Arctic from increased flooding, erosion, and shoreline ice pile-up, or *ivu,* associated

[130] IPCC, 2014: *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part B: Regional Aspects.* Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Barros, V.R., C.B. Field, D.J. Dokken, M.D. Mastrandrea, K.J. Mach, T.E. Bilir, M. Chatterjee, K.L. Ebi, Y.O. Estrada, R.C. Genova, B. Girma, E.S. Kissel, A.N. Levy, S. MacCracken, P.R. Mastrandrea, and L.L. White (eds.)]. Cambridge University Press, Cambridge, p. 1462.

[131] Melillo, Jerry M., Terese (T.C.) Richmond, and Gary W. Yohe, Eds., 2014: *Climate Change Impacts in the United States: The Third National Climate Assessment.* U.S. Global Change Research Program, p. 70.

[132] IPCC, 2014: *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part B: Regional Aspects.* Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Barros, V.R., C.B. Field, D.J. Dokken, M.D. Mastrandrea, K.J. Mach, T.E. Bilir, M. Chatterjee, K.L. Ebi, Y.O. Estrada, R.C. Genova, B. Girma, E.S. Kissel, A.N. Levy, S. MacCracken, P.R. Mastrandrea, and L.L. White (eds.)]. Cambridge University Press, Cambridge, p. 1456–1457.

[133] Melillo, Jerry M., Terese (T.C.) Richmond, and Gary W. Yohe, Eds., 2014: *Climate Change Impacts in the United States: The Third National Climate Assessment.* U.S. Global Change Research Program, p. 9.

[134] The 2007 IPCC AR4 assessment cited in 2009 Endangerment Finding estimated a projected sea level rise of between 0.18 and 0.59 meters by the end of the century, relative to 1990. It should be noted that in 2007, the IPCC stated that including poorly understood ice sheet processes could lead to an increase in the projections.

[135] NRC, 2011: *National Security Implications of Climate Change for U.S. Naval Forces.* The National Academies Press, p. 28.

[136] Melillo, Jerry M., Terese (T.C.) Richmond, and Gary W. Yohe, Eds., 2014: *Climate Change Impacts in the United States: The Third National Climate Assessment.* U.S. Global Change Research Program, p. 9.

with summer sea ice loss and the increasing frequency and severity of storms.

Regarding ecosystems and wildlife, the assessment literature cited in the 2009 Endangerment Finding found that climate change will predominantly adversely impact both terrestrial and marine biodiversity and the ability of these ecosystems to provide goods and services. The NRC Arctic assessment states that major marine and terrestrial biomes will likely shift pole ward, with significant implications for changing species composition, food web structures, and ecosystem function. The NRC Climate Stabilization Targets assessment found that coral bleaching will increase due both to warming and ocean acidification. The NRC Understanding Earth's Deep Past assessment notes four of the five major coral reef crises of the past 500 million years were caused by acidification and warming that followed GHG increases of similar magnitude to the emissions increases expected over the next hundred years. Similarly, the NRC Ocean Acidification assessment finds that ''[t]he chemistry of the ocean is changing at an unprecedented rate and magnitude due to anthropogenic CO_2 emissions; the rate of change exceeds any known to have occurred for at least the past hundreds of thousands of years.'' [137] The assessment notes that the full range of consequences is still unknown, but the risks ''threaten coral reefs, fisheries, protected species, and other natural resources of value to society.'' [138] The IPCC AR5 also projects biodiversity losses in marine ecosystems, especially in the Arctic and tropics.

In general, climate change impacts related to public welfare are expected to be unevenly distributed across different regions of the United States and have a greater impact on certain populations, such as indigenous peoples and the poor. The USGCRP NCA3 finds climate change impacts such as the rapid pace of temperature rise, coastal erosion and inundation related to sea level rise and storms, ice and snow melt, and permafrost thaw are affecting indigenous people in the United States. Particularly in Alaska, critical infrastructure and traditional livelihoods are threatened by climate change and, ''[i]n parts of Alaska, Louisiana, the Pacific Islands, and other coastal locations, climate change impacts (through erosion and inundation) are so severe that some communities are already relocating from historical homelands to which their traditions and cultural identities are tied.'' [139] The IPCC AR5 notes, ''Climate-related hazards exacerbate other stressors, often with negative outcomes for livelihoods, especially for people living in poverty (high confidence). Climate-related hazards affect poor people's lives directly through impacts on livelihoods, reductions in crop yields, or destruction of homes and indirectly through, for example, increased food prices and food insecurity.'' [140]

In the 2009 Endangerment Finding, the Administrator considered impacts on the U.S. population from climate change effects occurring outside of the United States, such as national security concerns that may arise as a result of climate change impacts in other regions of the world. The most recent assessments provide further evidence in line with the science supporting the 2009 Endangerment Finding. The NRC Climate and Social Stress assessment found that it would be ''prudent for security analysts to expect climate surprises in the coming decade . . . and for them to become progressively more serious and more frequent thereafter.'' [141] The NRC National Security Implications assessment recommends preparing for increased needs for humanitarian aid; responding to the effects of climate change in geopolitical hotspots, including possible mass migrations; and addressing changing security needs in the Arctic as sea ice retreats.

In addition, the NRC Abrupt Impacts report examines the potential for tipping points, thresholds beyond which major and rapid changes occur in the Earth's climate system, as well as in natural and human systems that are impacted by the changing climate. The Abrupt Impacts report did find less cause for concern than some previous assessments regarding some abrupt events within the next century such as disruption of the oceanic Atlantic Meridional Overturning Circulation (AMOC) and sudden releases of high-latitude methane from hydrates and permafrost. But, the same report found that the potential for abrupt changes in ecosystems, weather and climate extremes, and groundwater supplies critical for agriculture now seem more likely, severe, and imminent. The assessment found that some abrupt changes were already underway (*e.g.,* Arctic sea ice retreat and increases in extinction risk due to the speed of climate change), and cautioned that even abrupt changes such as the AMOC disruption that are not expected in this century can have severe impacts if/when they happen.

4. Consideration of Other Climate Forcers

Both in the 2009 Endangerment Finding and in this action, the Administrator recognizes that there are other substances in addition to the six well-mixed GHGs that are emitted from human activities and affect Earth's climate (referred to as climate forcers). These can be grouped into two categories: (1) other substances with similar physical properties to the six well-mixed GHGs—these include the ozone-depleting substances of chlorofluorocarbons, hydrochlorofluorocarbons, and halons, as well as nitrogen trifluoride and similar recently identified substances; and (2) short-lived substances—tropospheric ozone and its precursor gases, water vapor, and aerosol particles and precursors. For some short-lived substances—namely, water vapor; NO_X; and aerosol particles including black carbon—their physical properties result in these substances having different, and often larger, climate effects when emitted at high altitudes. However, the very properties that lead to differential climate effects depending on the altitude of emission—properties that are different from those of the six well-mixed, long-lived GHGs—lead to more uncertainty in the scientific understanding of these short-lived substances' total effect on Earth's climate. More detail is provided below.

As described in section III.B of the 2009 Endangerment Finding and in section IV.A.1 of this preamble, the primary reasons for defining the air pollution as the aggregate group of the six well-mixed GHGs include their common physical properties relevant to climate change (*i.e.,* long-lived, well-mixed, directly emitted), the fact that these gases are considered the primary drivers of climate change, and the fact that these gases remain the best

[137] NRC, 2010: *Ocean Acidification: A National Strategy to Meet the Challenges of a Changing Ocean.* The National Academies Press, p. 5.

[138] Ibid.

[139] Melillo, Jerry M., Terese (T.C.) Richmond, and Gary W. Yohe, Eds., 2014: *Climate Change Impacts in the United States: The Third National Climate Assessment.* U.S. Global Change Research Program, p. 17.

[140] IPCC, 2014: *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects.* Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Field, C.B., V.R. Barros, D.J. Dokken, K.J. Mach, M.D. Mastrandrea, T.E. Bilir, M. Chatterjee, K.L. Ebi, Y.O. Estrada, R.C. Genova, B. Girma, E.S. Kissel, A.N. Levy, S. MacCracken, P.R. Mastrandrea, and L.L. White (eds.)]. Cambridge University Press, p. 796.

[141] NRC, 2013: *Climate and Social Stress: Implications for Security Analysis.* The National Academies Press, p. 18.

understood drivers of anthropogenic climate change. The common physical properties of the six well-mixed GHGs not only support grouping them together as a class, but also contribute to their higher degree of scientific understanding related to climate change, relative to short-lived substances that are not well-mixed, or substances that are formed indirectly rather than being directly emitted. After considering additional information in the new assessments regarding the climate-relevant substances outside the basket of the six well-mixed GHGs, it is the Administrator's view that the reasons originally stated for not including these substances in the scope of the GHG air pollution still apply at this time. For example, nitrogen triflouride and some other recently discovered substances are not as well studied or understood as the six well-mixed GHGs. Similarly, for tropospheric ozone—a short-lived gas in the atmosphere that is not directly emitted (it forms from emissions of various precursor gases)—the understanding and quantification of the link between precursor emissions and climate change is not as strong as for the six well-mixed GHGs.

Regarding the short-lived substances with different climate effects when emitted at high altitudes, the Aircraft Petition (see section II of this preamble) mentions the effects of water vapor and NO_X on clouds and atmospheric chemistry. The major peer-reviewed scientific assessments of the IPCC and NRC provide the current state of scientific understanding of these effects; the USGCRP assessments have not dealt specifically with emissions at high altitude. The EPA considered the following assessment reports to obtain the best estimates of these substances' net impact on the climate system, which is generally discussed in terms of radiative forcing: the IPCC AR5, the IPCC 2007 Fourth Assessment Report (AR4),[142] the IPCC Special Report: Aviation and the Global Atmosphere (IPCC 1999),[143] the NRC's Advancing the Science of Climate Change (NRC 2010),[144] and the NRC's Atmospheric Effects of Aviation: A Review of NASA's Subsonic Assessment Project (NRC 1999).[145] In addition to high altitude water vapor and NO_X, the literature indicates that aerosol particles, including black carbon, emitted at high altitudes have more interactions with clouds and therefore have different effects on the global energy balance than do particles emitted at the surface.

The state of the science as represented in the assessment literature highlights significant scientific uncertainties regarding the total net forcing effect of water vapor, NO_X, and aerosol particles when emitted at high altitudes. Given these uncertainties, the Agency is not including them in the proposed definition of air pollution for purposes of the endangerment finding under section 231 of the CAA. The short-lived nature of these substances means that, unlike the long-lived GHGs, the climatic impact of the substance is dependent on a number of factors such as the location and time of its emission. The magnitude, and often the direction (positive/warming or negative/cooling), of the globally averaged climate impact will differ depending on the location of the emission due to the local atmospheric conditions (*e.g.,* due to differing concentrations of other compounds with which the emissions can react, background humidity levels, or the presence or absence of clouds). In addition, for emissions at any given location, the spatial and temporal pattern of the climate forcing will be heterogeneous, again often differing in direction (for example, in the case of NO_X emissions, the near term effect in the hemisphere in which the emissions occur is usually warming due to increased ozone concentrations, but the longer term effects, and effects in the other hemisphere, are often cooling due to increased destruction of methane). As the climatic effects of these substances when emitted at high altitudes were not addressed at length in the 2009 Endangerment Finding, the following subsections briefly summarize the findings of the major scientific assessments regarding these substances' climatic effects at altitude and the various sources of uncertainty surrounding these estimates.

a. Changes in Clouds From High Altitude Emissions of Water Vapor and Particles

Aviation-induced cloudiness (sometimes called AIC) refers to all changes in cloudiness associated with aviation operations, which are primarily due to the effects of high altitude emissions of water vapor and particles (primarily sulfates and black carbon). Changes in cloudiness affect the climate by both reflecting solar radiation (cooling) and trapping outgoing longwave radiation (warming). Unlike the warming effects associated with the six long-lived, well-mixed GHGs, the warming effects associated with changes in cloud cover are more regional and temporal in nature. The three key components of aviation-induced cloudiness are persistent contrails, contrail-induced cirrus, and induced cirrus.

Aircraft engine emissions of water vapor at high altitudes during flight can lead to the formation of condensation trails, or contrails, under certain conditions such as ice-supersaturated air masses with specific humidity levels and temperature. The NRC estimates that persistent contrails increased cloudiness above the United States by two percent between 1950 and 1988, with similar results reported over Europe.[146] As stated above, clouds can have both warming and cooling effects, and persistent contrails were once considered to have significant net warming effects. However, more recent estimates suggest a smaller overall climate forcing effect of persistent contrails. The IPCC AR5 best estimate for the global mean radiative forcing from contrails is 0.01 W/m^2 (medium confidence and with an uncertainty range of 0.005 to 0.03 W/m^2).[147] To put this number into context, some examples of other IPCC AR5 best estimates for global mean radiative forcing include: 1.68 W/m^2 for CO_2 (very high confidence and with an uncertainty range of 1.33 to 2.03 W/m^2), 0.97 W/m^2 for methane (high confidence and with an uncertainty range of 0.74 to 1.20 W/m^2), and 0.17 W/m^2 for nitrous oxide (very high confidence and with an uncertainty

[142] IPCC, 2007: *Climate Change 2007: The Physical Scientific Basis.* Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor and H.L. Miller (eds.)] Cambridge University Press, 996 pp.

[143] IPCC, 1999: *Aviation and the Global Atmosphere,* Special Report to the Intergovernmental Panel on Climate Change [Penner, J.E., D.H. Lister, D.J. Griggs, D.J. Dokken, M. McFarland (eds.)] Cambridge University Press, 373 pp.

[144] NRC, 2010: *Advancing the Science of Climate Change.* The National Academies Press, 528 pp.

[145] NRC, 1999: *Atmospheric Effects of Aviation: A Review of NASA's Subsonic Assessment Project.* The National Academies Press, 54 pp.

[146] NRC, 1999: *Atmospheric Effects of Aviation: A Review of NASA's Subsonic Assessment Project.* The National Academies Press, 54 pp.

[147] IPCC, 2013: *Climate Change 2013: The Physical Science Basis.* Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, 1535 pp.

range of .013 to 0.21 W/m^2).[148] In addition, the NRC (2010) assessment suggested that contrails may affect regional diurnal temperature differences, but this has been called into question by the recent findings presented in the IPCC AR5, which suggests that aviation contrails do not have an effect on mean or diurnal range of surface temperatures (medium confidence).

Persistent contrails also sometimes lose their linear form and develop into cirrus clouds, an effect referred to as contrail-induced cirrus. Studies to date have been unable to isolate this climate forcing effect, but the IPCC AR5 provides a combined contrail and contrail-induced cirrus best estimate of 0.05 W/m^2 (low confidence and with an uncertainty range of 0.02 and 0.15 W/m^2).[149]

Particles emitted or formed in the atmosphere as a result of aircraft emissions may also act as ice nuclei and modify naturally forming cirrus clouds, an effect referred to as ''induced cirrus.'' The two primary aviation-induced particles are sulfates and black carbon, and their effects on cirrus cloud modification is an area of active research. There are significant challenges in estimating the climatic impacts of induced cirrus; for example, the 2007 IPCC AR4 characterizes our knowledge of the natural freezing modes in cirrus conditions as ''poor,'' and notes that cirrus cloud processes are not well represented in global models.[150] Neither IPCC AR4 nor AR5 provided global or regional estimates related to this forcing.

Given differences in scientific understanding of the three components of aviation-induced cloudiness, the more recent assessments have not provided estimates of the net climate forcing effect of changes in clouds from high altitude emissions of water vapor and particles. Going back to the 1999 IPCC assessment, the science is characterized as ''very uncertain'' with a range for the best estimate between 0 to 0.040 W/m^2.[151]

b. Direct Radiative Forcing Effects of High Altitude Particle Emissions

The 2009 Endangerment Finding noted that much of the uncertainty range surrounding the estimate of total net forcing due to all human activities was due to uncertainties about the cooling and warming effects of aerosols[152] (though from all sources, not just aircraft). The Finding noted that the magnitude of aerosol effects can vary immensely with location and season of emissions, and also discussed black carbon as a specific type of aerosol particle, noting that estimates of its total climate forcing effect have a large uncertainty range.[153] Here, we discuss the direct radiative forcing effects of high altitude emissions of the two primary aviation-induced particles, sulfates and black carbon.

Aircraft emit precursor gases that convert to sulfate particles in the atmosphere, such as sulfur dioxide. Sulfate particles have direct effects on the climate by scattering solar radiation, which results in cooling. The more recent assessments have not quantified this effect from aviation. Going back to the 1999 IPCC assessment, the direct effect of sulfate aerosols from aviation for the year 1992 is estimated at −0.003 W/m^2 with an uncertainty range between −0.001 and −0.009 W/m^2.[154]

Black carbon emissions from aviation, which are produced by the incomplete combustion of jet fuel, primarily absorb solar radiation and heat the surrounding air, resulting in a warming effect. The more recent assessments have not quantified this effect from aviation. The 1999 IPCC assessment estimates the global mean radiative forcing of black carbon emissions to be 0.003 W/m^2 with uncertainty spanning 0.001 to 0.009 W/m^2.[155] The IPCC 1999 assessment suggests that because the contribution of black carbon in the stratosphere (which actually contribute to cooling of the surface rather than warming) was not included in its calculations, its estimates of radiative forcing were likely to be too high.

c. Changes in Atmospheric Chemistry From High Altitude Nitrogen Oxides Emissions

Emissions of NO_X do not themselves have warming or cooling effects, but affect the climate through catalyzing changes in the chemical equilibrium of the atmosphere. High altitude emissions of NO_X increase the concentration of ozone, which has a warming effect in the short term. Elevated NOx concentrations also lead to an increased rate of destruction of methane, which has a cooling effect in the long-term. The reduced methane concentrations eventually contribute to decreases in ozone, which also decreases the long-term net warming effect. Thus, the net radiative impact of NO_X emissions depends on the balance between the reductions in methane versus the production of ozone, which in turn depends on the time scale under consideration. Quantifying these impacts is an area of active study with large uncertainties. The quantification of the net global effect of NO_X is difficult because the atmospheric chemistry effects are heavily dependent on highly localized atmospheric properties and mixing ratios. Because the background atmospheric concentration of NO_X is important for quantifying the impact of aviation NO_X emissions on ozone and methane concentrations, the location of aircraft emissions would be an important additional factor. In addition, NO_X has different residence times in the atmosphere depending on the altitude at which it is emitted. The residence time of NO_X in the upper troposphere, or roughly the cruise altitude for jet aircraft, is on the order of several days. Going back to the IPCC 1999 assessment, the globally averaged radiative forcing estimates for aircraft emissions of NO_X in 1992 were 0.023 W/m^2 for O_3-induced changes (uncertainty range of 0.011 to 0.046 W/m^2), and −0.014 W/m^2 for methane-induced changes (uncertainty range of −0.005 to −0.042 W/m^2).[156]

The IPCC AR5 presents the impact of aviation NO_X emissions using a different metric, global warming potential (GWP), which is a measure of the warming impact of a pulse of

[148] IPCC, 2013: *Summary for Policymakers. In: Climate Change 2013: The Physical Science Basis.* Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, 29 pp.

[149] IPCC, 2013: *Climate Change 2013: The Physical Science Basis.* Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)].Cambridge University Press, 1535 pp.

[150] IPCC, 2007: *Climate Change 2007: The Physical Scientific Basis.* Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor and H.L. Miller (eds.)] Cambridge University Press, 996 pp.

[151] IPCC, 1999: *Aviation and the Global Atmosphere,* Special Report to the Intergovernmental Panel on Climate Change [Penner, J.E., D.H. Lister, D.J. Griggs, D.J. Dokken, M. McFarland (eds.)] Cambridge University Press, 373 pp.

[152] 74 FR at 66517, December 15, 2009.

[153] 74 FR at 66520, December 15, 2009.

[154] IPCC, 1999: *Aviation and the Global Atmosphere,* Special Report to the Intergovernmental Panel on Climate Change [Penner, J.E., D.H. Lister, D.J. Griggs, D.J. Dokken, M. McFarland (eds.)] Cambridge University Press, 373 pp.

[155] Ibid.

[156] IPCC, 1999: *Aviation and the Global Atmosphere,* Special Report to the Intergovernmental Panel on Climate Change [Penner, J.E., D.H. Lister, D.J. Griggs, D.J. Dokken, M. McFarland (eds.)] Cambridge University Press, 373 pp.

emissions of a given substance over 100 years relative to the same mass of CO_2. The AR5 presents a range from −21 to +75 for GWP of aviation NO_X.[157] The uncertainty in sign indicates uncertainty whether the net effect is one of warming or cooling. This report further suggests that at cruise altitude there is strong regional sensitivity of ozone and methane to NO_X, particularly notable at low latitudes.

The Administrator notes that NO_X emissions are already regulated under the EPA's rules implementing CAA section 231, at 40 CFR part 87. The prerequisite endangerment and cause or contribute findings that formed the basis for these standards, however, did not rely upon any conclusions regarding the climate forcing impacts of NO_X, but rather the role of NO_X emissions as a precursor to ozone formation in areas that did not meet the National Ambient Air Quality Standard (NAAQS) for ozone.[158] The continuing significant uncertainties regarding NO_X as a climate forcer do not undermine the Agency's prior conclusion under CAA section 231 that emissions of NO_X from aircraft engines cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare due to their contribution to ozone concentrations that exceed the NAAQS.

d. Summary

Overall, the state of the science as represented in the assessment literature highlights significant scientific uncertainties regarding the total net forcing effect of water vapor, NO_X, and aerosol particles, when emitted at high altitudes. The dependence of the effects on where the substance is emitted, and the complex temporal and spatial patterns that result, mean that the current level of understanding regarding these short-lived substances is much lower than for the six long-lived, well-mixed GHGs. Given the aforementioned scientific uncertainties at present, the Agency is not including these constituents in the proposed definition of air pollution for purposes of the endangerment finding under section 231 of the CAA.

C. Summary of the Administrator's Proposed Endangerment Finding Under CAA Section 231

In sum, the Administrator proposes to find, for purposes of CAA section 231(a)(2)(A), that elevated atmospheric concentrations of the six well-mixed GHGs constitute air pollution that endangers both the public health and the public welfare of current and future generations. In this proposed action under CAA section 231(a)(2)(A), the EPA relies primarily on the extensive scientific and technical evidence in the record supporting the 2009 Endangerment Finding, including the major, peer-reviewed scientific assessments used to address the question of whether GHGs in the atmosphere endanger public health and welfare, and on the analytical framework and conclusions upon which the EPA relied in making that finding. This proposed finding under section 231 accounts for the EPA's careful consideration not only of the scientific and technical record for the 2009 Endangerment Finding, but also of new, major scientific assessments issued since closing the administrative record for the 2009 Endangerment Finding. No recent information or analyses published since late 2009 suggest that it would be reasonable for the EPA to now reach a different or contrary conclusion for purposes of CAA section 231(a)(2)(A) than the Agency reached for purposes of section 202(a). In proposing this finding for purposes of section 231, we are not reopening or revisiting our 2009 Endangerment Finding. To the contrary, in light of the recent judicial decisions upholding those findings, the EPA believes the 2009 Endangerment Finding is firmly established and well settled.[159] Moreover, there is no need for the EPA to reopen or revisit that finding for purposes of making an additional finding under section 231 of the CAA. Therefore, public comments addressing this finding for purposes of section 231(a)(2)(A) should be limited to the section 231 context; the EPA will not consider or respond to comments on this proposal that seek a reevaluation of our 2009 Endangerment Finding for purposes of section 202(a).

V. The Proposed Cause or Contribute Finding for Greenhouse Gases Under CAA Section 231

As noted above, the Administrator has proposed to define the air pollution for purposes of the endangerment finding under CAA section 231 to be the aggregate of six well-mixed GHGs in the atmosphere. The second step of the two-part endangerment test for this proposed finding is for the Administrator to determine whether the emission of any air pollutant from certain classes of aircraft engines causes or contributes to this air pollution. This is referred to as the cause or contribute finding, and is the second proposed finding by the Administrator in this action.

Section V.A of this proposal describes the Administrator's reasoning for using the same definition and scope of the GHG air pollutant that was used in the 2009 Endangerment Finding. Section V.0 puts forth the Administrator's proposed finding that emissions of well-mixed GHGs from classes of aircraft engines used in covered aircraft contribute to the air pollution which endangers public health and welfare.

A. The Air Pollutant

1. Proposed Definition of Air Pollutant

Under section 231, the Administrator is to determine whether *emissions of any air pollutant* from any class or classes of aircraft engines cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare. As with the 2009 Endangerment Finding that the EPA conducted for purposes of CAA section 202(a), when making a cause or contribute finding under section 231(a)(2), the Administrator must first define the air pollutant being evaluated. The Administrator has reasonably and logically considered the relationship between the GHG air pollution and air pollutant: while the air pollution is the concentration (*e.g.,* stock) of the well-mixed GHGs in the atmosphere, the air pollutant is the same combined grouping of the well-mixed GHGs, the emissions of which are analyzed for contribution (*e.g.,* the flow into the stock). See 74 FR at 66537, (December 15, 2009), (similar discussion with respect to the finding for section 202). Thus, for purposes of section 231, the Administrator is proposing to use the same definition of the air pollutant that was used in the 2009 Endangerment Finding, namely, the aggregate group of the same six GHGs: CO_2, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. See 74 **Federal Register** at 66536–66537, (December 15, 2009), (discussing the definition of the GHG air pollutant with respect to the finding for section 202). That is, as for the 2009 Endangerment Finding, the Administrator is proposing to define a

[157] IPCC, 2013: *Climate Change 2013: The Physical Science Basis.* Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, 1535 pp.

[158] U.S. EPA, ''Control of Air Pollution from Aircraft and Aircraft Engines, Emission Standards and Test Procedures for Aircraft.'' Final Rule, 38 FR 19088, July 17, 1973.

[159] *CRR,* 684 F.3d at 117 (D.C. Cir. 2012), reh'g en banc denied, 2012 U.S. App. LEXIS 25997, 26313, 26315 (D.C. Cir. 2012); *see also Utility Air Reg. Group* v. *EPA,* 134 S. Ct. at 2438 (2014).

single air pollutant made up of these six GHGs.

To reiterate what the Agency has previously stated on this subject, this collective approach for the contribution test is consistent with the treatment of GHGs by those studying climate change science and policy, where it is common practice to evaluate GHGs on a collective, CO_2-equivalent basis.[160] This collective approach to defining the air pollutant is not unique; grouping of many substances with common attributes as a single pollutant is common practice under the CAA, for example with particulate matter and volatile organic compounds (VOC). As noted in section IV, these substances share common attributes that support their grouping as the air pollution for purposes of the endangerment finding. These same common attributes also support the Administrator grouping the six GHGs for purposes of defining the air pollutant for the proposed cause or contribute finding under CAA section 231.

The Administrator recognizes that in this case, the aircraft engines covered by this notice emit two of the six gases, but not the other four gases. Nonetheless, it is entirely appropriate, and in keeping with the 2009 Endangerment Finding and past EPA practice, for the Administrator to define the air pollutant in a manner that recognizes the shared relevant properties of all these six gases, even though they are not all emitted from the classes of sources before her.[161] For example, a source may emit only 20 of the possible 200-plus chemicals that meet the definition of VOC in the EPA's regulations, but that source is evaluated based on its emissions of VOC and not on its emissions of the 20 chemicals by name. The fact that these six substances within the definition of GHGs share common, relevant attributes is true regardless of the type of sources being evaluated for contribution. By proposing to use the definition of the air pollutant as comprised of the six GHGs with common attributes, the Administrator is taking account of these shared attributes and how they are relevant to the air pollution that endangers public health and welfare.

2. How the Definition of Air Pollutant in the Endangerment Determination Affects Section 231 Standards

Under section 231(a), the Administrator is required to set ''emission standards applicable to the emission of any air pollutant'' from classes of aircraft engines that the Administrator determines causes or contributes to air pollution that endangers public health or welfare. If the Administrator makes a final determination under section 231 that the emissions of the GHG air pollutant from certain classes of aircraft engines contribute to the air pollution that may reasonably be anticipated to endanger public health and welfare, then she is called on to set standards applicable to the emissions of this air pollutant. The term ''standards applicable to the emissions of any air pollutant'' is not defined, and the Administrator has the discretion to interpret it in a reasonable manner to effectuate the purposes of section 231 to set standards that either control the emissions of the group of six well-mixed gases as a whole and/or control emissions of individual gases, as constituents of the class. For example, it might be appropriate to set a standard that measures and controls the aggregate emissions of the group of GHGs, weighted by CO_2 equivalent. Depending on the circumstances, however, it may be appropriate to set standards for certain individual gases, or some combination of group and individual standards. These and other similar approaches could appropriately be considered in setting a standard or standards applicable to the emissions of the group of GHGs that are defined as the air pollutant. The Administrator would consider a variety of factors in determining what approach to take in setting the standard or standards; for example, she would consider the characteristics of the aircraft emissions, such as rate and variability, the kind and availability of control technology, and other matters relevant to setting standards under section 231.[162]

B. Proposed Cause or Contribute Finding

1. The Administrator's Approach in Making This Proposed Finding

As it did for the 2009 Endangerment Finding, and consistent with prior practice and current science, the EPA uses annual emissions as a reasonable proxy for contributions to the air pollution, *i.e.,* elevated atmospheric concentrations of GHGs. Cumulative anthropogenic emissions are primarily responsible for the observed change in concentrations in the atmosphere (*i.e.,* the fraction of a country's or an economic sector's cumulative emissions compared to the world's GHG emissions over a long time period will be roughly equal to the fraction of the change in concentrations attributable to that country or economic sector); likewise, annual emissions are a reasonable proxy for annual incremental changes in atmospheric concentrations.

There are a number of possible ways of assessing whether air pollutants cause or contribute to the air pollution which may reasonably be anticipated to endanger public health and welfare, and no single approach is required or has been used exclusively in previous determinations under the CAA. Because the air pollution against which the contribution is being evaluated is the six well-mixed GHGs, the logical starting point for any contribution analysis is a comparison of the emissions of the air pollutant from the section 231 category to the total U.S. and total global emissions of the six GHGs. The Administrator recognizes that there are other valid comparisons that can be considered in evaluating whether emissions of the air pollutant cause or contribute to the combined concentration of the six GHGs. To inform the Administrator's assessment, section V.B.2 presents the following types of simple and straightforward comparisons of U.S. aircraft GHG emissions:

- As a share of current total U.S. GHG emissions;
- As a share of current U.S. transportation GHG emissions;

[160] As detailed in the 2009 Endangerment Finding proposal (74 FR 18904 (April 24, 2009) and continuing today, the UNFCCC, the U.S. and other Parties report their annual emissions of the six GHGs in CO_2-equivalent units. This facilitates comparisons of the multiple GHGs from different sources and from different countries, and provides a measure of the collective warming potential of multiple GHGs. Emissions of different GHGs are compared using GWPs, which as described in section IV.B of this preamble are measures of the warming impact of a pulse of emissions of a given substance over 100 years relative to the same mass of CO_2. Therefore, GWP-weighted emissions are measured in teragrams of CO_2 equivalent (Tg CO_2eq). The EPA's Greenhouse Gas Reporting Program (*http://www.epa.gov/ghgreporting/index.html,* (last accessed May 12, 2015)) also reports GHG emissions on a CO_2-equivalent basis, recognizing the common and collective treatment of the six GHGs.

[161] In the 2009 Endangerment Finding, the Administrator found that four of the six gases that were included in the definition of the air pollutant were emitted by section 202 sources. 74 FR 66496, 66537 (December 15, 2009).

[162] In setting GHG emissions standards for model years 2012–2016 light-duty vehicles, the EPA set fleet-wide average CO_2 equivalent standards for cars and trucks based on a technology assessment analysis which indicated that there was a wide range of technologies available for manufacturers to use when upgrading vehicles to reduce CO_2 emissions and improve fuel economy. The final standards were based on CO_2 emissions-footprint curves, where each vehicle has a different CO_2 emissions compliance target depending on its footprint value (related to the size of the vehicle). The EPA also set standards to cap tailpipe nitrous oxide, methane emissions, and provided compliance credits to manufacturers who improved air conditioning systems, such as through reduced refrigerant leakage (hydrofluorocarbons) and indirect CO_2 emissions related to the increased load on the engine. 75 FR 25324 (May 7, 2010).

- As a share of current total global GHG emissions; and
- As a share of the current global transportation GHG emissions.

All annual GHG emissions data are reported on a CO_2-equivalent (CO_2eq) basis, which as described above is a commonly accepted metric for comparing different GHGs. This approach is consistent with how EPA determined contribution for GHGs under section 202 of the CAA in 2009.

2. Overview of Greenhouse Gas Emissions

Atmospheric concentrations of CO_2 and other GHGs are now at essentially unprecedented levels compared to the distant and recent past.[163] This is the unambiguous result of human emissions of these gases. Global emissions of well-mixed GHGs have been increasing, and are projected to continue increasing for the foreseeable future. According to IPCC AR5, total global (from all major emitting sources including forestry and other land use) emissions of GHGs in 2010 were about 49,000 teragrams [164] of CO_2 equivalent (Tg CO_2eq).[165] This represents an increase in global GHG emissions of about 29 percent since 1990 and 23 percent since 2000. In 2010, total U.S. GHG emissions were responsible for about 14 percent of global GHG emissions (and about 12 percent when factoring in the effect of carbon sinks from U.S. land use and forestry).

Because 2010 is the most recent year for which IPCC emissions data are available, we provide 2011 estimates from another widely used and recognized global dataset, the World Resources Institute's (WRI) Climate Analysis Indicators Tool (CAIT),[166] for comparison. According to WRI/CAIT, the total global GHG emissions in 2011 were 43,816 Tg of CO_2eq, representing an increase in global GHG emissions of about 42 percent since 1990 and 30 percent since 2000 (excluding land use, land use change and forestry). These estimates are generally consistent with those of IPCC. In 2011, WRI/CAIT data indicate that total U.S. GHG emissions were responsible for about 16 percent of global emissions, which is also generally in line with the percentages using IPCC's 2010 estimate described above. According to WRI/CAIT, current U.S. GHG emissions rank only behind China's, which was responsible for 24 percent of total global GHG emissions.

The *Inventory of U.S. Greenhouse Gas Emissions and Sinks Report* [167] (hereinafter ''U.S. Inventory''), in which 2013 is the most recent year for which data are available, indicates that total U.S. GHG emissions increased by 5.7 percent from 1990 to 2013 (or by about 4.7 percent when including the effects of carbon sinks), and emissions increased from 2012 to 2013 by 1.8 percent. This 2012 to 2013 increase was attributable to multiple factors including an increase in carbon intensity of fuels consumed for electricity generation, a small increase in vehicle miles traveled and vehicle fuel use, and a colder winter leading to an increase in heating requirements. The U.S. Inventory also shows that while overall U.S. GHG emissions grew between 1990 and 2013, transportation GHG emissions grew at a significantly higher rate, 15 percent, more rapidly than any other U.S. sector. Within the transportation sector, aircraft remain the single largest source of GHG emissions not yet subject to any GHG regulations.

Section V.B.2.a which follows describes U.S. aircraft GHG emissions within the domestic context, while section V.B.2.b describes these same GHG emissions in the global context. Section V.B.2.c addresses future projections of aircraft GHG emissions.

a. U.S. Aircraft GHG Emissions Relative to U.S. GHG Transportation and Total U.S. GHG Inventory

Relying on data from the U.S. Inventory, we compare U.S. aircraft GHG emissions to the transportation sector and to total U.S. GHG emissions as an indication of the role this source plays in the total domestic contribution to the air pollution that is causing climate change. In 2013, total U.S. GHG emissions from all sources were 6,774 Tg CO_2eq. As stated above, total U.S. GHG emissions have increased by almost 6 percent between 1990 and 2013, while U.S. transportation GHG emissions from all categories have grown 15 percent since 1990. The U.S. transportation sector was the second largest GHG emitting sector (behind electricity generation), contributing 1,911 Tg CO_2eq or about 30 percent of total U.S. GHG emissions in 2013. This sectoral total and the total U.S. GHG emissions include emissions from combustion of U.S. international bunker fuels, which are fuels used for transport activities, from aviation (both commercial and military) and marine sources.[168] Consistent with IPCC guidelines for common and consistent accounting and reporting of GHGs under the UNFCCC, the ''U.S. international aviation bunker fuels'' category includes emissions from combustion of fuel purchased in and used by aircraft departing from the United States, regardless of whether they are a U.S. flagged carrier. Total U.S. aircraft emissions clearly contribute to the U.S. transportation sector's emissions, accounting for 216 Tg CO_2eq or 11 percent of such emissions (see Table V.1.). In 2013, emissions from aircraft (216 Tg CO_2eq) were the third largest transportation source of GHGs within the United States, behind light-duty vehicles and medium- and heavy-duty trucks (totaling 1,494 Tg CO_2eq).

For purposes of making this cause or contribute finding, the EPA is focused on, and proposes to include, a set of aircraft engine classes used in types of aircraft as described below, which corresponds to the scope of the international CO_2 emissions standard contemplated by ICAO.

As mentioned earlier in section II.D, traditionally the EPA (and FAA) participates at ICAO in the development of international standards, and then where appropriate, the EPA establishes domestic aircraft engine emission standards under CAA section 231 of at least equivalent stringency to ICAO's standards. An international CO_2 emissions standard is anticipated in February 2016, and provided that the EPA makes a positive endangerment finding and ICAO adopts an

[163] IPCC, 2013: *Summary for Policymakers. In: Climate Change 2013: The Physical Science Basis.* Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, p. 11.

[164] One teragram (Tg) = 1 million metric tons = 1 megatonne (Mt). 1 metric ton = 1,000 kg = 1.102 short tons = 2,205 lbs.

[165] IPCC, 2014: *Climate Change 2014: Mitigation of Climate Change. Contribution of Working Group III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* [Edenhofer, O., R. Pichs-Madruga, Y. Sokona, E. Farahani, S. Kadner, K. Seyboth, A. Adler, I. Baum, S. Brunner, P. Eickemeier, B. Kriemann, J. Savolainen, S. Schlömer, C. von Stechow, T. Zwickel and J.C. Minx (eds.)]. Cambridge University Press, 1435 pp.

[166] World Resources Institute (WRI) Climate Analysis Indicators Tool (CAIT) Data Explorer (Version 2.0). Available at *http://cait.wri.org* (last accessed May 12, 2015).

[167] U.S. EPA, 2015: *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2013,* 564 pp. Available at *http://www.epa.gov/climatechange/ghgemissions/usinventoryreport.html#fullreport,* (last accessed May 12, 2015).

[168] According to IPCC guidelines for common and consistent accounting and reporting of GHGs under the UNFCCC, the total U.S. GHG emissions from the U.S. Inventory that is reported to the UNFCCC excludes international bunker fuel emissions (aviation and marine international bunker fuel emissions) from the reported total national GHG emissions. However, the total U.S. GHG emissions in this proposed cause or contribute finding section of this action do include international bunker fuel emissions because we want to capture the full contribution of U.S. emissions, including those from U.S. aircraft.

international CO_2 emissions standard that is both consistent with CAA section 231 and appropriate for domestic needs, we would expect to proceed with promulgating a CO_2 emissions standard (or GHG standard) of at least equivalent stringency domestically. As described later in section VI.D, the thresholds of applicability for the international CO_2 emissions standard are based on gross weight as follows: For subsonic jet aircraft, a maximum takeoff mass (MTOM) greater than 5,700 kilograms; and for subsonic propeller driven (*e.g.,* turboprop) aircraft, a MTOM greater than 8,618 kilograms.[169] Applying these gross weight thresholds, our proposed cause or contribute finding applies to GHG emissions from classes of engines used in covered aircraft. Examples of covered aircraft would include smaller jet aircraft such as the Cessna Citation CJ2+ and the Embraer E170, up to the largest commercial jet aircraft—the Airbus A380 and the Boeing 747. Other examples of covered aircraft would include larger turboprop aircraft, such as the ATR 72 and the Bombardier Q400. Our intention is for the scope of the contribution finding to correspond to the aircraft engine GHG emissions that are from aircraft that match the applicability thresholds for the international aircraft CO2 standard. As such we have also identified aircraft that are not covered aircraft for purposes of our proposed contribution finding. That includes aircraft that fall below the international applicability thresholds: Smaller turboprop aircraft, such as the Beechcraft King Air 350i, and smaller jet aircraft, such as the Cessna Citation M2. In addition, ICAO (with U.S. participation) has agreed to exclude ''piston-engine aircraft,'' ''helicopters,'' and ''military aircraft'' [170] from the types of aircraft that would be covered by the anticipated ICAO standards.[171] These aircraft would not be covered aircraft and consequently, we are also not including GHG emissions from classes of engines used in these types of aircraft in our proposed cause or contribute finding.

Thus, for the purposes of the cause or contribute finding, the EPA proposes to include GHG emissions from aircraft engines used in covered aircraft in the scope of this proposed cause or contribute finding. This is an equivalent scope of applicability as that contemplated by ICAO. The majority of the GHG emissions from all classes of aircraft engines would be covered by this scope of applicability. Below we describe the contribution of these U.S. covered aircraft GHG emissions to U.S. GHG emissions, and later in section V.B.2.b we discuss the contribution of these U.S. covered aircraft emissions to global GHG emissions.

In 2013, GHG emissions from U.S. covered aircraft (which includes U.S. international aviation bunker fuels in certain cases) comprised 90 percent (195 Tg CO_2eq) of total U.S. aircraft GHG emissions [172] and 10 percent of total U.S. transportation sector GHG emissions (See Table V.1.). Overall, U.S. covered aircraft comprised the third largest source of GHG emissions in the U.S. transportation sector behind only the light-duty vehicle and medium- and heavy-duty truck sectors, which is the same ranking as total U.S. aircraft.[173] The U.S. covered aircraft also represent 3 percent of total U.S. GHG emissions, which is approximately equal to the contribution from total U.S. aircraft of 3.2 percent (Table V.1).[174]

It is important to note that in regard to the six well-mixed GHGs (CO_2, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride), only two of these gases—CO_2 and nitrous oxide—are reported as non-zero emissions for total aircraft and covered aircraft.[175] CO_2 represents 99 percent of all GHGs from both total aircraft (214 Tg CO_2eq) and U.S. covered aircraft (193 Tg CO_2eq), and nitrous oxide represents about one percent from total aircraft (2 Tg CO_2eq) and covered aircraft (1.8 Tg CO_2eq). Modern aircraft do not emit methane,[176] and hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride are not products of aircraft engine combustion.

[169] ICAO, 2013: *CAEP/9 Agreed Certification Requirement for the Aeroplane CO_2 Emissions Standard,* Circular (Cir) 337, AN/192, Available at *http://www.icao.int/publications/ICAOProducts&Services2015catalogue/cat_2015en.pdf* (last accessed May 12, 2015). The ICAO Circular 337 is found on page 85 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. CIR337.

[170] ICAO regulations only apply to civil aviation (aircraft and aircraft engines), and consequently, ICAO regulations do not apply to military aircraft.

[171] The applicability of the anticipated international CO_2 standard would be limited to subsonic aircraft, and would not extend to supersonic aircraft. Since space vehicles (or spacecraft) will be operated at supersonic speeds, space vehicles would not be covered by the anticipated international CO_2 standard.

[172] Eastern Research Group, Incorporated (ERG), *U.S. Jet Fuel Use and CO_2 Emissions Inventory for Aircraft Below ICAO CO_2 Standard Thresholds,* Final Report, EPA Contract Number EP–D–11–006, May 7, 2015.

[173] Compared independently, total U.S. aircraft GHG emissions and U.S. covered aircraft GHG emissions are both ranked the third largest source in the U.S. transportations sector, behind only light-duty vehicle and medium- and heavy-duty truck sectors.

[174] Total U.S. aircraft GHG emissions and U.S. covered aircraft GHG emissions were from 12 to 32 percent greater in 2000 and 2005 than in 1990. These increases in aircraft GHG emissions are primarily because aircraft operations (or number of flights) grew by similar amounts during this time period. Also, total U.S. aircraft GHG emissions and U.S. covered aircraft GHG emissions were from 10 to 17 percent greater in 2000 and 2005 than in 2013. These decreases in aircraft GHG emissions are partly because aircraft operations decreased by similar amounts during this time period. In addition, the decreases in aircraft emissions are due in part to improved operational efficiency that results in more direct flight routing, improvements in aircraft and engine technologies to reduce fuel burn and emissions, and the accelerated retirement of older, less fuel efficient aircraft.

Also, the U.S. transportation GHG emissions were changing at similar rates as total U.S. aircraft GHG emissions and U.S. covered aircraft GHG emissions for these same time periods, and thus, the aircraft GHG emissions share of U.S. Transportation remains approximately constant (over these time periods).

(U.S. EPA, 2015: *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2013,* 564 pp. Available at *http://www.epa.gov/climatechange/ghgemissions/usinventoryreport.html#fullreport*, Last accessed May 12, 2015; U.S. FAA. 2015, *APO Terminal Area Forecast Summary Report—Forecast Issued January 2015, http://aspm.faa.gov/apowtaf/*.).

[175] U.S. EPA, 2015: *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2013,* 564 pp. Available at *http://www.epa.gov/climatechange/ghgemissions/usinventoryreport.html#fullreport*, (last accessed May 12, 2015).

[176] Emissions of methane from jet fuels are no longer considered to be emitted (based on the latest studies) across the time series from aircraft gas turbine engines burning jet fuel A at higher power settings (EPA, *Recommended Best Practice for Quantifying Speciated Organic Gas Emissions from Aircraft Equipped with Turbofan, Turbojet and Turboprop Engines,* EPA–420–R–09–901, May 27, 2009 (see *http://www.epa.gov/otaq/regs/nonroad/aviation/420r09901.pdf (last accessed May 12, 2015)*). Based on this data, methane emissions factors for jet aircraft were reported as zero to reflect the latest emissions testing data. Also, the 2006 IPCC Guidelines indicate the following: ''Methane (CH_4) may be emitted by gas turbines during idle and by older technology engines, but recent data suggest that little or no CH_4 is emitted by modern engines.'' (IPCC, 2006: *IPCC Guidelines for National Greenhouse Gas Inventories,* The National Greenhouse Gas Inventories Programme, The Intergovernmental Panel on Climate Change, H.S. Eggleston, L. Buendia, K. Miwa, T Ngara, and K. Tanabe (eds.). Hayama, Kanagawa, Japan.) The EPA uses an emissions factor of zero to maintain consistency with the IPCC reporting guidelines, while continuing to stay abreast of the evolving research in this area. For example, one recent study has indicated that modern aircraft jet engines operating at higher power modes consume rather than emit methane (Santoni et al., 2011: *Aircraft Emissions of Methane and Nitrous Oxide during the Alternative Aviation Fuel Experiment,* Environ. Sci. Technol., 45, pp. 7075–7082).

TABLE V.1—COMPARISONS OF U.S. AIRCRAFT GHG EMISSIONS TO TOTAL U.S. TRANSPORTATION AND TOTAL U.S. GHG EMISSIONS

	1990	2000	2005	2010	2011	2012	2013
Total U.S. Aircraft GHG emissions (Tg CO_2eq)	228	262	254	216	215	212	216
Share of U.S. Transportation	14%	13%	12%	11%	11%	11%	11%
Share of total U.S. Inventory	3.6%	3.6%	3.4%	3.1%	3.1%	3.2%	3.2%
U.S. Covered Aircraft GHG emissions (Tg CO_2eq)	169	223	217	190	193	190	195
Share of U.S. aircraft GHG emissions	74%	85%	85%	88%	90%	90%	90%
Share of U.S. Transportation	10%	11%	10%	9.7%	10%	9.9%	10%
Share of total U.S. Inventory	2.6%	3%	2.9%	2.7%	2.8%	2.9%	2.9%
Transportation Sector emissions (Tg CO_2eq)	1,659	2,044	2,137	1,966	1,932	1,907	1,911
Share of total U.S. Inventory	26%	28%	29%	28%	28%	29%	28%
Total U.S. GHG emissions	6,406	7,315	7,464	7,017	6,889	6,652	6,744

b. U.S. Aircraft GHG Emissions Relative to Global Aircraft GHG Inventory and the Total Global GHG Inventory

For background information and context, we first provide information on the contribution of GHG emissions from global aircraft and the global transportation sector to total global GHG emissions, and describe how this compares to the emissions from aircraft that would be covered by the anticipated ICAO CO_2 standard. We then compare U.S. aircraft GHG emissions to the global aircraft sector, to the global transport sector, and to total global GHG emissions as an indication of the role this source plays in the total global contribution to the air pollution that is causing climate change. As in the preceding section, we present comparisons from both total U.S. aircraft and U.S. covered aircraft.

According to IPCC AR5, global aircraft GHG emissions in 2010 were 11 percent of global transport GHG emissions and 2 percent of total global GHG emissions. Data from ICAO's 2013 Environmental Report indicate that the vast majority of global emissions from the aircraft sector are emitted by the types of aircraft that would be covered by the anticipated ICAO CO_2 standard (''ICAO covered aircraft'').[177] When compared to global data from IPCC AR5, worldwide GHG emissions from ICAO covered aircraft represented about 93 percent (688 Tg CO_2eq) of global aircraft GHG emissions,[178] 10 percent of global transport GHG emissions, and 1.5 percent of total global GHG emissions in 2010.

Comparing data from the U.S. Inventory to IPCC AR5, we find that total U.S. aircraft GHG emissions represented about 29 percent of global aircraft GHG emissions, about 3.1 percent of global transport GHG emissions, and about 0.5 percent of total global GHG emissions in 2010 (see Table V.2). For U.S. covered aircraft in 2010 GHG emissions represented about 26 percent of global aircraft GHG emissions, 2.7 percent of global transport GHG emissions, and 0.5 percent of total global GHG emissions (see Table V.2). Because 2010 is the most recent year for which IPCC emissions data are available, we also made comparisons using 2011 estimates from WRI/CAIT and the International Energy Agency (IEA)[179] and found that they yield very similar results.[180]

TABLE V.2—COMPARISONS OF U.S. AIRCRAFT GHG EMISSIONS TO TOTAL GLOBAL GREENHOUSE GAS EMISSIONS IN 2010

	2010 (Tg CO_2 eq)	Total U.S. Aircraft Share (%)	U.S. Covered Aircraft Share (%)	Global Aircraft Share (%)
Global Aircraft GHG emissions	743	29	26	.....
Global Transport GHG emissions	7,000	3.1	2.7	11
Total Global GHG emissions	49,000	0.5	0.5	2

For additional background information and context, we used 2011 WRI/CAIT and IEA data to make comparisons between the aircraft sector and the emissions inventories of entire countries and regions. When compared to entire countries, total global aircraft GHG emissions in 2011 ranked 9th overall, behind only China, United States, India, Russian Federation, Japan, Brazil, Germany, and Indonesia, and ahead of about 175 other countries. Total U.S. aircraft GHG emissions have historically been and continue to be by far the largest contributor to global aircraft GHG emissions. Total U.S. aircraft GHG emissions are about 7 times higher than aircraft GHG emissions from China, which globally is the second ranked country for aircraft GHG emissions, and about 5 times higher than aircraft GHG emissions from all of Asia. U.S. covered aircraft GHG emissions are about 6 times more than aircraft GHG emissions from China, and about 4 times more than aircraft GHG emissions from all of Asia. If U.S.

[177] ICAO CAEP, 2013: *ICAO Environmental Report 2013, Aviation and Climate Change,* 224 pp. Available at *http://cfapp.icao.int/Environmental-Report-2013/* (last accessed May 12, 2015).

[178] Worldwide GHG emissions from ICAO covered aircraft include emissions from both international and domestic aircraft operations around the world.

[179] International Energy Agency, Data Services. Available at *http://data.iea.org* (last accessed May 12, 2015).

[180] Data from WRI/CAIT and IEA show that, in 2011, total U.S. aircraft emissions represented about 28 percent of global aircraft GHG emissions, about 3.7 percent of global transport GHG emissions, and about 0.5 percent of total global GHG emissions. U.S. covered aircraft represented about 25 percent of global aircraft GHG emissions, 3.3 percent of global transport GHG emissions, and 0.5 percent of total global GHG emissions in 2011.

covered aircraft emissions of GHGs were ranked against total GHG emissions for entire countries, these covered aircraft emissions would rank ahead of Belgium, Czech Republic, Ireland, Sweden and about 150 other countries in the world.

c. Aircraft GHG Emissions Are Projected To Increase in the Future

While overall GHG emissions from U.S. covered aircraft increased by about 13 percent from 1990 to 2010, the portion attributable to U.S. international aviation bunker fuels [181] increased by about 90 percent.[182] During this same time period, global aircraft GHG emissions grew by about 40 percent, and the portion attributable to global international aviation bunker fuels increased by 80 percent.[183] [184] Notwithstanding the substantial growth in GHG emissions from U.S. international aviation bunker fuels, U.S. covered aircraft emissions have not increased as much as global aircraft emissions primarily because the U.S. aviation market was relatively mature compared to the markets in Europe and other emergent markets, and because during this time period the U.S. commercial air carriers suffered several major shocks that reduced demand for air travel.[185] [186] After consolidation and restructuring in recent years, the U.S. commercial air carriers have regained profitability and are forecasted by the FAA to grow more over the next 20 to 30 years.[187] With regard to global aircraft GHG emissions, the aviation markets in Asia/Pacific, Europe (where airline deregulation has stimulated significant new demands in this period), and the Middle East (and other emerging markets) have been growing rapidly, and the global market is expected to continue to grow significantly over the next 20 to 30 years.[188]

Recent studies estimate that both ICAO covered aircraft and U.S. covered aircraft will experience substantial growth over the next 20 to 30 years in their absolute fuel burn, and that this will translate into increased GHG emissions. ICAO estimates that the global fuel burn from ICAO covered aircraft will increase by about 120 percent from 2010 to 2030 and by about 210 percent from 2010 to 2040 (for a scenario with moderate technology and operational improvements).[189] The FAA projects that the fuel consumption from U.S. air carriers and general aviation aircraft operating on jet fuel will grow by 49 percent from 2010 to 2035, corresponding to an average annual increase rate in fuel consumption of 1.6 percent.[190] These aircraft groups (U.S. air carriers and general aviation aircraft operating on jet fuel) are of similar scope to the U.S. covered aircraft whose engine GHG emissions are the subject of this proposed finding. Using fuel burn growth rates provided above as a scaling factor for growth in GHG emissions (globally and nationally), it is estimated that GHG emissions from ICAO covered aircraft and U.S. covered aircraft would increase at a similar rate as the fuel burn by 2030, 2035, and 2040.

3. Proposed Contribution Finding for the Single Air Pollutant Comprised of the of Six Well-Mixed Greenhouse Gases

Taking into consideration the data summarized in section V.B.2 above, the Administrator proposes to find that GHG emissions from classes of engines used in U.S. covered aircraft, which are subsonic jet aircraft with a maximum takeoff mass (MTOM) greater than 5,700 kilograms and subsonic propeller driven (*e.g.,* turboprop) aircraft with a MTOM greater than 8,618 kilograms, contribute to the air pollution that endangers public health and welfare. The Administrator is not at this time proposing a contribution finding for GHG emissions from engines not used in covered aircraft (*i.e.,* those used in smaller turboprops, smaller jet aircraft, piston-engine aircraft, helicopters and military aircraft). We solicit comment on the scope of the proposed contribution finding, whether a broader contribution finding (*e.g.,* including all engines used in aircraft certified by the FAA) would be appropriate, and the extent to which EPA has discretion to establish standards pursuant to a contribution finding that do not impose requirements on every engine or class of engines within the scope of that finding.

It is the Administrator's judgment that the collective GHG emissions from the classes of engines used in U.S. covered aircraft clearly contribute, whether the comparison is domestic (10 percent of all U.S. transportation GHG emissions, representing 3 percent of total U.S. emissions) or global (26 percent of total global aircraft GHG emissions representing 3 percent of total global transportation emissions and 0.5 percent of all global GHG emissions). The proposed scope of GHG emissions from engines used in U.S. covered aircraft under this cause or contribute finding would result in the vast majority (90 percent) of U.S. aircraft GHG emissions being included in this determination. The Administrator believes that consideration of the global context is important for the cause or contribute test, but that the analysis should not solely consider the global context. GHG emissions from engines used in U.S. covered aircraft will become globally well-mixed in the atmosphere, and thus will have an effect not only on the U.S. regional climate but also on the global climate as a whole, for years and indeed many decades to come. It is the Administrator's view that the cause or contribute test used here

[181] The U.S. international aviation bunker fuels category includes emissions from combustion of fuel purchased in and used by aircraft departing from the United States, regardless of whether they are a U.S. flagged carrier. GHG emissions from U.S. international aviation bunker fuels are a subset of GHG emissions from U.S. covered aircraft. From 1990 to 2010, GHG emissions from U.S. covered aircraft increased from 169 to 190 Tg CO2eq, and GHG emissions from the portion attributable to U.S. international aviation bunker fuels grew from 30 to 58 Tg CO2eq during this same time period. From 1990 to 2011, GHG emissions from U.S. covered aircraft increased from 169 to 192 Tg CO2eq (about 14 percent), and GHG emissions from the portion attributable to U.S. international aviation bunker fuels grew from 30 to 62 Tg CO2eq (about 110 percent).

[182] U.S. EPA, 2015: *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2013,* 564 pp. Available at *http://www.epa.gov/climatechange/ghgemissions/usinventoryreport.html#fullreport,* (last accessed May 12, 2015).

[183] IPCC, 2014: *Climate Change 2014: Mitigation of Climate Change. Contribution of Working Group III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* [Edenhofer, O., R. Pichs-Madruga, Y. Sokona, E. Farahani, S. Kadner, K. Seyboth, A. Adler, I. Baum, S. Brunner, P. Eickemeier, B. Kriemann, J. Savolainen, S. Schlömer, C. von Stechow, T. Zwickel and J.C. Minx (eds.)]. Cambridge University Press, pp. 599–670.

[184] According to IEA, from 1990 to 2011, global aircraft GHG emissions grew by about 50 percent, and global international aviation bunker fuels increased by 80 percent. International Energy Agency Data Services, Available at *http://data.iea.org* (last accessed May 12, 2015, 2015).

[185] FAA, 2014: *FAA Aerospace Forecast Fiscal Years 2014–2034,* 129 pp. Available at *https://www.faa.gov/about/office_org/headquarters_offices/apl/aviation_forecasts/aerospace_forecasts/2014-2034/media/2014_FAA_Aerospace_Forecast.pdf* (last accessed May 12, 2015).

[186] These shocks include the September 11 terror attacks, significant increases in fuel prices, debt restructuring in Europe and U.S., and a global recession.

[187] According to the *FAA Aerospace Forecast 2014–2034,* in 2013 U.S. air carriers were profitable for the fourth consecutive year.

[188] According to the *FAA Aerospace Forecast 2014–2034,* the International Air Transport Association (IATA) reports that world air carriers (including U.S. airlines) are expected to register an operating profit for 2013. Based on financial data compiled by ICAO and IATA, between 2004 and 2013 world airlines produced cumulative operating profits (with nine years out of ten posting gains) and net profits (with six years out of ten posting gains).

[189] ICAO CAEP, 2013: *ICAO Environmental Report 2013, Aviation and Climate Change,* 224 pp. Available at *http://cfapp.icao.int/Environmental-Report-2013/* (last accessed May 12, 2015).

[190] FAA, 2015: *FAA Aerospace Forecast Fiscal Years 2015–2035,* 134 pp. Available at *https://www.faa.gov/about/office_org/headquarters_offices/apl/aviation_forecasts/aerospace_forecasts/2015-2035/media/2015_National_Forecast_Report.pdf* (last accessed May 12, 2015).

under CAA section 231 can follow the same reasoning that was used in the 2009 GHG cause or contribute finding under CAA section 202; that is, the Administrator believes a positive cause or contribute finding for GHG emissions from engines used in U.S. covered aircraft is justified whether only the domestic context is considered, only the global context is considered, or both the domestic and global GHG emissions comparisons are viewed in combination.

As was the case in 2009, no single GHG source category dominates on the global scale, and many (if not all) individual GHG source categories could appear small in comparison to the total, when, in fact, they could be very important contributors in terms of both absolute emissions or in comparison to other source categories, globally or within the United States. If the United States and the rest of the world are to combat the risks associated with global climate change, contributors must do their part even if their contributions to the global problem, measured in terms of percentage, are smaller than typically encountered when tackling solely regional or local environmental issues.'' [191] Moreover, as the Supreme Court explained in *Massachusetts* v. *EPA,* agencies commonly take an incremental approach to resolving large issues, stating that, ''[a]gencies, like legislatures, do not generally resolve massive problems in one fell regulatory swoop. . . . They instead whittle away at them over time, refining their preferred approach as circumstances change and as they develop a more nuanced understanding of how best to proceed.'' 549 U.S. 497, 524 (2007) (citations omitted). The Administrator continues to believe that these unique, global aspects of the climate change problem—including that from a percentage perspective there are no dominating sources emitting GHGs and few sources that would even be considered to be close to dominating—tend to support consideration of contribution to the air pollution at lower percentage levels than EPA typically encounters when analyzing contribution towards a more localized air pollution problem. Thus, the Administrator, similar to the approach taken in the 2009 GHG cause or contribute finding under CAA section 202, is placing weight on the fact that engines [192] used in U.S. covered aircraft contribute 3 percent of total U.S. GHG emissions for the proposed contribution finding and comprise the single largest transportation source in the United States that has not yet been regulated for GHG emissions.

4. Additional Considerations

The Administrator is also concerned that reasonable estimates of GHG emissions from engines used in U.S. covered aircraft are projected to grow over the next 20 to 30 years. Given the projected growth in aircraft emissions compared to other sectors, it is reasonable for the Administrator to consider future emissions projections as adding weight to her primary reliance on annual emissions. Recent projections reveal that by 2035 GHG emissions from all aircraft and U.S. covered aircraft engines are likely to increase by almost 50 percent.[193] By contrast, it is estimated that by 2035 the light duty vehicle sector will see a 30 percent *reduction* in GHG emissions from the 2010 baseline, while the heavy duty vehicle sector will experience a 33 percent increase in GHG emissions from the 2010 baseline (this projected increase does not reflect the impact of GHG reductions anticipated from the Phase 2 heavy duty GHG standards that have not yet been promulgated). In addition, by 2035 the rail sector is projected to experience a 6 percent reduction in GHG emissions from 2010 baseline.[194] Because the projected growth in aircraft engine GHG emissions from U.S. covered aircraft appears to be greater in percentage terms than other transportation sources, this future consideration adds weight to the Administrator's proposed positive contribution finding.

VI. Advance Notice of Proposed Rulemaking: Discussion of Ongoing International Proceedings To Develop Aircraft CO_2 Emissions Standard and Request for Comment

For more than four years, the EPA and FAA have been engaged with the ICAO's Committee on Aviation Environmental Protection (ICAO/CAEP) to establish an international CO_2 emissions standard which the EPA could then consider proposing for adoption under its section 231 authority of the CAA. This section of this document serves as an ANPR to discuss the key issues of the ongoing international proceedings prior to February 2016, when ICAO/CAEP is expected to finalize an international aircraft CO_2 standard. An ANPR is intended to solicit comments and/or information from the public prior to an agency determining whether to propose a rulemaking. As such, an ANPR does not propose or impose any regulatory requirements. The EPA may choose to develop an ANPR for actions (such as the promulgation of standards pursuant to CAA section 231 to implement an international aircraft CO_2 standard domestically) which are still in the early stages of development and for which public input may be particularly helpful. This also helps ensure transparency, while assisting the EPA in obtaining input from a wide range of stakeholders as we continue work within CAEP to establish an international CO_2 aircraft standard. The EPA is seeking comments from all interested parties, including small businesses, on a variety of issues related to setting an international CO_2 standard for aircraft, including whether such standards should apply to in-production aircraft instead of new aircraft types only, the appropriate effective dates for the potential international CO_2 standard, as well as the appropriate stringency levels.

CAEP met an important milestone at its 9th meeting (CAEP/9) in 2013 in reaching an agreement on the

[191] 74 FR 66543 (December 15, 2009).

[192] For a standard promulgated under CAA section 231 to be ''applicable to'' emissions of air pollutants from aircraft engines, it could take many forms, and include multiple elements in addition to numeric permissible engine exhaust rate. For example, under CAA section 231, EPA's rules have long-standing regulations addressing fuel venting, as well as test procedures. *See* 40 CFR part 87, subparts B, G and H. Given both the absence of a statutory directive on what form a CAA section 231 standard must take (in contrast to, for example, CAA section 129(a)(4), which requires numerical emissions limitations for emissions of certain pollutants from solid waste incinerators), and the U.S. Court of Appeals for the DC Circuit's 2007 *NACAA* v. *EPA* ruling that section 231 confers an unusually broad degree of discretion in establishing aircraft engine emission standards, it should be possible to reconcile an ICAO ''aircraft standard'' that effectively limits aircraft engine GHG emissions with a CAA section 231 aircraft engine emission standard that achieves the same result, even if the GHG standards take a different form than the traditional thrust-based NOx aircraft engine emission standards recently issued by ICAO and the EPA. *See* 40 CFR part 87, subpart C.

[193] As discussed in Section V.B.2.c fuel burn growth rates for air carriers and general aviation aircraft operating on jet fuel are projected to grow by 49 percent from 2010 to 2035 and this provides a scaling factor for growth in GHG emissions which would increase at a similar rate as the fuel burn by 2030, 2035, and 2040.

[194] U.S. Energy Information Administration (EIA), 2015: *Annual Energy Outlook (AEO) 2015 with projections to 2040,* DOE/EIA–0383, 154 pp. EIA's reference case (used as the baseline in this comparison) assumes fuel economy levels for light duty vehicles required to meet federal light duty GHG standards for years 2012–2025, and for heavy duty trucks GHG standards for years 2014–2018, plus improvements in vehicles and engines for all subsectors due to availability of fuel-saving technologies and fuel price effects. EIA counts biofuels as zero tailpipe GHG emissions. Because the comparison in this section focuses on tailpipe emissions, we include them here, at volumes as forecast in the AEO 2015 reference case. Available at *http://www.eia.gov/forecasts/aeo/* (last accessed May 12, 2015).

appropriate metric to be used in assessing fuel efficiency (or CO_2 emissions) [195] of an engine/aircraft combination. They also reached agreement on a mature certification requirement [196] to evaluate CO_2 emissions for new aircraft types and also agreed on certain aspects of the scope of applicability of the CO_2 emissions standard; however, work on applicability options for in-production aircraft continues.

At the CAEP Steering Group meeting in November 2013, there was agreement on a set of stringency options to be used for the cost-effectiveness analysis, and at the Steering Group meeting in September 2014 there was a decision on the associated inputs for costs and technology responses to be utilized in the cost-effectiveness analysis of these stringency options. This analysis, and work on the applicability of the standard to in-production aircraft and the certification requirement are scheduled to be completed prior to the 10th CAEP meeting (CAEP/10) in February 2016. As described in section II.A, the EPA and the FAA traditionally work within the ICAO/CAEP standard-setting process to establish international emission standards and related requirements. Under this approach, international emission standards have first been adopted by ICAO, and subsequently the EPA has initiated rulemakings under CAA section 231 to establish domestic standards that are of at least equal stringency as ICAO's standards. This approach has been affirmed as reasonable by the U.S. Court of Appeals for the DC Circuit. Provided the EPA makes a positive endangerment finding [197] under CAA section 231 and ICAO adopts an international aircraft CO_2 standard that is consistent with CAA section 231 and U.S. domestic needs, we would expect to proceed with a similar approach promulgating a CO_2 emissions standard (or GHG standard) of at least equivalent stringency domestically.

A. Purpose of the International Standard

At the CAEP Steering Group meeting in 2011, the U.S provided a paper recommending that CAEP agree that the purpose of the international CO_2 emissions standard be ''to achieve CO_2 emissions reductions from the aviation sector beyond expected 'business as usual'—*i.e.,* a standard that achieves CO_2 emissions reductions from the aviation sector beyond what would be achieved in the absence of a standard. This would be analyzed using ICAO criteria of technical feasibility, environmental benefit, cost effectiveness, and impacts of interdependencies.'' [198] The Steering Group accepted the U.S. proposal for the purpose of the international CO_2 standard, and it is expected to be included in the standard setting process. The metric system, stringency options, costs, technology responses (inputs to be utilized in the cost-effectiveness analysis), and applicability ultimately chosen will all have an effect on whether the international CO_2 emissions standard adheres to this stated purpose of the standard. The U.S. continues to support the adoption of an international CO_2 emissions standard that meets this stated purpose, and the EPA requests comment on this continued support. The EPA requests comment on how to achieve the purpose of the standard.

B. Applicability of the International CO_2 Emissions Standard

The EPA requests comments on the applicability approaches that CAEP is considering. Specifically, we request comment on whether the aircraft CO_2 standard should apply to in-production aircraft, including aircraft with any engineered fuel efficiency improvements (*e.g.,* different engines, redesigned wings, or engine performance improvement packages, etc.) or whether the aircraft CO_2 standard should apply only to completely new aircraft type designs. CAEP is also considering a third, alternative approach, which would redefine a new aircraft type for CO_2 purposes to include in-production aircraft that have a significant change in CO_2 emissions. We are also requesting comment on this potential alternative option.

In-production aircraft and new aircraft types are defined as follows:

—*In-production aircraft:* Those aircraft types which have already received a Type Certificate, and for which manufacturers either have existing undelivered sales orders or would be willing and able to accept new sales orders.[199] [200] [201]

—*New aircraft types:* Aircraft types that have applied for a Type Certificate [202] after the effective date of a standard and that have never been manufactured prior to the effective date of a standard.

In addition, for context, out of production aircraft are those aircraft types which have already received a Type Certificate, but for which manufacturers either have no existing undelivered sales orders or would not be willing and able to accept new sales orders. These aircraft are aircraft types that are no longer in active production.[203]

As described earlier in section II.E, CAEP's Steering Group meeting in 2010

[195] ICAO, 2013: *CAEP/9 Agreed Certification Requirement for the Aeroplane CO_2 Emissions Standard,* Circular (Cir) 337, AN/192, Available at *http://www.icao.int/publications/catalogue/cat_2015_en.pdf* (last accessed May 12, 2015). The ICAO Circular 337 is found on page 85 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. CIR337. Section 3.2 of this Circular states the following: ''An important Phase 1 milestone in the development of the CO_2 Standard was reached on 11 July 2012, when the CAEP Steering Group agreed unanimously on a CO_2 metric system to measure the aeroplane fuel burn performance and therefore the CO_2 emissions produced.''

[196] ICAO defines a certification requirement as a combination of metric, procedures, instrumentation and measurement methodology, and compliance requirements.

[197] As shorthand in this action, in many places we will use the term ''endangerment finding'' for both endangerment and cause or contribute findings.

[198] CAEP (U.S. Working Paper), ''U.S. Position on the Development of ICAO'S Aircraft CO_2 Standard,'' CAEP–SG/20112–WP/25, Presented by the United States, U.S. Working Paper for CAEP Steering Group meeting, Beijing, China, 12 to 16 September 2011.

[199] ICAO, 2013: *CAEP/9 Agreed Certification Requirement for the Aeroplane CO_2 Emissions Standard.* Available *at http://www.icao.int/publications/catalogue/cat_2015_en.pdf* (last accessed May 12, 2015).The ICAO Circular 337 is found on page 85 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. CIR337.

[200] As described earlier in section D, in existing U.S. aviation emissions regulations, in-production means newly-manufactured or built after the effective date of the regulations—and already certified to pre-existing standards (if emission standards were established previously).). This is similar to the current CAEP definition for in-production aircraft types for purposes of the CO_2 standard.

[201] According to ICAO Cir 337, a Type Certificate is ''[a] document issued by a Contracting State to define the design of an aircraft type and to certify that this design meets the appropriate airworthiness requirements of that State''.

[202] A Type Certificate is a design approval process whereby the FAA ensures the manufacturer's designs meet the minimum requirements for aircraft safety and environmental regulations. This is typically issued only once for each aircraft, and modified as needed as an aircraft is modified over the course of its production life. This Type Certificate (for new aircraft types) would be the initial or new Type Certificate for this aircraft.

[203] Out of production aircraft that are still in operational use would become subject to the international standard only if the standard applied to ''in-use'' aircraft, which it will not since CAEP has agreed that the international aircraft CO_2 standard should not apply to out of production aircraft types. Note, the EPA's CAA section 231 aircraft engine standards have applied to in-use aircraft only in very limited situations, such as the prohibition against fuel venting at 40 CFR 87.11 and smoke number standards at 40 CFR 87.31. Note, however, that unlike the EPA's authority to promulgate emission standards for motor vehicles under CAA section 202(a) or for nonroad engines and vehicles under section 213(a), section 231 of the CAA does not restrict the EPA's authority to set standards for only new aircraft.

agreed that the scope of applicability for the international aircraft CO_2 standard will be subsonic jets with an applicability weight threshold of maximum takeoff mass (MTOM) greater than 5,700 kg (12,566 lb) and turboprop aircraft with a MTOM greater than 8,618 kg (19,000 lb). CAEP also agreed that the international CO_2 standard will apply to new aircraft types, but not apply to out of production aircraft types, and that applying the standard to in-production aircraft types should not be ruled out.[204]

It is important to further describe the difference between new aircraft types and in-production aircraft. There are three categories of aircraft under consideration when describing a CO_2 standard: New aircraft types submitted for certification (known as clean sheet designs), those with lesser levels of design change, such as a new series in an established type and model (considered to be significant partial redesigns), or an aircraft with incremental improvements.[205] New aircraft types or new type designs are significant investments for manufacturers and are used for new and significantly different designs (also characterized as complete redesigns). Significant partial redesigns may be characterized as a new or later series of an established model that may incorporate newly designed wings and give purchasers more choices of engines. Incremental improvements are less extensive changes to an aircraft such as performance improvement packages that may be added to an aircraft or engine at some point during the production cycle.

New aircraft types or new type designs are infrequent. The most recent new type designs introduced in service, such as the Airbus A380 in 2007, the Boeing 787 in 2011, and the original Boeing 777 in 1995,[206] [207] [208] indicate that it is unlikely a new type design will seek certification in the next 10 to 15 years.[209] (New aircraft types (and similarly for significant partial redesigns) typically yield large fuel burn reductions—10 percent to 20 percent over the prior generation they replace, and as one might expect, these significant fuel burn reductions do not happen frequently. Also, aircraft development programs are expensive. It is not unusual for new type designs to take 8–10 years to develop, from preliminary design to entry into service.[210] [211]) Significant partial redesigns do not occur often, but are slightly more frequent than new type designs. For example, after the current significant partial redesign wave[212] has passed (which includes the Boeing 747–8, Boeing 737 Max, Airbus 320 Neo, and Boeing 777–X), we do not currently have knowledge of many additional significant partial redesigns anticipated over the next decade (as the previous wave of significant partial redesigns included the Boeing 777–200LR in 2004, 777–300ER in 2006, 737NG in 1998, Airbus 319 in 1996, and Airbus 330–200 in 1998).[213] [214] Incremental improvements will likely be frequent and occur in the near term. One approach CAEP is considering would be to limit the applicability of any international CO_2 standard to only new type designs (or new aircraft types). Under this approach the international CO_2 standard would not apply to significant partial redesigned aircraft and incremental improvements. Under another approach CAEP is considering, CAEP would also apply the international CO_2 standard to in-production aircraft (in addition to new aircraft types). Significant partial redesigned aircraft and incremental improvements would be characterized as changes made to in-production aircraft; thus, these categories of aircraft (or these changes) would need to meet the international CO_2 standard under this approach (or they would need to meet the standard if it also applied to in-production aircraft).[215]

Another approach for applicability of the international CO_2 standard that CAEP could adopt (or CAEP is considering) would be an approach based on criteria addressing significant changes to aircraft designs, which could be considered an applicability requirement different than that for new aircraft types only and in-production aircraft. This alternative approach could redefine a new aircraft type for CO_2 purposes to include in-production aircraft that have a significant change in CO_2 emissions, thus including in-production aircraft in the applicability of the CO_2 standard. The alternative approach could even cover significant partial redesigned aircraft, depending upon the definition. CAEP's current mature certification requirement for the international CO_2 standard[216] provides further detail on technology changes to aircraft that would affect the aircraft's CO_2 metric value. A changed version of an aircraft could be defined as follows: An aircraft which incorporates changes in type design that may adversely affect[217] its CO_2 emissions. This possible definition could also note the

[204] ICAO, 2013: *CAEP/9 Agreed Certification Requirement for the Aeroplane CO_2 Emissions Standard.* Available at *http://www.icao.int/publications/catalogue/cat_2015_en.pdf* (last accessed May 12, 2015). The ICAO Circular 337 is found on page 85 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. CIR337.

[205] New aircraft types fall under the initial or new Type Certificate, and significant partial redesigns and incremental improvements fall under an amended Type Certificate. Significant partial redesigns would be a new or later series of an established model, and incremental improvements would be a part of the same series as the established model.

[206] Boeing, 2011: *Boeing Unveils First 787 to Enter Service for Japan Airlines,* December 14. Available at *http://boeing.mediaroom.com/2011-12-14-Boeing-Unveils-First-787-to-Enter-Service-for-Japan-Airlines* (last accessed May 12, 2015).

[207] The Independent, 2012: *BA reveals Airbus A380 superjumbo flight plans,* by Peter Woodman, December 11. Available at *http://www.independent.co.uk/travel/news-and-advice/ba-reveals-airbus-a380-superjumbo-flight-plans-8405961.html* (last accessed May 12, 2015).

[208] ICF International, *CO_2 Analysis of CO_2-Reducing Technologies for Aircraft,* Final Report, EPA Contract Number EP–C–12–011, March 17, 2015.

[209] Ibid.

[210] Ibid.

[211] Analysts estimate a new single aisle would have cost $10–12 billion to develop. The A380 and 787 are estimated to each have cost around $20 billion to develop; the A350 is estimated to have cost $15 billion, excluding engine development. Due to the large development cost of a totally new aircraft design, manufacturers are opting to re-wing or just re-engine their aircraft (significant partial redesigns). Boeing is said to have budgeted $5 billion for the re-wing of the 777 and Airbus and Boeing have budgeted $1–2 billion each for the re-engine of the A320 and the 737, respectively (excluding engine development costs). Embraer has publically stated they will need to spend $1–2 billion to re-wing the EMB–175 and variants. (ICF International, *CO_2 Analysis of CO_2-Reducing Technologies for Aircraft,* Final Report, EPA Contract Number EP–C–12–011, March 17, 2015.)

[212] In general, design waves are prompted by the combination of market demand for new aircraft performance needs (*e.g.,* more seats for longer range) and the age of existing aircraft, and design waves are typically enabled by advances in propulsion technology.

[213] ICF International, *CO_2 Analysis of CO_2-Reducing Technologies for Aircraft,* Final Report, EPA Contract Number EP–C–12–011, March 17, 2015.

[214] Insofar as we are going through a wave of major redesign and service entry now, prospects for further step-function improvements will be low in the coming 10–15 years. (ICF International, *CO_2 Analysis of CO_2-Reducing Technologies for Aircraft,* Final Report, EPA Contract Number EP–C–12–011, March 17, 2015.)

[215] As described earlier, CAEP has not ruled out applying the international CO_2 standard to in-production aircraft types, which are aircraft types that have already received a Type Certificate and are produced after the effective date of the standard. In-production aircraft types would include significant partial redesigned aircraft and incremental improvements. CAEP is currently considering and analyzing in-production applicability.

[216] ICAO, 2013: *CAEP/9 Agreed Certification Requirement for the Aeroplane CO_2 Emissions Standard. Available at http://www.icao.int/publications/catalogue/cat_2015_en.pdf (last accessed May 12, 2015). The ICAO Circular 337 is found on page 85 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. CIR337.* See Chapter 1.

[217] Due to substantial market forces to alleviate any adverse effects on aircraft fuel burn or CO_2 emissions, adverse changes are rare.

following: (1) Where the proposed change in design, configuration, power or mass is so extensive that a substantially new investigation of compliance with the applicable airworthiness regulations is required, the aircraft should be considered to be a new type design rather than a changed version, and (2) ''adversely'' refers to an increase in CO_2 emissions of more than an amount (or percentage) that has yet to be determined (this amount or criterion is still being considered by CAEP). The EPA requests comment on this change-based criteria approach, including how to identify those changes that would result in treating in-production aircraft as new types subject to the standard.

If CAEP were to limit the scope of applicability to new aircraft types only (and without the significant change criteria approach described above), the international CO_2 standard would not apply to later series aircraft with redesigned wings, aircraft that are available with different engines, or aircraft that undergo incremental improvements. Following are several examples that illustrate this situation. The re-engined Boeing 737 Max is an example of a significant partial redesigned aircraft that is expected to enter into service in 2017.[218] This aircraft would fall under the original Boeing 737 Type Certificate that was issued in 1967 (and entered into service in 1968)—or more specifically it would fall under an amended Type Certificate, and it would not be considered a new aircraft type as defined by CAEP. The current in-production 737s (Next Generation 737s or commonly abbreviated as 737 NGs) feature newer engines, have redesigned wings, and entered service in 1998 under the original 737 Type Certificate that was issued in 1967, and these also were not considered a new type aircraft when they were introduced in 1998.[219] Another example of an aircraft that does not qualify as a new type is the Boeing 747–8 aircraft, that entered into service in 2011, and which included a new wing, new engines, and a lengthened fuselage but fell under an amended Type Certificate for the original Boeing 747 that was certified in 1969 (and entered into service in 1969). An example of incremental improvements to in-production aircraft, is the Boeing Next Generation 737 performance improvement package which was implemented between 2011 and 2013 and the Boeing 767–300 winglets that entered into service in 2008, both of which improve aircraft fuel efficiency. There are many other examples that exist for different manufacturers and aircraft around the world as well, but for conciseness, we are limiting our discussion to these above examples. These examples illustrate the typical certification for significant partial redesigns and incremental improvements by various aircraft certificating or certifying authorities (or national airworthiness authorities) around the world.

Using CAEP's current definition of new aircraft types (clean sheet designs, which are completely new aircraft) we cannot today identify the first aircraft to which the new standard would apply. As the examples above illustrate, new aircraft types are infrequent,[220] and there are no currently announced new type designs that are expected to be introduced after the implementation dates being analyzed by CAEP—2020 and 2023. Furthermore, based on provisions to which CAEP has already agreed,[221] new aircraft types subject to the CO_2 standard would be aircraft that submit an application for a Type Certificate after the implementation dates of 2020 and 2023 (dates for the stringency analysis) which would likely result in entry into service dates of about 2025 or 2028.[222] If the international CO_2 standard is applied only to new aircraft types, then CO_2 emissions would not be expected to begin to deviate from business-as-usual (in comparison to CO_2 emissions reductions that would be achieved in the absence of a standard) before 2025. Therefore, an international standard developed for only new aircraft types may not actually apply to any new aircraft for at least a decade. Even if a few new type aircraft are introduced in this timeframe, it will take even longer for these aircraft to comprise any significant portion of the fleet. Therefore, applying an international standard which applies only to new aircraft types will likely result in no additional CO_2 reductions beyond what would have occurred absent a CO_2 standard, either for the near- and mid-term, about 5 to 10 years from 2016, or even in the longer-term of 20 years plus.[223] [224]

The EPA requests comments on the timeframes described above for introducing new aircraft types and their subsequent penetration into the fleet. Are there any aircraft manufacturer announcements that we missed in regard to new aircraft types that will be introduced or apply for a Type Certificate after 2020 and 2023 (or new aircraft types that will be introduced or apply for a Type Certificate five years after these dates)? [225] If so, what are these new aircraft types? How many new types are projected to enter the fleet in this timeframe and what portion of the fleet will they represent?

The alternative approach being considered by CAEP and described earlier (addressing changes in design of in-production aircraft) may offer an opportunity to cover more aircraft in an earlier timeframe (including significant partial redesigns), but it is unclear what effect this approach would have on

[218] Boeing, *737 Max Program ''LEAPS'' into Engine Testing,* Article by Eric Olson, July 11, 2014. Available at *http://www.boeing.com/boeing/Features/2014/07/bca_737max_leap_07_11_14.page*, (last accessed May 12, 2015).

[219] The original 737 entered service in 1968. The 737 Classic entered service in 1984, and it had new high bypass engines, an updated wing, and other aerodynamic improvements. The 737 NGs entered service in 1998, and they featured a new wing and updated engines. Several mid-life upgrades were produced for the 737 NGs, offering improved range, payload, and efficiency. (ICF International, *CO_2 Analysis of CO_2-Reducing Technologies for Aircraft,* Final Report, EPA Contract Number EP–C–12–011, March 17, 2015.)

[220] ICF International, *CO_2 Analysis of CO_2-Reducing Technologies for Aircraft*, Final Report, EPA Contract Number EP–C–12–011, March 17, 2015.

[221] ICAO, 2013: *CAEP/9 Agreed Certification Requirement for the Aeroplane CO_2 Emissions Standard.* Available at *http://www.icao.int/publications/catalogue/cat_2015_en.pdf (last accessed May.12, 2015).* The ICAO Circular 337 is found on page 85 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. CIR337. Section 1.5 states that that the date to be used in determining the applicability of the CO_2 standard is the date the application for a Type Certificate was submitted to the certificating authority having jurisdiction over the manufacturer responsible for the aircraft design. Section 1.6 specifies that an application shall be effective for the period specified in the designation of the airworthiness regulations appropriate to the aircraft type. An application for a Type Certificate is valid for 5 years.

[222] These dates assume 5 years from application for the aircraft Type Certificate to entry into service, which is how long an application is valid for a Type Certificate.

[223] Approximate time-scales are considered to be 5 years for near-term, 10 years for mid-term, and 20 years or more for long-term.

[224] ICF International, *CO_2 Analysis of CO_2-Reducing Technologies for Aircraft*, Final Report, EPA Contract Number EP–C–12–011, March 17, 2015.

[225] In November 2014, Boeing indicated that it would replace the 737 with a new aircraft type in 2030. Earlier this decade, Boeing was assessing an all new clean sheet 737 replacement, but eventually they decided to re-engine the 737 (the 737 Max) instead. (Flight Club, Paul Thompson, *Here's The Skinny On What's Next For Boeing,* November 16, 2014. Available at *http://flightclub.jalopnik.com/heres-the-skinny-on-whats-next-for-boeing-1656206527 (last accessed May 12, 2015),* Also, Wichita Business Journal, Daniel McCoy, *Boeing planning 737 MAX replacement by 2030—What it could mean for Spirit AeroSystems,* November 5, 2014. Available at *http://www.bizjournals.com/wichita/blog/2014/11/boeing-planning-737-max-replacement-by-2030-what.html*) (last accessed May 12, 2015). We would consider this as a Boeing projection or sketching out of plans for a new aircraft type, but it is not a commitment from Boeing.

additional CO_2 emissions reductions compared to a standard for only new aircraft types. The EPA requests comments on the timeframe for CO_2 emissions reductions and the likely share of annual aircraft production (or share of in-production aircraft built annually) that would be affected under this alternative approach.

If ICAO applies the aircraft CO_2 emission standard to in-production aircraft, and subsequently (provided the EPA makes a positive endangerment finding under CAA section 231(a)) the EPA establishes domestic aircraft engine standards that are equivalent to the ICAO international aircraft CO_2 standard, this means that all aircraft built (in-production) after the effective date would need to certify and comply with the standard to remain in production. This includes (as described earlier) in-production aircraft with incremental improvements (though we reiterate this would not include in-use aircraft). As an example of in-production aircraft, the Gulfstream G650, which is currently in production and expected to remain so after 2020, would need to certify and comply with the new CO_2 standard. In the next section we discuss in more detail how applicability to in-production aircraft could work.

C. CAEP Discussion on In-Production Aircraft Applicability

At the request of the CAEP Steering Group meeting in November 2013, CAEP began work on defining potential options to implement applicability requirements for in-production aircraft. Subsequently, based on the options provided to the 2014 Steering Group meeting, CAEP decided that it should continue to investigate potential in-production aircraft applicability options, and that these should be presented at the July 2015 Steering Group meeting, so that a decision can be taken at the 10th meeting of CAEP (CAEP/10) in February 2016 regarding whether the international CO_2 standard will apply to in-production aircraft. There are a wide range of options under consideration, including both mandatory and voluntary options for reporting and certification processes for in-production aircraft applicability, but the 2014 Steering Group meeting requested that CAEP focus on defining the mandatory options (in contrast to options such as voluntary reporting and certification).

1. Applicability to In-Production Aircraft and Date of Implementation

At the 2014 Steering Group meeting, CAEP also agreed that 2023 represented the earliest possible date for an in-production aircraft standard to allow time to promulgate domestic regulations and process manufacturer certification applications. CAEP did not rule out later dates though and could consider implementation dates for an in-production aircraft CO_2 standard later than 2023 (CAEP could consider applicability dates for in-production aircraft that are five years following the new aircraft type applicability date, *i.e.* dates ranging from 2023 to 2028).

The EPA seeks comments on both a 2023 implementation date and on possible later implementation dates for an in-production domestic CO_2 (or GHG) aircraft engine emissions standard that would be adopted under CAA section 231,[226] the impact the date of implementation might have on per-aircraft GHG or CO_2 emissions rates [227] and the ability of a domestic GHG or CO_2 standard to achieve aircraft emission reductions beyond what would occur in the absence of such a standard.

As described in section VI.F.2, the technologies considered for the CAEP analyses are those technologies that will be widely used on in-production aircraft by 2016 or shortly thereafter.[228] The EPA requests comments regarding whether applying an international CO_2 standard to in-production aircraft is consistent with the purpose of the standard as accepted by the CAEP Steering Group meeting in 2011: ''to achieve CO_2 emission reductions from the aviation sector beyond expected 'business as usual' . . . analyzed using ICAO criteria of technical feasibility, environmental benefit, cost effectiveness, and impacts of interdependencies.'' [229] The International Coalition for Sustainable Aviation (ICSA),[230] which is a CAEP Observer organization, submitted papers to CAEP that analyzed this issue. Also, a member of ICSA [231] has developed similar analyses which indicate that applying the international standard only to new aircraft types would likely result in no additional CO_2 reductions beyond what would have occurred absent a CO_2 standard, either for the near- and mid-term, about 5 to 10 years from 2016, or even in the longer-term of 20 years plus. This occurs, the ICCT states, because the development cycles for new aircraft are very lengthy and it is not unusual for new aircraft to take 8 to 10 years to develop from preliminary design to entry into service and once in service it takes significant time for new aircraft types to penetrate the fleet.[232] [233]

[226] Traditionally, international emission standards have first been adopted by ICAO, and subsequently the EPA had initiated rulemakings under CAA section 231 to establish domestic standards equivalent to ICAO's standards where appropriate. Provided ICAO adopts an international aircraft CO_2 standard that is consistent with CAA section 231 and it is appropriate for domestic needs in the United States, we expect to proceed along a similar approach for the future CAA section 231 aircraft engine CO_2 standard (or aircraft engine GHG standard), provided the EPA issues final positive endangerment and cause or contribute findings under CAA section 231.

[227] For a standard promulgated under CAA section 231 to be ''applicable to'' emissions of air pollutants from aircraft engines, it could take many forms, and include multiple elements in addition to numeric permissible engine exhaust rate. For example, under CAA section 231, EPA's rules have long-standing regulations addressing fuel venting, as well as test procedures. *See* 40 CFR part 87, subparts B, G and H. Given both the absence of a statutory directive on what form a CAA section 231 standard must take (in contrast to, for example, CAA section 129(a)(4), which requires numerical emissions limitations for emissions of certain pollutants from solid waste incinerators), and the U.S. Court of Appeals for the D.C. Circuit's 2007 *NACAA* v. *EPA* ruling that section 231 confers an unusually broad degree of discretion in establishing aircraft engine emission standards, it should be possible to reconcile an ICAO ''aircraft standard'' that effectively limits aircraft engine GHG emissions with a CAA section 231 aircraft engine emission standard that achieves the same result, even if the GHG standards take a different form than the traditional thrust-based NO_X aircraft engine emission standards recently issued by ICAO and the EPA. *See* 40 CFR part 87, subpart C.

[228] CAEP determined in 2012 that all technology responses would have to be based on technology that would be in common use by the time the standard was to be decided upon in 2016 or shortly thereafter. This generation of technology was defined within CAEP as a Technology Readiness Level (TRL) 8—an actual system completed and ''flight qualified'' through test and demonstration—by 2016 or shortly thereafter.

[229] CAEP (U.S. Working Paper), ''U.S. Position on the Development of ICAO'S Aircraft CO_2 Standard,'' CAEP–SG/20112–WP/25, Presented by the United States, U.S. Working Paper for CAEP Steering Group meeting, Beijing, China, 12 to 16 September 2011. Available at *http://www.epa.gov/otaq/aviation.htm.* (last accessed May 12, 2015).

International Coalition for Sustainable Aviation (ICSA), ''ICAO'S CO_2 Standard as Part of a Basket of Measures to Meet Emission Reduction Goals'', ICAO Assembly—38th Session, Executive Committee, Agenda Item 17—Environmental Protection, A38–WP/297, EX/99, September 19, 2013.

[230] The International Coalition for Sustainable Aviation (ICSA) is a structured network of environmental non-governmental organizations (NGOs) who share a common concern with civil aviation's contribution to air quality issues, climate change and noise, and who are committed to developing and providing technical expertise, common policy positions and strategies with a view to reducing emissions and noise from aviation. See *http://www.icsa-aviation.org/* (last accessed May 12, 2015).

[231] The International Council on Clean Transportation (ICCT) is a member of ICSA, and ICCT is an independent nonprofit organization founded to provide research and technical and scientific analysis to environmental regulators. See *http://www.theicct.org/* (last accessed May 12, 2015).

[232] ICCT, Efficiency Trends for New Commercial Jet Aircraft 1960 to 2008, November 2009. Available at *http://www.theicct.org/sites/default/files/publications/ICCT_Aircraft_Efficiency_final.pdf* (last accessed May 12, 2015).

Another study funded by the EPA corroborates this analysis.[234] The EPA requests comments on whether applying the international CO_2 aircraft standard only to new aircraft types would be consistent with the accepted purpose of the international standard (the purpose of the standard that has been accepted by the CAEP Steering Group). Lastly, the EPA requests comment on the appropriateness of a possible EPA regulation following either of these approaches (applicability to only new aircraft types or applicability to both new types and in-production aircraft) which are under consideration at CAEP.

Also, there have been concerns raised in CAEP about applying the international CO_2 standard to in-production aircraft. These concerns include (a) the added resource burden on certificating authorities [235] to process manufacturers' certification applications, which will be more numerous compared to new aircraft types; and (b) the potential added costs to manufacturers to certify in-production aircraft. The EPA requests comment on these two concerns, including providing supporting documentation on the extent of these concerns and any other issues the commenters may identify with applying the international CO_2 standard to in-production aircraft.

2. Reporting Requirement for New In-Production Aircraft

CAEP is working to define mandatory in-production aircraft options, and one possible option is a reporting requirement [236] [237] [238] for in-production aircraft CO_2 emissions rates (measured according to the aircraft test procedure that was agreed upon at CAEP/9) as an alternative to establishing an aircraft CO_2 standard for in-production aircraft. Although a reporting requirement provides policy relevant information, it does not necessarily translate into specific emissions reductions. The EPA recognizes that only a mandatory standard for in-production aircraft would ensure that the aircraft CO_2 standard reduces per-aircraft CO_2 emissions rates. However, a reporting requirement could be an important component of an in-production aircraft CO_2 standard, especially if it is implemented shortly after an in-production aircraft standard is adopted. It would ensure that CO_2 emissions rates data are gathered quickly prior to an effective date for the final standard (tracking CO_2 emissions rates is beneficial for the reasons discussed later in this section and for potentially assisting with the assessment of a future CO_2 standard). The EPA requests comment on an aircraft manufacturer reporting requirement that is implemented soon after the adoption of an in-production international aircraft CO_2 standard, as a component of the in-production aircraft CO_2 standard.

In 2009 the EPA promulgated a final GHG reporting rule that applies to many sectors in the United States, including manufacturers of heavy-duty and offroad vehicles and engines, and manufacturers of aircraft engines.[239] [240] The EPA's experience with reporting programs indicates that the EPA and the public would be able to track CO_2 emissions rates trends (*i.e.,* trends of aircraft cruise fuel burn rates) from aircraft over time. Requiring the reporting of aircraft CO_2 emissions rates trends from aircraft over time is appropriate and feasible. Requiring aircraft manufacturers to report aircraft CO_2 emissions rates shortly after an in-production international aircraft standard is adopted would enable and expedite the tracking and understanding of these emission trends. In addition, reporting programs typically raise awareness of emissions and can improve the understanding of the factors that influence emission rates as well as the actions that can be taken to reduce emissions. When similar methods for monitoring, measurement, and reporting are applied across an industry, it can lead to more consistent, accurate, and timely data to inform decision-making for individual manufacturers and the EPA (including a comparison of the CO_2 emissions rates from aircraft of various manufacturers). Thus, a reporting requirement could potentially contribute to efforts to identify and implement future aircraft CO_2 emission reduction opportunities.

Independent of action that CAEP may or may not take in February 2016, the EPA could under its CAA section 114(a) authority pursue a reporting requirement for aircraft cruise GHG or CO_2 emissions rates—to ensure we have GHG or CO_2 emissions rates data on all in-production aircraft (and any new aircraft types that enter service).[241] The EPA could use the same metric agreed to at CAEP/9 (and in ICAO circular 337). This will be described in detail in

[233] ICCT, ''*Could ICAO's CO_2 Standard Not Actually Cover Any Aircraft? Yes, If Nobody's Watching*''. Blog, December 9, 2014. Available at *http://www.theicct.org/blogs/staff/could-icaos-co2-standard-not-cover-any-aircraft* (last accessed May 12, 2015).

[234] ICF International, *CO_2 Analysis of CO_2-Reducing Technologies for Aircraft*, Final Report, EPA Contract Number EP–C–12–011, March 17, 2015.

[235] Pursuant to CAA section 232, the FAA, after consultation with the EPA, shall prescribe regulations to insure compliance with all standards prescribed by the EPA under CAA section 231. Section 232 then directs the FAA to include provisions making the EPA's standards applicable in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by the FAA under part A of subtitle VII of Title 49. Under this unique statutory structure, the EPA promulgates the substantive emission standards, and the FAA enforces the EPA's standards and insures all necessary inspections are accomplished.

[236] Currently, CAEP is developing a publicly available database for aircraft CO_2 emissions (CAEP is now considering format, parameters, etc. for the database), but submissions to this database by aircraft manufacturers would be voluntary. There will not be a CAEP mandatory reporting requirement associated with this potential CO_2 database. In addition, if the international aircraft CO_2 standard applies to only new aircraft types, it could be many years before any data exists in this database.

[237] For many years, ICAO has maintained an Aircraft Engine Emissions Databank for landing and takeoff certificated emissions values of NO_X, hydrocarbon, carbon monoxide, and smoke number (ICAO and the EPA also have aircraft engine emission standards for these pollutants). It contains certified emissions data voluntarily reported from each aircraft engine manufacturer. This databank is available at *https://easa.europa.eu/document-library/icao-aircraft-engine-emissions-databank (last accessed May 12, 2015).*

[238] In 2012, the EPA promulgated annual reporting requirements for aircraft engine emissions of NO_X, hydrocarbon, carbon monoxide, and smoke number and related parameters. One of the reasons that the EPA issued these reporting requirements was due to the varying amount of voluntary data reported by aircraft engine manufacturers. (U.S. EPA, ''Control of Air Pollution from Aircraft and Aircraft Engines; Emission Standards and Test Procedures.'' Final Rule, 77 FR 36342 (June 18, 2012)).

[239] EPA's 2009 rule on Mandatory Reporting of Greenhouse Gases included engine manufacturers for the following mobile source sectors: Highway heavy-duty (engine and vehicle), non-road, aircraft, locomotive, marine, snowmobiles, and motorcycles. Manufacturers of aircraft jet engines of rated output (or thrust) greater than 26.7 kilonewtons are required under this program to report annually to the EPA CO_2 and NO_X emissions from aircraft engines during the landing and takeoff cycle. Manufacturers of these engines were already measuring and recording CO_2 emissions as part of existing criteria air pollutant emission requirements for the landing and takeoff cycle, but prior to this 2009 rule, these data were not reported to the EPA. Manufacturers voluntarily reported the data to ICAO, but there was no assurance that the EPA would receive this information, and thus, the 2009 rule required reporting of the aircraft engine CO_2 and NO_X emissions during the landing and takeoff cycle to the EPA.

[240] An aircraft manufacturer reporting requirement for in-production aircraft CO_2 emission rates would require the reporting of aircraft CO_2 emissions during the cruise phase of operation to the EPA. The majority of aircraft CO_2 emissions occurs in the cruise phase of operation, and thus, reporting CO_2 emission rates from this phase will improve our ability to track full-flight aircraft CO_2 emission rates over time (in addition to reporting the aircraft engine CO_2 emissions during the landing and takeoff cycle). Also, the aircraft test procedure that was agreed upon at CAEP/9 now enables us to measure aircraft CO_2 emissions during cruise.

[241] This GHG or CO_2 emissions rate data will help to track trends, raise awareness, better understand the technology in the fleet, etc.

VI.D.1 below. In general, the EPA asks for comment on a mandatory reporting requirement for in-production aircraft GHG or CO_2 emissions rates—either as part of the CAEP international standard or as an independent domestic requirement to be adopted by the EPA. If the EPA were to pursue this requirement independently from CAEP, what lead time would be appropriate for manufacturers to report the GHG or CO_2 emissions rates from all of their in-production aircraft [242] (after we promulgate such a requirement)? Additionally, if we were to pursue such an independent reporting requirement, should we require the annual reporting of the GHG or CO_2 emissions rates from in-production aircraft (and any new type aircraft) [243] to enable us to track any updates? We are not at this time proposing to promulgate such a requirement in advance of ICAO's decision. Due to the possibility of ICAO's adoption of a reporting requirement, we believe it is reasonable to await the outcome of that decision in order to determine whether to strictly follow ICAO's possible reporting requirement or make changes to it in the form of an additional U.S. domestic requirement, as appropriate.

D. Metric System, Applicability, and Certification Requirement

The CO_2 metric system and mature certification procedure were agreed upon by CAEP in 2013.[244] This section describes the metric system that was developed, the scope of aircraft to be covered by the international CO_2 standard, the certification test procedures that would be used to demonstrate compliance with the international CO_2 standard, and CAEP's decision to focus on the entire aircraft for the international CO_2 standard.

1. CO_2 Metric System

The metric system was developed to cover a wide range of aircraft types, designs, technology, and uses. To do this, the metric system was designed to differentiate between generations of aircraft and to equitably capture improvements in aerospace technology (structural, propulsion, and aerodynamic) that contribute to a reduction in the airplane CO_2 emissions. In addition, the metric system accommodates a wide range of technologies and designs which manufacturers may choose to implement to reduce CO_2 emissions from their aircraft.

The metric system agreed to at CAEP uses multiple Specific Air Range (SAR) test points to represent cruise fuel burn. SAR is a traditional measure of aircraft cruise performance which measures the distance an aircraft can travel for a unit of fuel. This is similar to the instantaneous ''miles per gallon'' readings in many cars today. However, here the inverse of SAR is used (1/SAR); therefore a lower metric value represents a better fuel efficiency. The SAR data are gathered at three gross weight points. The three equally weighted points are used to represent a range of day to day aircraft operations.[245] The functional form of the metric system is provided below.

$$CO_2\ Metric\ Value = \frac{\left(\frac{1}{SAR}\right)_{avg}}{RGF^{0.24}}$$

Equation 1: CO_2 Metric

$(1/SAR)_{avg}$ is calculated at 3 gross weight fractions of Maximum Takeoff Mass (MTOM):

High gross mass: 92% MTOM

Mid gross mass: Average of high gross mass and low gross mass

Low gross mass: (0.45 * MTOM) + (0.63 * (MTOM − 0.924))

The Reference Geometric Factor (RGF) is a measure of the fuselage size on a given aircraft. In analyzing various metric system options it was found that in some instances, namely stretch aircraft, changes in aircraft size, and thus capability, were not reflected in changes to the aircraft's gross weight (MTOM). To account for these occurrences, and the variety of methods that manufacturers may use to make such a change, an adjustment factor was added (the RGF with a 0.24 exponent used in the metric system).

2. Applicability

CAEP has decided the scope of applicability for a future international CO_2 standard should be subsonic jet and propeller-driven aircraft meeting the following criteria:

All subsonic jet aircraft over 12,566 lbs (5,700 kg) MTOM.

All subsonic propeller driven (*e.g.,* turboprop) aircraft over 19,000 lbs (8618 kg) MTOM, except amphibious airplanes and those designed and used for fire-fighting operations.

No military aircraft will be subject to this international standard.

3. Certification Requirement

CAEP has developed a mature certification requirement [246] that would allow for the determination of an aircraft CO_2 metric value for any aircraft meeting the applicability criteria set forth above. This certification requirement incudes the metric system and test procedure. The test procedure was based upon industry's current best practices for establishing the cruise performance of their aircraft, and input from certification authorities. These procedures include specifications for aircraft conformity, weighing, fuel specifications, test condition stability criteria, required confidence intervals, measurement instrumentation required, and corrections to reference conditions.

These CO_2 test procedures are based upon manufacturer's existing practices when certifying new aircraft. This means that there is a very heavy reliance on dedicated flight testing of the aircraft. This potentially poses challenges for the certification of in-production aircraft. Manufacturers have stated that there could be logistical challenges associated with the certification of aircraft for CO_2 that have previously been type certificated (*e.g.* procuring and instrumenting an aircraft for flight testing). To address this, the EPA is currently working within CAEP to encourage the development of a modified or separate equivalent certification test procedure that would reduce this burden on manufacturers

[242] In this case, manufacturers would need to report the GHG or CO_2 emission rates for in-production aircraft (aircraft types which have already received a Type Certificate, and for which manufacturers either have existing undelivered sales order or would be willing and able to accept new sales orders) that are built after a certain date, which has yet to be determined but would likely be a date that occurs shortly after we promulgate the requirement.

[243] By applying a reporting requirement to in-production aircraft after a certain implementation date, this reporting requirement also includes new aircraft types that are produced after this implementation date.

[244] As described earlier, the certification requirement is the combination of metric, procedures, instrumentation and measurement methodology, and compliance requirements. We are using the terms metric system and certification test procedures to describe these elements of the certification requirement.

[245] ICAO, 2013: *CAEP/9 Agreed Certification Requirement for the Aeroplane CO_2 Emissions Standard. Available at http://www.icao.int/publications/catalogue/cat_2015_en.pdf (last accessed May 12, 2015). The ICAO Circular 337 is found on page 85 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. CIR337.*

[246] ICAO, 2013: *CAEP/9 Agreed Certification Requirement for the Aeroplane CO_2 Emissions Standard. Available at http://www.icao.int/publications/catalogue/cat_2015_en.pdf (last accessed May 12, 2015). The ICAO Circular 337 is found on page 85 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. CIR337.*

and allow for quicker/simpler certification of in-production types.

4. Regulating the Entire Aircraft Instead of the Engine

The CO_2 metric system intends to equitably reward improvements in aircraft technologies that reduce emissions, including advances in structures (aircraft weight), propulsion (engine specific fuel consumption), and aerodynamics. These three factors are key to the overall aircraft CO_2 emissions. In addition, CAEP has indicated (and EPA agrees) that it is best to consider the aircraft as a whole instead of only the aircraft engine technology in addressing factors that influence CO_2 emissions, because of the effects and interaction these key factors have on the aircraft CO_2 emissions from engines.[247] The three factors—and technology categories that improve these factors—are described as follows:[248]

Structures: Reducing basic aircraft weight to increase the commercial payload or extend range for the same amount of thrust and fuel burn;

Propulsion (thermodynamic and propulsion efficiency): Advancing the overall specific performance of the engine, to reduce the fuel burn per unit of delivered thrust; and

Aerodynamics: Advancing the aircraft aerodynamics, to reduce drag and its associate impacts on thrust.

Specific examples of technologies that affect these three factors help to further illustrate that it is best to consider the aircraft as a whole in addressing CO_2 emissions. For structural improvements, aircraft manufacturers have shown significant weight reduction results over time due to the progressive introduction of new technologies such as: Advanced alloys and composite materials, improved and new manufacturing processes and techniques (including integration and global evaluation simulation), and new systems (*e.g.* fly-by-wire).[249] [250]

For propulsion improvements, technologies include enhanced compressors (*e.g.,* intercooled compressors) and reduced hub-tip ratio fans.[251] As another example, manufacturers seek higher operating pressure ratios (OPR) to improve combustion and engine cycle refinements.

For aerodynamics, friction and lift-dependent drag are the biggest contributors to aerodynamic drag. Advances in aerodynamics enable significant lift-dependent drag reduction by maximizing effective wing span extension. For example, wing-tip devices can give an increase in the effective aerodynamic span of wings, particularly where wing lengths are limited by airport gate sizes. Manufacturers are also looking at ways of decreasing the drag caused by skin friction. An example of a technology to improve aircraft local skin friction is to utilize riblets (which are micro-grooves on the surface) to maintain laminar flow via Natural Laminar Flow and Hybrid Laminar Flow Control (HLFC) to reduce turbulent skin friction.[252] The first production example of a HLFC system went into service on the new Boeing 787–9 in 2014.

E. Stringency Options

At the Steering Group meeting in November 2013, CAEP agreed to analyze a range of CO_2 stringency options that cover the full range of aircraft in-production and in-development around the world (within the applicable weight thresholds and categories), and this includes the wide range of technology that is currently in the aircraft fleet.[253] Generally, the stringency options that are being evaluated fall into three categories as follows: (1) CO_2 stringency levels that could impact[254] only the oldest, least efficient aircraft in-production around the world, (2) middle range CO_2 stringency levels that could impact many aircraft currently in-production and comprising much of the current operational fleet, and (3) CO_2 stringency levels that could impact aircraft that have either just entered production or are in final design phase but will be in-production by the time the international CO_2 standard becomes effective. We are requesting comment on the level(s) at which the CO_2 stringency options should be set, what factors should be considered in establishing the stringency of the CO_2 standard, and on their potential relationship to any future CAA section 231 standard.

The figures below are intended to show the range of stringency levels under consideration at CAEP and CO_2 metric value levels of today's in-production and in-development[255] aircraft. The data shown were generated by the EPA using a commercially available aircraft modeling tool called PIANO.[256] This model contains non-manufacturer provided estimates of the performance of various aircraft. In contrast, CAEP is using manufacturer-provided estimates of the aircraft metric value performance.

The stringency options under consideration at CAEP are functions of the aircraft CO_2 Metric Value and have a correlating parameter of MTOM. They are upwards sloping and have a ''kink'' at 60,000 kilograms MTOM. The ''kink'' was included in the stringency options as a technical approach to reflect the different behaviors observed between the larger and smaller aircraft.

The official stringency options under consideration at CAEP have not been cleared for release outside of the participating members since deliberations on the standard are still ongoing (proceedings are expected to be completed at CAEP/10 in February 2016). To show the relative efficiency of the aircraft, Figure 1 and Figure 2 below show the aircraft metric values[257] versus MTOM. In place of the official stringency options under consideration, lines of constant technology are used to notionally show how the stringency options were set across the fleet. These lines reflect the three ranges of options discussed above. Lower metric values, for a given MTOM, represent an increased fuel efficiency. Figure 1

[247] ICAO, 2013: *CAEP/9 Agreed Certification Requirement for the Aeroplane CO_2 Emissions Standard. Available at http://www.icao.int/publications/catalogue/cat_2015_en.pdf (last accessed May 12, 2015). The ICAO Circular 337 is found on page 85 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. CIR33.*

[248] ICAO, *Environmental Report 2010—Aviation and Climate Change,* 2010, which is located at *http://www.icao.int/environmental-protection/Pages/EnvReport10.aspx* (last accessed May 12, 2015).

[249] Ibid.

[250] Fly-by-wire refers to a system which transmits signals from the cockpit to the aircraft's control surfaces electronically rather than mechanically. AirlineRatings.com, Available at *http://www.airlineratings.com/did-you-know.php?id=18* (last accessed on May 12, 2015, 2015).

[251] ICF International, *CO_2 Analysis of CO_2-Reducing Technologies for Aircraft,* Final Report, EPA Contract Number EP–C–12–011, March 17, 2015.

[252] ICAO, *Environmental Report 2010—Aviation and Climate Change,* 2010, which is located at *http://www.icao.int/environmental-protection/Pages/EnvReport10.aspx.*(last accessed May 12, 2015).

[253] The ICAO standard has the following applicability weight thresholds: Maximum takeoff mass greater than 5,700 kilograms for subsonic jet aircraft and maximum takeoff mass greater than 8,618 kilograms for turboprops.

[254] The aircraft shown in these charts are in-production and current in-development. These aircraft could be impacted by an in-production standard in that, if they were above the standard, they would need to either implement a technology response or go out of production. For a new type only standard there will be no regulatory requirement for these aircraft to respond.

[255] Aircraft that are currently in-development but will be in production by the applicability dates. These could be new types or significant partial redesigned aircraft.

[256] PIANO (Project Interactive Analysis and Optimization), Aircraft Design and Analysis Software by Dr. Dimitri Simos, Lissys Limited, UK, 1990-present; Available at *www.piano.aero (last accessed May 12, 2015).* This is a commercially available aircraft design and performance software suite used across the industry and academia.

[257] Metric values were generated using PIANO.

shows the makeup of the current production fleet and the in-development aircraft. This is what CAEP is using as the starting point for modeling the effect of the CO_2 standard. Figure 2 shows what the EPA expects the market to look like in 2023, considering the publicly announced plans by industry to replace existing aircraft with new products.

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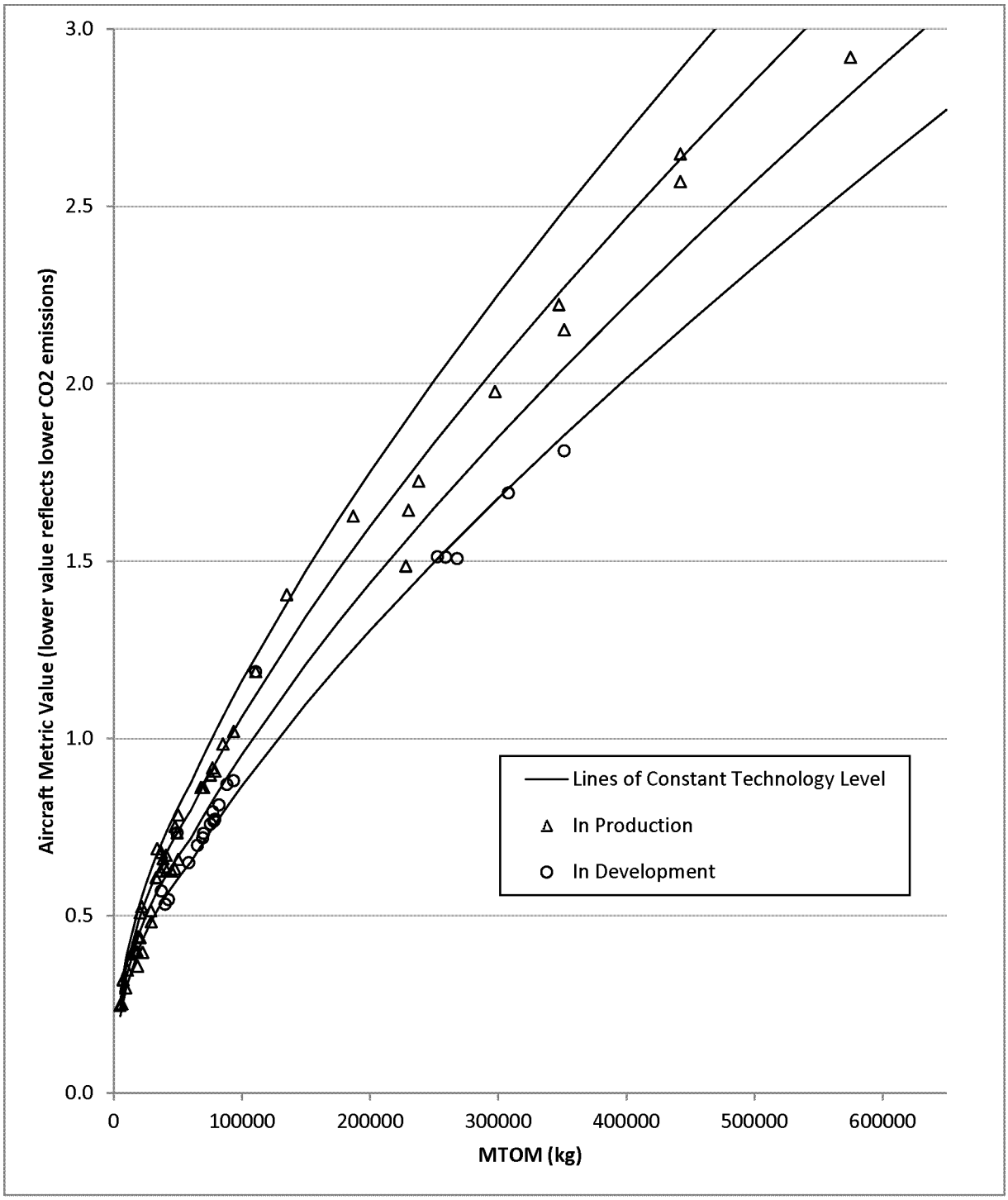

Figure 1 – Lines of constant technology level over the 2014 in-production and in development fleet

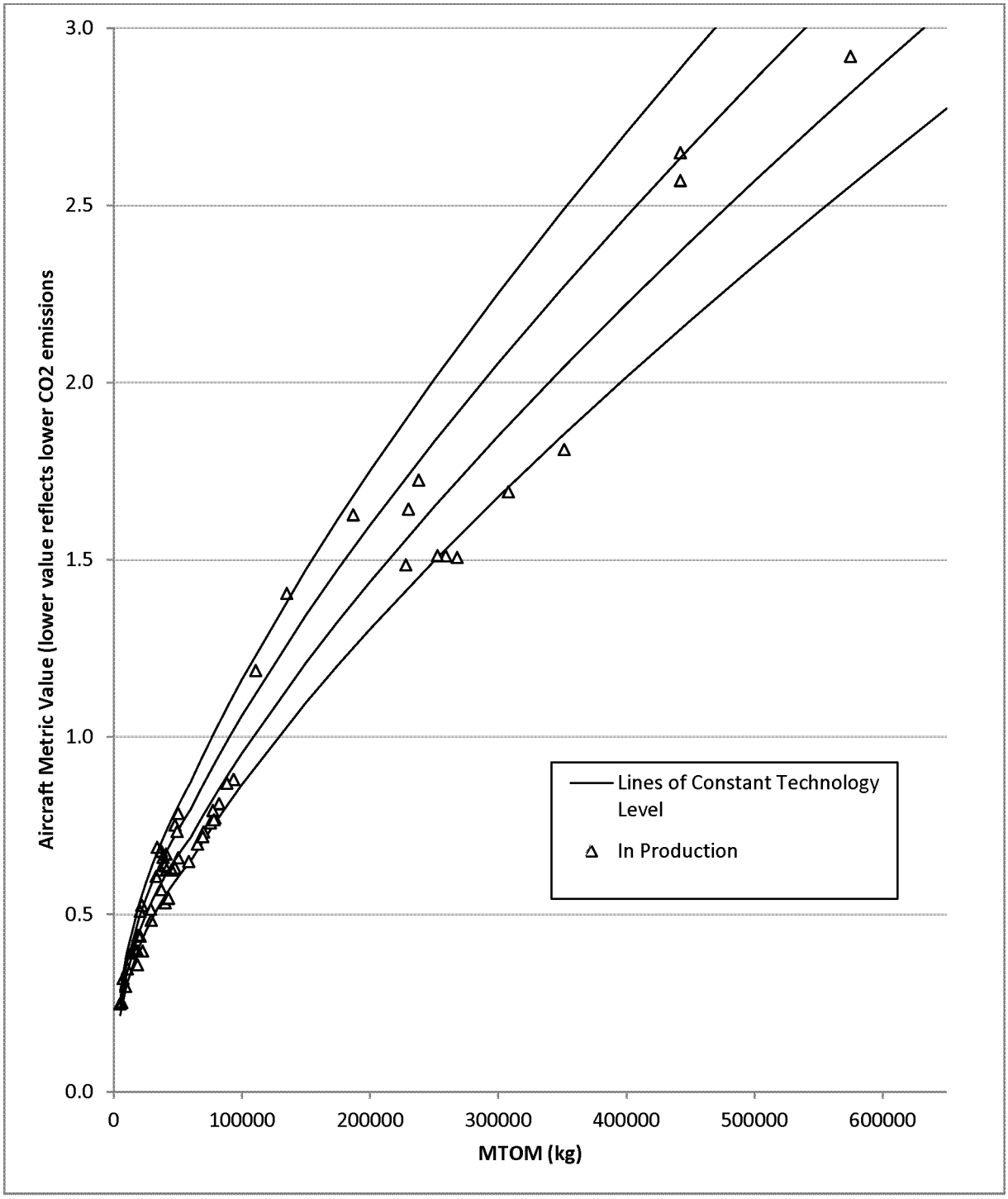

Figure 2 – Lines of constant technology level over the predicted 2023 in-production fleet

A standard set near the upper-most line of constant technology in Figures 1 and 2 would affect a very modest number of aircraft, namely the oldest, least efficient types. Many of the aircraft that would be affected by such a stringency level are being produced in very limited numbers and may not be eligible to operate in U.S. air space (*e.g.,* Russian and Ukraine aircraft).

Aircraft around the middle two lines of constant technology in Figures 1 and 2 reflect the performance of many aircraft that are currently in production and compose much of the current operational fleet. The current generation of single aisle aircraft from Boeing and Airbus are in this middle range.

Aircraft near the lowest line of constant technology in Figures 1 and 2 reflect the most advanced aircraft currently for sale on the market. These are aircraft that have either just entered production or are still in-development

but will be in-production by the effective date of a potential in-production the standard. The replacement single aisle aircraft and new twin aisle aircraft from Boeing and Airbus are modeled to be clustered around the lowest line.

While Figures 1 and 2 show the ranges of stringency under consideration and how aircraft fall within those ranges, because of the scale, it is hard to see the range of technology present in the fleet. Therefore Figure 3 and 4 expand the view and show percent differences between the four constant technology lines represented in Figures 1 and 2. This allows for a clearer view of best and worst performing aircraft; Figure 3 provides the perspective from the current in-production and in-development fleet, and Figure 4 projects out to the 2023 fleet. In addition, these figures allow one to compare the technology level and efficiency of aircraft with differing MTOMs.

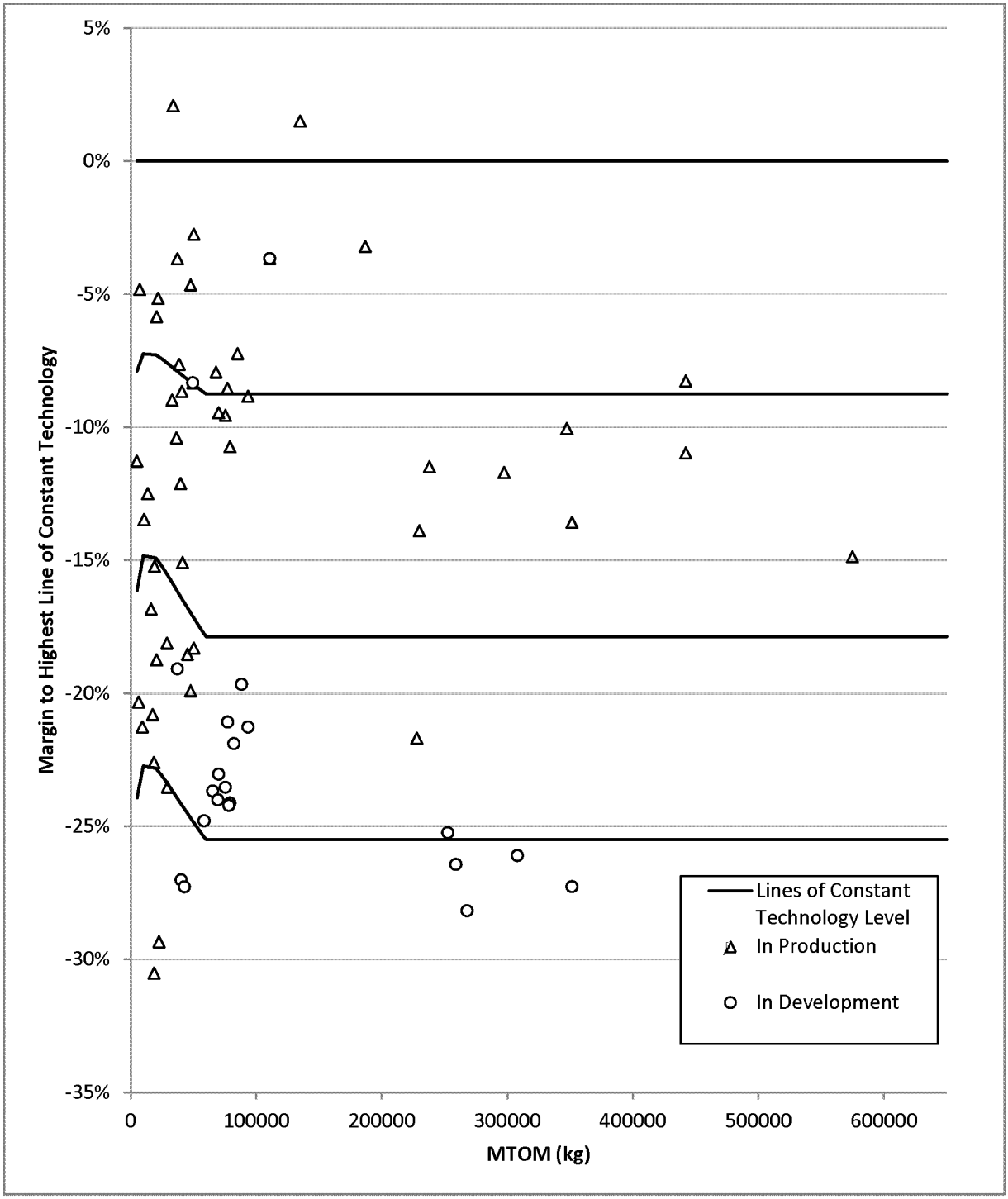

Figure 3 – Percent from least efficient line of constant technology for the 2014 in production and in development fleet

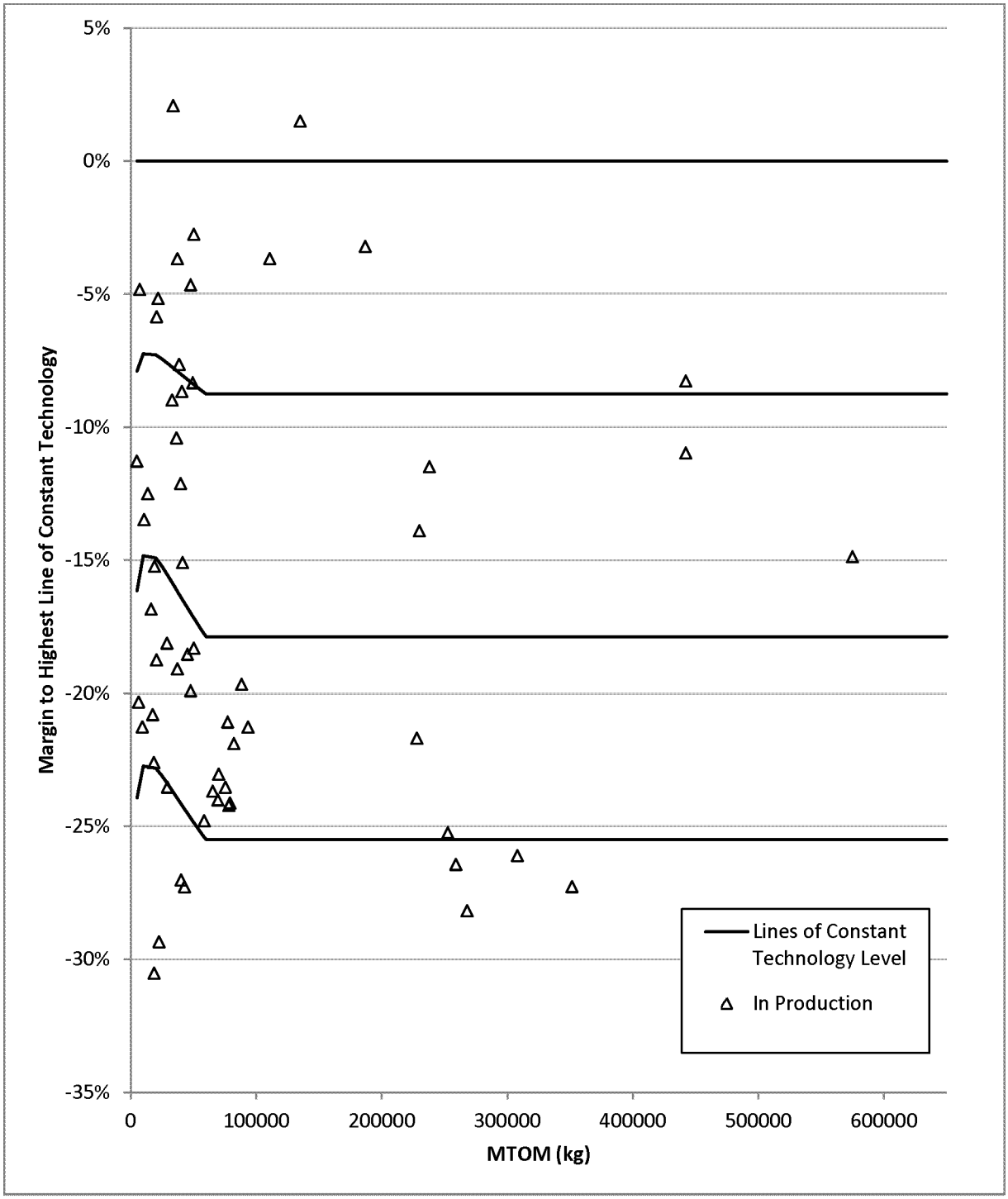

Figure 4 - Percent from least efficient line of constant technology for the predicted 2023 in–production fleet

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The EPA requests comment on a range of stringency options within the constant technology lines identified in Figure 1 and Figure 2, on their potential impact, and on their potential relationship to any future CAA section 231 standard.

CAEP is considering the possibility of adopting two separate CO_2 stringency levels, one for new type aircraft and one for in-production aircraft. This would allow stringencies to be set for both new types and in-production aircraft at a level closer to what could be achieved by each aircraft type. Issues surrounding the potential for in-production standards are discussed in section VI.C.1.

There is ongoing discussion on what appropriate levels of stringency may be for new type and in-production aircraft. Any final decisions will have to wait until the full analysis has been conducted at CAEP. As explained in sections VI.B and VI.C.1, new types are infrequently developed and typically represent a step change in technology. It may be possible to set a level of stringency that is reasonable for in-production aircraft to meet, but at the same time provide an incentive for new type aircraft to improve. However, this is challenging to develop because of the significant efficiency improvements typically seen between in-production and new type aircraft. The EPA requests comment on the potential for developing a standard with two stringency levels at CAEP.

The development of a new aircraft type standard must take into consideration the standard's potential effect on any future type designs. Even the most stringent option under consideration at CAEP is still based on technology available today. Any new type aircraft that may be developed and certified 10 years or more from now would be expected to use more advanced fuel efficient technology that is not yet developed or tested.

The implications for an in-production standard are more significant in the near term for manufacturers. Aircraft currently in-production, and not meeting the level of an in-production standard, would need to be modified to meet the standard to remain in production; this would take time and resources from the manufacturers. The full implications of this have not yet been resolved in CAEP. However, we expect that the effect on aircraft CO_2 emissions would be minimal for less stringent options. The aircraft with the highest CO_2 metric values generally rely on older technology and were designed in the 1980's to early 1990's. Many of these aircraft are also expected to be replaced with updated versions in the near future, before a CO_2 standard would be implemented and go into effect. The EPA requests comment on the levels at which in-production and new type standards might be set and on what factors should be considered in establishing the stringency.

F. Costs, Technology Responses for Stringency Options, and Cost-Effectiveness Analysis

The EPA has been involved in CAEP's effort to analyze the CO_2 stringency options and the potential costs and environmental impacts that would result from both new type only CO_2 standards and in-production international CO_2 standards. CAEP is still determining the best way to conduct portions of this analysis. The inputs that have been developed by the CAEP include non-recurring costs data and technology responses for the various stringency options under consideration. This section describes the development of these inputs. The EPA requests comments on how the modeling should be conducted to differentiate in-production and new type scenarios.

1. Non-Recurring Costs (engineering development costs)

CAEP developed a single cost estimate that could be used for all aircraft as a function of MTOM and percent metric value improvement required. Based on past practice, industry provided estimates for developing clean sheet designs and significant partial redesigns, only including high level information that has been made available to the public. This was considered to be a top down estimate because it included all aircraft development costs (airworthiness certification, noise, etc.) not just those for CO_2 improvements.

Since the initial dataset provided by industry only included major changes (or major improvements), the EPA saw the need to supplement this dataset with an estimate of CO_2-only changes (or CO_2-only improvements), which was considered to be a bottom up estimate. These changes would be much smaller, on the order of a few percent, and could be applied to in-production aircraft at a cost much lower than projected by industry. The EPA contracted with ICF International to develop an estimate of the cost to modify in production aircraft to comply with a CO_2 standard. ICF International conducted a detailed literature search, conducted a number of interviews with industry leaders, and did its own modeling to estimate the cost of making modifications to in production aircraft.[258] The results from this peer-reviewed study (small changes) were then combined with inputs from the industry and the other CAEP participants (large changes) to develop the CO_2 technology response and cost estimation. For the cost estimation, the CAEP combined the two different methodologies to develop the final cost surface.[259]

A top-down approach is being used to model large changes to aircraft design, such as what would be seen in significant partial redesigns or new types. For significant partial redesigns that result in new series of an established model, these types of changes may include: Redesigned wings, new engine options, longer fuselages, improved aerodynamics, or reduced weight. When making significant changes to an aircraft many other changes and updates get wrapped into the process that do not have an effect on the CO_2 emissions of the aircraft, and significant partial redesigns may not have been spurred by changes to fuel efficiency (CO_2 reductions). This confluence of changes led CAEP to agree that it was reasonable to use the full development cost for a new type (clean sheet) or significant partial redesign for major changes. Total costs for past projects were used to estimate non-recurring cost for the CAEP analysis. This type of aircraft improvement/development program has historically ranged approximately from 1 to 15 billion Dollars (U.S.) depending on the size of the aircraft and scope of the improvements desired.

A bottom-up approach was used, by CAEP, to model smaller incremental metric value changes to aircraft design. The CAEP agreed that the above top-down approach would not be the best approach for minor changes or incremental improvements because the significant design efforts include many changes that would not be required for smaller CO_2 reductions. The EPA used the information gathered by ICF International to provide input on the cost for individual technologies which were used to build up non-recurring costs for these incremental improvements (a bottom-up approach). The technologies available to make incremental improvements to aircraft is wide ranging and aircraft specific. Some examples of technologies that could be integrated into an aircraft for incremental improvements include improved fan blade design or reduction in turbine clearances in the engine, reducing the gap between control surfaces, carbon brake pads, or advanced wing tip devices. As an example, ICF International estimated that depending on the additive nature of specific technologies and the magnitude improvement required, the cost to incrementally improve the Boeing 767 could range from approximately 230

[258] ICF International, *CO_2 Analysis of CO_2-Reducing Technologies for Aircraft,* Final Report, EPA Contract Number EP–C–12–011, March 17, 2015.

[259] The two datasets were merged together and a single cost surface was then generated to calculate the cost to modify any aircraft based on the MTOM, and percent metric value change needed.

million to 1.3 billion US dollars (3.5% to 11% metric value improvement).[260]

2. Technology Responses

When CAEP started to develop the technology responses for the stringency options, a determination needed to be made on what level of technology could be considered as a response to the standard. At the outset, CAEP decided the international CO_2 standard would be a technology following standard, rather than a technology forcing one. This means that the international standard would reflect a level of emissions performance that is already achieved by some portion of current in-production aircraft.

Additionally, CAEP determined in 2012 that all technology responses would have to be based on technology that would be in common use by the time the standard was to be decided upon in 2016 or shortly thereafter. This generation of technology was defined within CAEP as a Technology Readiness Level (TRL) 8 [261]—an actual system completed and qualified through test and demonstration—by 2016 or shortly thereafter. This means that the technology responses considered for the future international CO_2 standard, going into effect in 2020 or 2023 for new types and potentially in 2023 or later for in-production, are based on what will be in operation by 2016 or shortly thereafter. Considering the technology response assumptions agreed to at CAEP, the EPA requests comment on how the international CO_2 standard should be established so that it meets the purpose of the standard—to achieve reductions beyond what would have been achieved in the absence of a standard.

3. Cost Effectiveness Analysis

CAEP is currently conducting the cost effectiveness analysis for new-type and in-production aircraft. With rare exceptions CAEP has historically developed new type only standards. To model cost impacts of a new type standard, CAEP has historically used an assumption that the in-production aircraft will respond to the new type standard, even though the standard would not apply to them and has assumed that the aviation sector is competitive enough that market forces will drive manufacturers to voluntarily upgrade their fleet to meet any new type aircraft standard. This scenario is modeled no differently from a mandatory in-production standard. The EPA requests comment on modeling cost and environmental impacts of new-type standards based on the assumed attainment of such emissions levels by in-production aircraft.

Because CAEP has modeled all in-production aircraft as responding by the implementation date of the new-type standard, CAEP has by definition, performed an in-production analysis. More stringent options for new-type aircraft may be restricted due to the assumed in-production impacts.

CAEP has recognized that its past methods for modeling a new-type only standard (by assuming in-production aircraft comply) may not be sufficient for the CO_2 standard analysis. Thus, CAEP developed new methods to model what cost and environmental impacts would result from only new types being regulated under a new-type emission standard. CAEP is still determining the best way to conduct an analysis of impacts only on new types using the agreed upon technology responses and cost estimates. The EPA requests comments on how to model cost impacts for only new types for the future international CO_2 standard, if it were to apply only to new types. The EPA also requests comment on how the modeling should be conducted to differentiate in-production and new type scenarios.

G. Request for Comment on EPA's Domestic Implementation of International CO_2 Standards

As described earlier in section II.E, traditionally international emission standards for aircraft engines have first been adopted by ICAO, and subsequently the EPA has initiated rulemakings to establish domestic standards that are of at least equal stringency as ICAO's engine standards. However, the Chicago Convention,[262] which established ICAO, recognizes that ICAO member states may adopt their own unique standards that are more stringent than ICAO standards. A participating member state (or nation) that adopts more stringent standards is obligated to notify ICAO of the differences between its standards and ICAO's standards.[263]

Section 231(b) of the CAA requires that any emission standards ''take effect after such period as the Administrator finds necessary (after consultation with the Secretary of Transportation) to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance during such period.'' 42 U.S.C. 7571(b). Section 231(a)(2)(B) provides that the Administrator shall consult with the Administrator of the FAA on standards, and ''shall not change the aircraft engine emission standards if such change would significantly increase noise and adversely affect safety.'' 42 U.S.C. 7571(a)(2)(B).

As discussed in the 2005 rule (CAEP/4 aircraft engine NO_X standard),[264] the EPA needs to have a technical basis for expecting the standards will be achievable in a specific period of time. While the statutory language of section 231 is not identical to other provisions in title II of the CAA that direct the EPA to establish technology-based standards for various types of mobile sources, the EPA interprets its authority under section 231 to be similar to those provisions that grant us significant discretion to identify a reasonable balance of specified emissions reduction, and cost without adversely affecting safety or increasing noise. *See, e.g., Husqvarna AB* v. *EPA,* 254 F.3d 195 (D.C. Cir. 2001) (upholding the EPA's promulgation of technology-based standards for small non-road engines under section 213(a)(3) of the CAA). In this regard, we note CAEP's intent for the purpose of the international CO_2 standard (as accepted by the CAEP Steering Group in 2011), which is to achieve aircraft CO_2 emissions reductions beyond that which would

[260] ICF International, *CO_2 Analysis of CO_2-Reducing Technologies for Aircraft,* Final Report, EPA Contract Number EP–C–12–011, March 17, 2015.

[261] TRL is a measure of Technology Readiness Level. CAEP has defined TRL8 as the ''actual system completed and 'flight qualified' through test and demonstration.'' TRL is a scale from 1 to 9, TRL1 is the conceptual principle, and TRL9 is the ''actual system 'flight proven' on operational flight.'' The TRL scale was originally developed by NASA. ICF International, *CO_2 Analysis of CO_2-Reducing Technologies for Aircraft,* Final Report, EPA Contract Number EP–C–12–011, see page 40, March 17, 2015.

[262] ICAO, 2006: *Doc 7300-Convention on International Civil Aviation, Ninth edition,* Document 7300/9. Available at: *http://www.icao.int/publications/ICAOProducts&Services2015catalogue/cat_2015en.pdf* (last accessed May 12, 2015). The ICAO Document 7300 is found on page 1 of the ICAO Products & Services 2015 catalog and is copyright protected; Order No. 7300.

[263] According to the Chicago Convention, a participating member State that adopts regulations or practices differing in any particular respect from those established by an international standard is obligated to notify ICAO of the differences between its standards and ICAO's standards. However, member States that wish to use aircraft in international transportation must adopt emissions standards and other recommended practices that are at least as stringent as ICAO's standards. Member States may ban the use of any aircraft within their airspace that does not meet ICAO standards.

[264] U.S. EPA, ''Control of Air Pollution from Aircraft and Aircraft Engines; Emission Standards and Test Procedures;'' Final Rule, 70 FR 2521, November 17, 2005.

have occurred in the absence of a standard.

In ruling on a petition for judicial review of the 2005 rule,[265] the U.S. Court of Appeals for the D.C. Circuit held that the EPA's approach in that action of tracking the ICAO standards was reasonable and permissible under the CAA. *NACAA* v. *EPA,* 489 F.3d 1221, 1230–32 (D.C. Cir. 2007). The Court also held that section 231 of the CAA confers a broad degree of discretion on the EPA to adopt aircraft emission standards that the Agency determines are reasonable. *Id.*

Although the EPA has traditionally established domestic standards that track the ICAO standards, for purposes of having a robust ANPR process, we ask for comment on the possibility of the EPA adopting a more stringent aircraft engine emissions standard than ICAO, provided ICAO/CAEP promulgates a standard in 2016 and the EPA makes a positive endangerment finding. In the same vein, the EPA requests that commenters consider the following factors (among others): The potential to reflect the CO_2 emissions performance of products from U.S. manufacturers, competitive advantages and disadvantages for U.S. manufacturers, certification reciprocity with certificating authorities of other nations, and the EPA's role in the ongoing ICAO negotiations. In addition, the EPA asks for comment on what action the EPA should take if the ICAO/CAEP process fails to result in the adoption of an aircraft CO_2 emissions standard.

VII. Statutory Authority and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action because it raises novel policy issues. Accordingly, it was submitted to the Office of Management and Budget (OMB) for review. This action proposes a finding that GHG emissions from aircraft cause or contribute to air pollution that may be reasonably anticipated to endanger public health and welfare along with an ANPR which provides an overview of the international efforts to reduce GHG emissions, progress to date in establishing global aircraft standards that achieve meaningful CO_2 reductions and, if the EPA finds that aircraft GHG emissions do cause or contribute to endangerment, the potential use of CAA section 231 to implement these standards domestically ensuring transparency and the opportunity for public comment. Any changes made in response to OMB recommendations have been documented in the docket.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. The proposed endangerment and cause or contribute findings under CAA section 231 do not contain any information collection activities.

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. This action will not impose any requirements on small entities. The proposed endangerment and cause or contribute findings under CAA section 231 do not in-and-of-themselves impose any new requirements but rather set forth the Administrator's proposed determination that GHG emissions from certain classes of aircraft engines—those used in U.S. covered aircraft—cause or contribute to air pollution that may be reasonably anticipated to endanger public health and welfare. Accordingly, this action affords no opportunity for the EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the proposal.

D. Unfunded Mandates Reform Act (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. The 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. The proposed endangerment and cause or contribute findings under CAA section 231 do not in-and-of-themselves impose any new requirements but rather set forth the Administrator's proposed determination that GHG emissions from certain classes of aircraft engines—those used in U.S. covered aircraft—cause or contribute to air pollution that may be reasonably anticipated to endanger public health and welfare. Thus, Executive Order 13175 does not apply to this action.

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. The Administrator considered climate change risks to children as part of this proposed endangerment finding under CAA section 231. This action's discussion of climate change impacts on public health and welfare is found in section IV of this preamble. Specific discussion with regard to children are contained in sections IV and I.D of the preamble titled ''Children's Environmental Health.'' A copy of all documents pertaining to the impacts on children's health from climate change have been placed in the public docket for this action.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. Further, we have concluded that this action is not likely to have any adverse energy effects because the proposed endangerment and cause or contribute findings under section 231 do not in-and-of themselves impose any new requirements but rather set forth the Administrator's proposed determination that GHG emissions from certain classes of aircraft engines—those used in U.S. covered aircraft—cause or contribute to air pollution that may be reasonably anticipated to endanger public health and welfare.

I. National Technology Transfer and Advancement Act (NTTAA)

This action 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 this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-

[265] Ibid.

income, or indigenous populations because this action does not affect the level of protection provided to human health or the environment. The Administrator considered climate change risks to minority, low-income, and indigenous populations as part of this proposed endangerment finding under CAA section 231. This action's discussion of climate change impacts on public health and welfare is found in section IV of the preamble. Specific discussion with regard to minority, low-income, and indigenous populations are found in sections IV and I.E of this preamble titled ''Environmental Justice.'' A copy of all documents pertaining to the impacts on these communities from climate change have been placed in the public docket for this action.

K. Determination Under Section 307(d)

Section 307(d)(1)(V) of the CAA provides that the provisions of section 307(d) apply to ''such other actions as the administrator may determine.'' Pursuant to section 307(d)(1)(V), the Administrator determines that this action is subject to the provisions of section 307(d).

VIII. Statutory Provisions and Legal Authority

Statutory authority for this action comes from 42 U.S.C. 7571, 7601 and 7607.

List of Subjects

40 CFR Part 87

Environmental protection, Air pollution control, Aircraft, Aircraft engines.

40 CFR Part 1068

Environmental protection, Administrative practice and procedure, Confidential business information, Imports, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements, Warranties.

Dated: June 10, 2015.

Gina McCarthy,

Administrator.

[FR Doc. 2015–15192 Filed 6–30–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL REGISTER

Vol. 80 Wednesday,

No. 126 July 1, 2015

Part III

Department of Health and Human Services

Center for Medicare & Medicaid Services

42 CFR Part 413

Medicare Program; End-Stage Renal Disease Prospective Payment System, and Quality Incentive Program; Proposed Rules

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 413

[CMS–1628–P]

RIN 0938–AS48

Medicare Program; End-Stage Renal Disease Prospective Payment System, and Quality Incentive Program

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

ACTION: Proposed rule.

SUMMARY: This rule proposes to update and make revisions to the End-Stage Renal Disease (ESRD) prospective payment system (PPS) for calendar year (CY) 2016. The proposals in this rule are necessary to ensure that ESRD facilities receive accurate Medicare payment amounts for furnishing outpatient maintenance dialysis treatments during calendar year 2016. This rule also proposes to set forth requirements for the ESRD Quality Incentive Program (QIP) for CY 2016. In an effort to incentivize ongoing quality improvement among eligible providers, the ESRD QIP proposes to establish and revise requirements for quality reporting and measurement, including the inclusion of new quality measures for payment year (PY) 2019 and beyond and updates to programmatic policies for the PY 2017 and PY 2018 ESRD QIP.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. E.S.T. on August 25, 2015.

ADDRESSES: In commenting, please refer to file code CMS–1628–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1628–P, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1628–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments ONLY to the following addresses prior to the close of the comment period:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1810.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Stephanie Frilling, (410) 786–4507, for issues related to the ESRD PPS, refinement of the case-mix payment adjustments, drug designation process, delay of payment for oral-only drugs and biologicals, Part B payment for self-administered drugs, and reporting of medical director fees on the cost report.

Michelle Cruse, (410) 786–7540, for issues related to the ESRD PPS, refinement of the facility-level payment adjustments, and policy clarifications.

Heidi Oumarou, (410) 786–7342, for issues related to the ESRD PPS Market Basket Update.

Tamyra Garcia, (410) 786–0856, for issues related to the ESRD QIP.

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

Electronic Access

This **Federal Register** document is also available from the **Federal Register** online database through *Federal Digital System (FDsys),* a service of the U.S. Government Printing Office. This database can be accessed via the internet at *http://www.gpo.gov/fdsys/.*

Addenda Are Only Available Through the Internet on the CMS Web site

In the past, a majority of the Addenda referred to throughout the preamble of our proposed and final rules were available in the **Federal Register**. However, the Addenda of the annual proposed and final rules will no longer be available in the **Federal Register**. Instead, these Addenda to the annual proposed and final rules will be available only through the Internet on the CMS Web site. The Addenda to the End-Stage Renal Disease (ESRD) Prospective Payment System (PPS) rules are available at: *http://www.cms.gov/ESRDPayment/PAY/list.asp.* Readers who experience any problems accessing any of the Addenda to the proposed and final rules of the ESRD PPS that are posted on the CMS Web site identified above should contact Michelle Cruse at 410–786–7540.

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Acronyms

Because of the many terms to which we refer by acronym in this proposed rule, we are listing the acronyms used and their corresponding meanings in alphabetical order below:

ABLE The Achieving a Better Life Experience Act of 2014
AHRQ Agency for Healthcare Research and Quality
AMCC Automated Multi-Channel Chemistry
ANOVA Analysis of Variance
ARM Adjusted Ranking Metric
ASP Average Sales Price
ATRA The American Taxpayer Relief Act of 2012
BEA Bureau of Economic Analysis
BLS Bureau of Labor Statistics
BMI Body Mass Index
BSA Body Surface Area
BSI Bloodstream Infection
CB Consolidated Billing
CBSA Core based statistical area
CCN CMS Certification Number
CDC Centers for Disease Control and Prevention
CKD Chronic Kidney Disease
CLABSI Central Line Access Bloodstream Infections
CFR Code of Federal Regulations
CIP Core Indicators Project
CMS Centers for Medicare & Medicaid Services
CPM Clinical Performance Measure
CPT Current Procedural Terminology
CROWNWeb Consolidated Renal Operations in a Web-Enabled Network
CY Calendar Year
DFC Dialysis Facility Compare
DFR Dialysis Facility Report
ESA Erythropoiesis stimulating agent
ESRD End-Stage Renal Disease
ESRDB End-Stage Renal Disease bundled
ESRD PPS End-Stage Renal Disease Prospective Payment System
ESRD QIP End-Stage Renal Disease Quality Incentive Program
FDA Food and Drug Administration
HCP Healthcare Personnel
HD Hemodialysis
HHD Home Hemodialysis
HAIs Healthcare-Acquired Infections
HCPCS Healthcare Common Procedure Coding System
HCFA Health Care Financing Administration
HHS Department of Health and Human Services
ICD International Classification of Diseases
ICD–9–CM International Classification of Disease, 9th Revision, Clinical Modification
ICD–10–CM International Classification of Disease, 10th Revision, Clinical Modification
ICH CAHPS In-Center Hemodialysis Consumer Assessment of Healthcare Providers and Systems
IGI IHS Global Insight
IIC Inflation-indexed charge
IPPS Inpatient Prospective Payment System
IUR Inter-unit reliability
KDIGO Kidney Disease: Improving Global Outcomes
KDOQI Kidney Disease Outcome Quality Initiative
Kt/V A measure of dialysis adequacy where K is dialyzer clearance, t is dialysis time, and V is total body water volume
LDO Large Dialysis Organization
MAC Medicare Administrative Contractor
MAP Medicare Allowable Payment
MCP Monthly Capitation Payment
MIPPA Medicare Improvements for Patients and Providers Act of 2008 (Pub. L. 110–275)
MMA Medicare Prescription Drug, Improvement and Modernization Act of 2003
MMEA Medicare and Medicaid Extenders Act of 2010 Pub. L. 111–309
MFP Multifactor Productivity
NHSN National Healthcare Safety Network
NQF National Quality Forum
NQS National Quality Strategy
MFP Multifactor Productivity
MIPPA Medicare Improvements for Patients and Providers Act of 2008
MLR Minimum Lifetime Requirement
MSA Metropolitan statistical areas
NAMES National Association of Medical Equipment Suppliers
NHSN National Healthcare Safety Network
NQF National Quality Forum
NQS National Quality Strategy
OBRA Omnibus Budget Reconciliation Act
OMB Office of Management and Budget
PAMA Protecting Access to Medicare Act of 2014
PC Product category
PD Peritoneal Dialysis
PEN Parenteral and Enteral nutrition
PFS Physician Fee Schedule
PPI Producer Price Index
PPS Prospective Payment System
PSR Performance Score Report
PY Payment Year
QIP Quality Incentive Program
RCE Reasonable Compensation Equivalent
REMIS Renal Management Information System
RFA Regulatory Flexibility Act
SBA Small Business Administration
SFA Small Facility Adjuster
SIMS Standard Information Management System
SRR Standardized Readmission Ratio
SSA Social Security Administration
STrR Standardized Transfusion Ratio
The Act Social Security Act
The Affordable Care Act The Patient Protection and Affordable Care Act
The Secretary Secretary of the Department of Health and Human Services
TPS Total Performance Score
URR Urea reduction ratio
VAT Vascular Access Type
VBP Value Based Purchasing

I. Executive Summary

A. Purpose

1. End-Stage Renal Disease (ESRD) Prospective Payment System (PPS)

On January 1, 2011, we implemented the ESRD PPS, a case-mix adjusted bundled prospective payment system for renal dialysis services furnished by ESRD facilities. This rule proposes to update and make revisions to the End-Stage Renal Disease (ESRD) prospective payment system (PPS) for calendar year (CY) 2016. Section 1881(b)(14) of the Social Security Act (the Act), as added by section 153(b) of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) (Pub. L. 110–275), and section 1881(b)(14)(F) of the Act, as added by section 153(b) of MIPPA and amended by section 3401(h) of the Affordable Care Act Public Law 111–148), established that beginning CY 2012, and each subsequent year, the Secretary shall annually increase payment amounts by an ESRD market basket increase factor, reduced by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act.

Section 632 of the American Taxpayer Relief Act of 2012 (ATRA) (Pub. L No. 112–240) included several provisions that apply to the ESRD PPS. Section 632(a) of ATRA added section 1881(b)(14)(I) to the Act, which required the Secretary of the Department of Health and Human Services (the Secretary), by comparing per patient utilization data from 2007 with such data from 2011, to reduce the single payment amount to reflect the Secretary's utilization of ESRD-related drugs and biologicals. We finalized the amount of the drug utilization adjustment pursuant to this section in the CY 2014 ESRD PPS final rule with a 3- to 4-year transition (78 FR 72161 through 72170). Section 632(b) of ATRA prohibited the Secretary from paying for oral-only ESRD-related drugs and biologicals under the ESRD PPS before January 1, 2016. Section 632(c) of ATRA requires the Secretary, by no later than January 1, 2016, to analyze the case mix payment adjustments under section 1881(b)(14)(D)(i) of the Act and make appropriate revisions to those adjustments.

On April 1, 2014, the Congress enacted the Protecting Access to Medicare Act of 2014 (PAMA) (Pub. L. 113–93). Section 217 of PAMA includes several provisions that apply to the ESRD PPS. Specifically, sections 217(b)(1) and (2) of PAMA amend sections 1881(b)(14)(F) and (I) of the Act. We interpreted the amendments to sections 1881(b)(14)(F) and (I) as

replacing the drug utilization adjustment that was finalized in the CY 2014 ESRD PPS final rule with specific provisions that dictate the market basket update for CY 2015 (0.0 percent) and how it will be reduced in CYs 2016 through 2018. Section 217(a)(1) of PAMA amended section 632(b)(1) of ATRA to provide that the Secretary may not pay for oral-only drugs and biologicals used for the treatment of ESRD under the ESRD PPS prior to January 1, 2024. Section 217(c) of PAMA provides that, as part of the CY 2016 ESRD PPS rulemaking, the Secretary shall establish a process for (1) determining when a product is no longer an oral-only drug; and (2) including new injectable and intravenous products into the ESRD PPS bundled payment.

On December 19, 2014, the President signed the Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 (ABLE) (Pub. L. 113–295). Section 204 of ABLE amended section 632(b)(1) of ATRA, as amended by section 217(a)(1) of PAMA, to provide that payment for oral-only renal dialysis services cannot be made under the ESRD PPS bundled payment prior to January 1, 2025.

2. End-Stage Renal Disease (ESRD) Quality Incentive Program (QIP)

This rule also proposes to set forth requirements for the ESRD QIP, including for payment years (PYs) 2017, 2018, and 2019. The program is authorized under section 1881(h) of the Social Security Act (the Act). The ESRD QIP is the most recent step in fostering improved patient outcomes by establishing incentives for dialysis facilities to meet or exceed performance standards established by CMS.

B. Summary of the Major Provisions

1. ESRD PPS

• *ESRD PPS refinement:* In accordance with section 632(c) of ATRA, we analyzed the case mix payment adjustments under the ESRD PPS using more recent data. We are proposing to revise the adjustments by changing the adjustment payment amounts based on our updated regression analysis using CYs 2012 and 2013 ESRD claims and cost report data and proposing to remove two comorbidity payment adjustments (bacterial pneumonia and monoclonal gammopathy). Because we conducted an updated regression analysis to enable us to analyze and revise the case-mix payment adjustments, we are also proposing revisions to the other ESRD PPS payment adjustments and a new adjustment based on that regression analysis. In particular, we are proposing new patient and facility-level adjustment factors. We are also proposing to add an adjustment for rural ESRD facilities. Finally, we are proposing to revise the geographic proximity eligibility criterion for the low-volume payment adjustment (LVPA) and to remove grandfathering from the criteria for the adjustment.

• *Drug designation process:* In accordance with section 217(c) of PAMA, we are proposing a drug designation process for determining when: (1) a product would no longer be considered an oral-only drug and (2) including new injectable and intravenous renal dialysis service drugs and biologicals in the bundled payment under the ESRD PPS.

• *Update to the ESRD PPS base rate for CY 2016:* The proposed CY 2016 ESRD PPS base rate is $230.20. This amount reflects a reduced market basket increase as required by section 1881(b)(14)(F)(i)(I) (0.15 percent), application of the wage index budget-neutrality adjustment factor (1.000332), and a refinement budget-neutrality adjustment factor (0.959703), so that total projected PPS payments in CY 2016 are equal to what the payments would have been in CY 2016 had we not implemented the refinement. The proposed CY 2016 ESRD PPS base rate is $230.20 ($239.43 × 1.0015 × 1.000332 x 0.959703 = $230.20).

• *Annual update to the wage index and wage index floor:* We adjust wage indices on an annual basis using the most current hospital wage data and the latest core-based statistical area (CBSA) delineations to account for differing wage levels in areas in which ESRD facilities are located. For CY 2016, we are not proposing any changes to the application of the wage index floor and we propose to continue to apply the current wage index floor (0.400) to areas with wage index values below the floor.

• *Update to the outlier policy:* Consistent with our proposal to annually update the outlier policy using the most current data, we are proposing to update the outlier services fixed dollar loss amounts for adult and pediatric patients and Medicare Allowable Payments (MAPs) for adult patients for CY 2016 using 2014 claims data. Based on the use of more current data, the fixed-dollar loss amount for pediatric beneficiaries would decrease from $54.35 to $49.99 and the MAP amount would decrease from $43.57 to $37.82, as compared to CY 2015 values. For adult beneficiaries, the fixed-dollar loss amount would decrease from $86.19 to $85.66 and the MAP amount would decrease from $51.29 to $48.15. The 1 percent target for outlier payments was not achieved in CY 2014. We believe using CY 2014 claims data to update the outlier MAP and fixed dollar loss amounts for CY 2016 will increase payments for ESRD beneficiaries requiring higher resource utilization in accordance with a 1 percent outlier percentage.

2. ESRD QIP

This rule proposes to set forth requirements for the ESRD QIP, including for payment years (PYs) 2017, 2018 and 2019.

• *PY 2019 Measure Set:* For PY 2019 and future payment years, we are proposing to remove four clinical measures—(1) Hemodialysis Adequacy: Minimum delivered hemodialysis dose; (2) Peritoneal Dialysis Adequacy: Delivered dose above minimum; (3) Pediatric Hemodialysis Adequacy: minimum spKt/V; and (4) Pediatric Peritoneal Dialysis Adequacy—on the grounds that a more broadly applicable measure for the topic has become available. We are proposing to replace these measures with a single comprehensive Dialysis Adequacy clinical measure. Additionally, we are proposing to adopt two new reporting measures: (1) The Ultrafiltration Rate reporting measure and (2) the Full-Season Influenza Vaccination reporting measure.

• *Reinstating the In-Center Hemodialysis Consumer Assessment of Healthcare Providers (ICH CAHPS) Attestation:* Beginning with PY 2017, we are proposing to reinstate the ICH CAHPS attestation in Consolidated Renal Operations in a Web-Enabled Network (CROWNWeb) previously adopted in the CY 2014 ESRD PPS final rule (78 FR 72220 through 72222) using the eligibility criteria finalized in the CY 2015 ESRD PPS final rule (79 FR 66169). This would allow facilities to attest in CROWNWeb that they did not treat enough eligible patients during the eligibility period to receive a score on the ICH CAHPS measure and thereby avoid receiving a score for this measure.

• *Revising the Small Facility Adjuster:* Beginning with the PY 2017 ESRD QIP, we are proposing to revise the Small Facility Adjuster (SFA). We have developed an equation for determining the SFA that does not rely upon a pooled within-facility standard error, but nonetheless preserves the intent of the adjuster to include as many facilities in the ESRD QIP as possible while ensuring that the measure scores are reliable.

C. Summary of Costs and Benefits

In section VII of this proposed rule, we set forth a detailed analysis of the impacts that the proposed changes would have on affected entities and beneficiaries. The impacts include the following:

1. Impacts of the Proposed ESRD PPS

The impact chart in section VII.B.1.a of this proposed rule displays the estimated change in payments to ESRD facilities in CY 2016 compared to estimated payments in CY 2015. The overall impact of the CY 2016 changes is projected to be a 0.3 percent increase in payments. Hospital-based ESRD facilities have an estimated 0.5 percent increase in payments compared with freestanding facilities with an estimated 0.2 percent increase.

We estimate that the aggregate ESRD PPS expenditures would increase by approximately $20 million from CY 2015 to CY 2016. This reflects a $10 million increase from the payment rate update and a $10 million increase due to the updates to the outlier threshold amounts. As a result of the projected 0.3 percent overall payment increase, we estimate that there will be an increase in beneficiary co-insurance payments of 0.3 percent in CY 2016, which translates to approximately $10 million.

2. Impacts of the Proposed ESRD QIP

The overall economic impact of the ESRD QIP is an estimated $11.8 million in PY 2018 and $14.6 million in PY 2019. In PY 2018, we expect the costs associated with the collection of information requirements for the data validation studies to be approximately $21 thousand for all ESRD facilities, totaling an overall impact of approximately $11.8 million as a result of the PY 2018 ESRD QIP.[1] In PY 2019, we expect the total payment reductions to be approximately $3.8 million, and the costs associated with the collection of information requirements for the proposed Ultrafiltration Rate and Full-Season Influenza Vaccination reporting measures to be approximately $10.7 million for all ESRD facilities.

The ESRD QIP will continue to incentivize facilities to provide high-quality care to beneficiaries.

[1] We note that the aggregate impact of the PY 2018 ESRD QIP was included in the CY 2015 ESRD PPS final rule (79 FR 66256 through 66258). The previously finalized aggregate impact of $11.8 million reflects the PY 2018 estimated payment reductions and the collection of information requirements for the NHSN Healthcare Personnel Influenza Vaccination reporting measure.

II. Calendar Year (CY) 2016 End-Stage Renal Disease (ESRD) Prospective Payment System (PPS)

A. Background

1. Statutory Background

On January 1, 2011, we implemented the End-stage renal disease (ESRD) Prospective Payment System (PPS), a case-mix adjusted bundled PPS for renal dialysis services furnished by ESRD) facilities based on the requirements of section 1881(b)(14) of the Social Security Act (the Act), as added by section 153(b) of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) (Pub. L. 110–275). Section 1881(b)(14)(F) of the Act, as added by section 153(b) of MIPPA and amended by section 3401(h) of the Patient Protection and Affordable Care Act (the Affordable Care Act) (Pub. L. 111–148), established that beginning calendar year (CY) 2012, and each subsequent year, the Secretary of the Department of Health and Human Services (the Secretary) shall annually increase payment amounts by an ESRD market basket increase factor, reduced by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act.

Section 632 of the American Taxpayer Relief Act of 2012 (ATRA) (Pub. L. 112–240) included several provisions that apply to the ESRD PPS. Section 632(a) of ATRA added section 1881(b)(14)(I) to the Act, which required the Secretary, by comparing per patient utilization data from 2007 with such data from 2012, to reduce the single payment for renal dialysis services furnished on or after January 1, 2014 to reflect the Secretary's estimate of the change in the utilization of ESRD-related drugs and biologicals (excluding oral-only ESRD-related drugs). Consistent with this requirement, in the CY 2014 ESRD PPS final rule we finalized $29.93 as the total drug utilization reduction and finalized a policy to implement the amount over a 3- to 4-year transition period (78 FR 72161 through 72170).

Section 632(b) of ATRA prohibited the Secretary from paying for oral-only ESRD-related drugs and biologicals under the ESRD PPS prior to January 1, 2016. And section 632(c) of ATRA requires the Secretary, by no later than January 1, 2016, to analyze the case-mix payment adjustments under section 1881(b)(14)(D)(i) of the Act and make appropriate revisions to those adjustments.

On April 1, 2014, the Congress enacted the Protecting Access to Medicare Act of 2014 (PAMA) (Pub. L. 113–93). Section 217 of PAMA included several provisions that apply to the ESRD PPS. Specifically, sections 217(b)(1) and (2) of PAMA amended sections 1881(b)(14)(F) and (I) of the Act and replaced the drug utilization adjustment that was finalized in the CY 2014 ESRD PPS final rule (78 FR 72161 through 72170) with specific provisions that dictated the market basket update for CY 2015 (0.0 percent) and how the market basket should be reduced in CYs 2016 through CY 2018.

Section 217(a)(1) of PAMA amended section 632(b)(1) of ATRA to provide that the Secretary may not pay for oral-only ESRD-related drugs under the ESRD PPS prior to January 1, 2024. Section 217(a)(2) further amended section 632(b)(1) of ATRA by requiring that in establishing payment for oral-only drugs under the ESRD PPS, we must use data from the most recent year available. Section 217(c) of PAMA provided that as part of the CY 2016 ESRD PPS rulemaking, the Secretary shall establish a process for (1) determining when a product is no longer an oral-only drug; and (2) including new injectable and intravenous products into the ESRD PPS bundled payment.

Finally, section 212 of PAMA provided that the Secretary may not adopt the International Classification of Disease 10th Revision, Clinical Modification (ICD–10–CM) code sets prior to October 1, 2015. HHS published a final rule on August 4, 2014 that adopted October 1, 2015 as the new ICD–10–CM compliance date, and required the use of International Classification of Disease, 9th Revision, Clinical Modification (ICD–9–CM) through September 30, 2015 (79 FR 45128).

On December 19, 2014, the President signed the Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 (ABLE) (Pub. L. 113–295). Section 204 of ABLE amended section 632(b)(1) of ATRA, as amended by section 217(a)(1) of PAMA, to provide that payment for oral-only renal dialysis services cannot be made under the ESRD PPS bundled payment prior to January 1, 2025.

2. System for Payment of Renal Dialysis Services

Under the ESRD PPS, a single, per-treatment payment is made to an ESRD facility for all of the renal dialysis services defined in section 1881(b)(14)(B) of the Act and furnished to individuals for the treatment of ESRD in the ESRD facility or in a patient's home. We have codified our definitions of renal dialysis services at 42 CFR 413.171 and our other payment policies are included in regulations at 42 CFR

subpart H. The ESRD PPS base rate is adjusted for characteristics of both adult and pediatric patients and account for patient case-mix variability. The adult case-mix adjusters include five categories of age, body surface area (BSA), low body mass index (BMI), onset of dialysis, six co-morbidity categories, and pediatric patient-level adjusters consisting of two age categories and dialysis modalities (42 CFR 413.235(a) and(b)).

In addition, the ESRD PPS provides for two facility-level adjustments. The first payment adjustment accounts for ESRD facilities furnishing a low volume of dialysis treatments (42 CFR 413.232). The second adjustment reflects differences in area wage levels developed from Core Based Statistical Areas (CBSAs) (42 CFR 413.231).

The ESRD PPS allows for a training add-on payment adjustment for home dialysis modalities (42 CFR 413.235(c). Lastly, the ESRD PPS provides additional payment for high cost outliers due to unusual variations in the type or amount of medically necessary care when applicable (42 CFR 413.237).

3. Updates to the ESRD PPS

Updates and policy changes to the ESRD PPS are proposed and finalized annually in the **Federal Register**. The CY 2011 ESRD PPS final rule was published on August 12, 2010 in the **Federal Register** (75 FR 49030 through 49214). That rule implemented the ESRD PPS beginning on January 1, 2011 in accordance with section 1881(b)(14) of the Act, as added by section 153(b) of MIPPA, over a 4-year transition period. Since the implementation of the ESRD PPS we have published annual rules to make routine updates, policy changes, and clarifications.

On November 6, 2014, we published in the **Federal Register** a final rule (79 FR 66120 through 66265) titled, ''End-Stage Renal Disease Prospective Payment System, Quality Incentive Program, and Durable Medical Equipment, Prosthetics, Orthotics, and Supplies'' (hereinafter referred to as the CY 2015 ESRD PPS final rule). In that final rule, we made a number of routine updates to the ESRD PPS for CY 2015, completed a rebasing and revision of the ESRD bundled market basket, implemented a 2-year transition for the revised labor-related share and a 2-year transition of the new Core-Based Statistical Area (CBSA) delineations, and made policy changes and clarifications. Specifically, in that rule, we finalized the following:

• *Update to the ESRD PPS base rate for CY 2015.* An ESRD PPS base rate of $239.43 per treatment for renal dialysis services. This amount reflected a 0.0 percent update to the payment rate as required by section 1881(b)(14)(F)(i) of the Act, as amended by section 217(b)(2) of PAMA, and the application of the wage index budget-neutrality adjustment factor of 1.001729.

• *Rebasing and revision of the end-stage renal disease bundled market basket.* For CY 2015, we rebased and revised the end-stage renal disease bundled (ESRDB) market basket, which entailed an update to the base year of the ESRDB market basket from 2008 to 2012. The base year update resulted in a shift in relative costs from prescription drugs to compensation. Additionally, we changed the price measure for pharmaceuticals from a more general index Producer Price Index (PPI) Pharmaceuticals for Human Use, Prescription) to a blend of two indices, (78 percent PPI Biological Products, Human Use and 22 percent PPI Vitamin, Nutrient, and Hematinic Preparations). The revision also refined the price measure used for compensation costs to better reflect the occupational mix in the ESRD setting. As a result of the update to the cost weights from 2008 to 2012, the labor-related share increased by about 9 percent.

• *Labor-Related Share.* As a result of the ESRDB market basket rebasing and revision, described above, the CY 2015 labor-related share was finalized at 50.673 percent. This change to the labor-related share had a significant impact on payments for certain ESRD facilities located in low wage areas. Therefore, we implemented the labor-related share of 50.673 with a 2-year transition for all facilities. The labor-related share for CY 2015 was 46.205.

• *Outlier Policy.* For CY 2015, we used CY 2013 claims data to update the outlier services' fixed-dollar loss and Medicare Allowable Payment (MAP) amounts. As a result, we updated the fixed-dollar loss amount for pediatric patients from $54.01 to $54.35, and increased the MAP amount from $40.49 to $43.57. For adult patients, we updated the fixed-dollar loss amount from $98.67 to $86.19 and increased the MAP amount from $50.25 to $51.29.

• *Wage Index.* We adjusted wage indices using the most current hospital wage data available for the areas in which ESRD facilities are located. For CY 2015, we implemented the new core-based statistical area (CBSA) delineations, as described in the February 28, 2013 OMB Bulletin No. 13–01, for all ESRD facilities with a 2-year transition (79 FR 66136 through 66142). In addition, we continued our policy for the gradual phase-out of the wage index floor and reduced the wage index floor value to 0.40, as finalized in our CY 2014 ESRD PPS final rule (78 FR 72173 through 72174).

• *Timing of the Implementation of ICD–10.* Section 212 of PAMA provides that the Secretary may not adopt ICD–10–CM prior to October 1, 2015. HHS published a final rule on August 4, 2014 that adopted October 1, 2015 as the new ICD–10–CM compliance date, and required the use of International Classification of Disease, 9th Revision, Clinical Modification (ICD–9–CM) through September 30, 2015 (79 FR 45128). We finalized a policy that the ESRD PPS will continue to use ICD–9–CM through September 30, 2015, and will require the use of ICD–10–CM beginning October 1, 2015 for purposes of reporting the co-morbidity payment adjustments. For CY 2015, we corrected several typographical errors and omissions in the ICD–9–CM to ICD–10–CM crosswalk tables that may be viewed in the CY 2015 ESRD PPS final rule at 79 FR 66155 through 66159.

• *Low-Volume Payment Adjustment.* We clarified the eligibility criteria for the low-volume payment adjustment (LVPA) and amended the supporting regulations in the Code of Federal Regulations (CFR).

• *Payment for Oral-only Drugs under the ESRD PPS.* Section 217(a)(1) of PAMA amended section 632(b)(1) of ATRA to provide that the Secretary may not implement the policy under section 42 CFR 413.174(f)(6) (relating to oral-only ESRD-related drugs in the ESRD prospective payment system), prior to January 1, 2024. Accordingly, we amended the dates in 42 CFR 413.174(f)(6) and 42 CFR 413.237(a)(1)(iv) from January 1, 2016 to January 1, 2024.

B. Provisions of the Proposed Rule

1. Analysis and Proposed Revision of the Payment Adjustments under the ESRD PPS

a. Development and Implementation of the ESRD PPS Payment Adjustments

Section 153(b) of MIPPA amended section 1881(b) of the Act to require the Secretary to implement the ESRD PPS effective January 1, 2011. Section 1881(b)(14)(D)(i) requires the ESRD PPS to include a payment adjustment based on case mix that may take into account patient weight, body mass index (BMI), comorbidities, length of time on dialysis, age race, ethnicity, and other appropriate factors. Section 1881(b)(14)(D)(ii) through (iv) provide that the ESRD PPS must also include an outlier payment adjustment and a low volume payment adjustment, and may include such other payment

adjustments as the Secretary determines appropriate.

In response to the MIPPA amendments to section 1881(b), we published our proposed ESRD PPS design and implementation strategy in the **Federal Register** on September 29, 2009 (74 FR 49922). We received over 1400 comments from dialysis facilities, Medicare beneficiaries, physician groups, and other stakeholders in response to our proposals. In consideration of these comments we finalized the case mix and facility-level adjustments for the ESRD PPS in our CY 2011 ESRD PPS final rule (75 FR 49030). For a complete discussion of public comments and our finalized payment policies for the ESRD PPS, we refer the reader to the CY 2011 ESRD PPS final rule (75 FR 49030 through 49214).

b. Regression Model Used To Develop Payment Adjustment Factors

i. Regression Analysis

In the CY 2011 ESRD PPS final rule (75 FR 49083), we discuss the two-equation methodology used to develop the adjustment factors that would be applied to the base rate to calculate each patient's case-mix adjusted payment per treatment. The two-equation approach used to develop the ESRD PPS included a facility-based regression model for services historically paid for under the composite rate as indicated in ESRD facility cost reports, and a patient-month-level regression model for services historically billed separately. The models used for the 2011 final rule were based on 3 years of data (CY 2006 through 2008).

Section 632(c) of the American Taxpayer Relief Act of 2012 (ATRA) (Pub. L. 11–240) requires the Secretary, by not later than January 1, 2016, to conduct an analysis of the case mix payment adjustments being used under section 1881(b)(14)(D)(i) of the Act and to make appropriate revisions to such case mix payment adjustments. While section 632(c) of ATRA only requires us to analyze and make appropriate revisions to the case-mix payment adjustments, we believe that because we are performing a regression analysis that updates all of the payment multipliers with updated data we should also update the low-volume payment adjustment. Also, as discussed in section II.B.1.d.iii, we analyzed rural areas as a payment variable in our regression analysis and are proposing to implement a new adjustment for this facility characteristic.

For purposes of analyzing and proposing revisions to the payment adjusters included in this proposed rule, we have updated the two-equation methodology using CY 2012 and 2013 Medicare cost report and claims data. These are the latest available cost reports and claims given the time necessary for the preparation of this proposed rule. The decision to use those 2 years for this proposed rule is because 2011 was the first year under the new bundled payment system. In addition, the FDA ''black box'' warning for Erythropoiesis-Stimulating Agents (ESA) was issued during 2011. These two factors may have been associated with changing practice patterns since 2011. Updating the regression analysis using the most recent claims and cost report data allows the proposed case-mix adjustment model to reflect practice patterns that have prevailed under the incentives of the expanded bundled payment system.

In this rule we propose to reduce the number of comorbidities to which payment adjusters apply and add an adjustment for rural facilities. Our rationale for proposing to eliminate two of the comorbidities for which we will make payment adjustments is discussed in section II.B.1.c.i.4 of this proposed rule. The measures of resource use, specified as the dependent variables for developing the payment model in each of the two equations, are also explained below.

ii. Dependent Variables

(1) Average Cost per Treatment for Composite Rate Services

For purposes of this proposed rule, we measured resource use, including time on a dialysis machine for the maintenance dialysis services included in the current bundle of composite rate services, using only ESRD facility data obtained from the Medicare cost reports for independent ESRD facilities and hospital-based ESRD facilities. The average composite rate cost per treatment for each ESRD facility was calculated by dividing the total reported allowable costs for composite rate services for cost reporting periods ending in CYs 2012 and 2013 (Worksheet B, column 13A, lines 8–17 on CMS–265–11; Worksheet I–2, column 11, lines 2–11 on CMS–2552–10) by the total number of dialysis treatments (Worksheet C, column 1, lines 8–17 on CMS 265–11; Worksheet I–4, column 1, lines 1–10 on CMS–2552–10). CAPD and CCPD patient weeks were multiplied by 3 to obtain the number of HD-equivalent treatments. We note that our computation of the total composite rate costs included in this per treatment calculation includes costs incurred for training expenses, as well as all costs incurred by ESRD facilities for home dialysis patients.

The resulting cost per treatment was adjusted to eliminate the effects of varying wage levels among the areas in which ESRD facilities are located using the ESRD PPS CY 2015 wage indices and the new CBSA delineations which were discussed in the CY 2015 ESRD PPS final rule, as well as the estimated labor-related share of costs from the composite rate market basket. This was done so that the relationship of the studied variables on dialysis facility costs would not be confounded by differences in wage levels.

The proportion of composite rate costs determined to be labor-related (53.711 percent of each ESRD facility's composite rate cost per treatment) was divided by the ESRD wage index to control for area wage differences. No floor or ceiling was imposed on the wage index values used to deflate the composite rate costs per treatment in order to give the full effect to the removal of actual differences in area wage levels from the data. We applied a natural log transformation to the wage-deflated composite rate costs per treatment to better satisfy the statistical assumptions of the regression model, and to be consistent with existing methods of adjusting for case-mix, in which a multiplicative payment adjuster is applied for each case-mix variable.

As with other health care cost data, the cost distribution for resource/dialyzing composite rate services was skewed (due to a relatively small fraction of observations accounting for a disproportionate fraction of costs). Cost per treatment values which were determined to be unusually high or low in accordance with predetermined statistical criteria were excluded from further analysis. (For an explanation of the statistical outer fence methodology used to identify unusually high and low composite rate costs per treatment, see pages 45 through 48 of the Secretary's February 2008 Report to Congress (RTC), *A Design for a Bundled End Stage Renal Disease Prospective Payment System.* This document is available on the CMS Web site at the following link: *http://www.cms.gov/Medicare/End-Stage-Renal-Disease/ESRDGeneralInformation/downloads/ESRDReportToCongress.pdf.*

(2) Average Medicare Allowable Payment (MAP) for Previously Separately Billable Services

For purposes of this proposed rule, resource use for separately billable items and services used for the treatment of ESRD was measured at the

patient-level using the utilization data on the Medicare claims by quarter for CYs 2012 and 2013 and average sales prices plus 6 percent of the drug or biological, if applicable, for each quarter. This time period corresponded to the most recent 2 years of Medicare cost report data that were available to measure resource use for composite rate services, such as time dialyzing. Measures of resource use included the following separately billable services: injectable drugs billed by ESRD facilities, including ESAs; laboratory services provided to ESRD patients, billed by freestanding laboratory suppliers and ordered by physicians who receive monthly capitation payments for treating ESRD patients, or billed by ESRD facilities; and other services billed by ESRD facilities.

iii. Independent Variables

Two types of independent or predictor variables were included in the composite rate and separately billable regression equations—case-mix payment variables and control variables. Case-mix payment variables were included as factors that may be used to adjust payments in either the composite rate or in the separately billable equation. Control variables, which generally represent characteristics of ESRD facilities such as size, type of ownership, facility type (whether hospital-based or independent), were specifically included to obtain more accurate estimates of the payment impact of the potential payment variables in each equation. In the absence of using control variables in each regression equation, the relationship between the payment variables and measures of resource use may be biased because of correlations between facility and patient characteristics.

iv. Control Variables

Several control variables were included in the regression analysis. They were—(1) renal dialysis facility type (hospital-based versus independent facility); (2) facility size (4,000 dialysis treatments or fewer, but not eligible for the low volume payment adjustment, 4,000 to 4,999, 5,000 to 9999, and 10,000 or more dialysis treatments); (3) type of ownership (independent, large dialysis organization, regional chain, unknown); (4) calendar year (2012 and 2013); and (5) home dialysis training treatments, in which the proportion of training treatments furnished by each dialysis facility is specified. The use of training treatments as a control was done in order to remove any confounding cost effects of training on other independent variables included in the payment model, particularly the onset of dialysis within 4-months variable.

c. Analysis and Revision of the Payment Adjustments

As required by section 632(c) of ATRA, we have analyzed and are proposing revisions to the following case mix payment adjustments. As explained above, because we are conducting a regression analysis of all of the costs associated with furnishing renal dialysis services, we are also proposing revisions to the facility-level adjustment for low-volume facilities.

i. Adult Case-Mix Payment Adjustments

(1) Patient Age

Section 1881(b)(14)(D)(i) of the Act requires that the ESRD PPS include a payment adjustment based on case mix that may take into account a patient's age. In the CY 2011 ESRD PPS final rule (75 FR 49088), we noted that the basic case-mix adjusted composite payment system in effect from CYs 2005 through 2010 included payment adjustments for age based on five age groups. Our analysis for the CY 2011 ESRD PPS final rule demonstrated a significant relationship between composite rate and separately billable costs and patient age, with a U-shaped relationship between age and cost where the youngest and oldest age groups showed the highest costs. As a result of this analysis, we established five age groups and identified the payment multipliers through regression analysis. We established age group 60 to 69 as the reference group (the group with the lowest cost per treatment) and the payment multipliers reflect the increase in facility costs for each age group compared to the reference age group. We proposed and finalized payment adjustment multipliers for five age groups; ages 18 to 44, 45 to 59, 60 to 69, 70 to 79, and 80 and older. We also finalized pediatric payment adjustments for age, which are discussed in section II.B.1.e of this proposed rule.

Commenters and stakeholders were largely supportive of a case-mix adjustment for age when the ESRD PPS was implemented. We noted in our CY 2011 ESRD PPS final rule (75 FR 49088) that several commenters stated that age is an objective and easily collected variable, demonstrably related to cost, and that continuing to collect age data would not be burdensome or require systems changes. In addition, a few commenters requested that CMS consider an additional adjustment for patient frailty and/or advanced age (75 FR 49089). In the CY 2011 ESRD PPS final rule, we responded to these comments by noting that we included an age adjustment for patients 80 years of age or older, but that advanced age and frailty did not result in the identification of additional age groups for the application of case-mix adjustments based on age. In addition, we noted that the analysis did not identify a separate variable for patient frailty, as this would be very difficult to quantify.

The analysis we conducted to determine whether to revise the case mix payment variable of patient age demonstrates the same U-shaped relationship between facility costs and patient age as the analysis we conducted when the ESRD PPS was implemented, however, the reference group has changed to age group 70 to 79, and we note significantly higher costs for older patients. We believe that the regression analysis we performed on CY 2012 through 2013 Medicare cost reports and claims has appropriately recognized increased facility costs when caring for patients 80 years old or older, and that this adjustment accounts for increased frailty in the aged. The CY 2016 proposed payment multipliers presented below in Table 1 and in Table 4 in section II.B.1.f.i of this proposed rule are reflective of the regression analysis based upon CY 2012–2013 Medicare cost reports and claims data.

TABLE 1—CY 2016 PROPOSED PAYMENT MULTIPLIERS FOR AGE

Age	Current payment multipliers	Proposed payment multipliers
18–44	1.171	1.257
45–59	1.013	1.068
60–69	1.000	1.070
70–79	1.011	1.000
80+	1.016	1.109

(2) Body Surface Area (BSA) and Body Mass Index (BMI)

Section 1881(b)(14)(D)(i) of the Act requires that the ESRD PPS include a payment adjustment based on case mix that may take into account patient weight, body mass index (BMI), and other appropriate factors. Through the use of claims data, we evaluated the patient characteristics of height and weight and established two measurements for body size when the ESRD PPS was implemented: body surface area (BSA) and BMI. In our analysis for the CY 2011 ESRD PPS final rule, we found that the BSA of larger patients and low BMI (<18.5 kg/m^2) for malnourished patients were

independent variables in the regression analysis that predicted variations in payments for renal dialysis services and as such we finalized two separate payment adjustments for body size in our CY 2011 ESRD PPS final rule (75 FR 49089 through 49090).

Commenters were supportive of BSA and BMI payment adjustments, noting that body size was a payment adjustment under the composite rate payment system, and that ESRD facilities would be able to capture this information on the claim form without any additional burden. A few commenters expressed concern regarding pre- versus post-dialysis weight. In response to these comments we clarified that a patient's weight should be taken after the last dialysis treatment of the month, as directed in the Medicare Claims Processing Manual, Pub. 100–04, Chapter 8, Section 50.3.

For this proposed rule, we analyzed both BSA and low BMI (<18.5kg/m^2) individually as part of the regression analysis and found that both body size measures are strong predictors of variation in payments for ESRD patients.

Body Surface Area (BSA)

Since CY 2005, Medicare payment for renal dialysis services has included a payment adjustment for BSA. The current payment adjustment under the ESRD PPS is l.020, which implies a 2.0 percent elevated cost for every 0.l m^2 increase in BSA compared to the national average BSA of ESRD patients. The increased costs suggest that there are longer treatment times and additional resources for larger patients. Including the BSA variable improved the model's ability to predict ESRD facility costs compared to using BMI or weight alone.

In the CY 2011 ESRD PPS proposed rule (74 FR 49951), we discussed how we adopted the DuBois and DuBois formula to establish an ESRD patient's BSA because this formula was the most widely known and accepted. That is, a patient's BSA equals their Weight $^{0.425}$ * Height $^{0.725}$* 0.007184, where weight is in kilograms and height is in centimeters. (DuBois D. and DuBois, EF. ''A Formula to Estimate the Approximate Surface Area if Height and Weight be Known'': Arch. Int. Med. 1916 17:863–71.) Once the patient's BSA is determined, the payment methodology compares the patient's BSA with the national average BSA of ESRD beneficiaries and computes the patient-level payment adjustment using the average cost increase for changes in BSA (per 0.1m^2).

In developing the BSA payment adjustment under the ESRD PPS, we explored several options for setting the reference values for the BSA (74 FR 49951). We examined the distributions for both the midpoint of the BSA and the count of dialysis patients by age, body surface and low BMI. Based on that analysis, in our CY 2012 ESRD PPS final rule (76 FR 70244) we set the reference point at a BSA of 1.87 which is the Medicare ESRD patient national average BSA. Setting the reference point at the average BSA reflects the relationship of a specific patient's BSA to the average BSA of all ESRD patients. As a result, some payment adjusters would be greater than 1.0 and some would be less than 1.0. In this way, we were able to minimize the magnitude of the budget neutrality offset to the ESRD PPS base rate. (For more information on this discussion, we refer readers to the CY 2005 Physician Fee Schedule final rule (69 FR 66239, 66328 through 66329) and the CY 2011 ESRD PPS proposed rule (74 FR 49951)). The BSA factor is defined as an exponent equal to the value of the patient's BSA minus the reference BSA of 1.87 divided by 0.1.

In the CY 2012 ESRD PPS final rule (76 FR 70245) and the CY 2013 ESRD PPS proposed rule (77 FR 40957), we stated our intent to review claims data from CY 2012 and every 5 years thereafter to determine if any adjustment to the national average BSA of Medicare ESRD beneficiaries is required. Although the CY 2012 claims showed an increase in the national average BSA, we did not implement an update in the CY 2013 ESRD PPS rule. Rather, in light of the requirement in section 632(c) of ATRA that we analyze and make appropriate revisions to the ESRD PPS case mix adjustments for CY 2016, we decided to incorporate the new national average BSA into the overall refinement of our payment adjustments that we are making as a result of that requirement.

In accordance with our commitment to update the Medicare national average BSA and because of the statutory requirement to analyze and make appropriate revisions to the case-mix payment adjustments for CY 2016, we are proposing to update the BSA Medicare national average from 1.87m^2 to 1.90 m^2 for CY 2016 to reflect the new Medicare ESRD national average BSA. The average is based on an analysis of the patient height and weight information reported on ESRD facility claims in CY 2013. We note that this average is an increase of 1.6 percent over the Medicare ESRD national average BSA of 1.87m^2 used to compute the payment adjustment when the ESRD PPS was implemented in CY 2011.

Based upon the regression analysis for CY 2016 using the DuBois and DuBois formula for computing a patient's BSA and the updated Medicare national average BSA of 1.90m^2, we propose that the BSA payment adjustment would be 1.032 and the BSA payment adjustment would be based on the following formula:

$$1.032^{((\text{Patient's BSA} - 1.90)/0.1)}.$$

Low-Body Mass Index (BMI)

The basic case-mix adjusted composite payment system in effect from CYs 2005 through 2010 and the current ESRD PPS include a payment adjustment for low BMI. In order to be consistent with other Department of Health and Human Services components (that is, Centers for Disease Control and Prevention and National Institutes for Health), we defined low BMI as less than 18.5 kg/m^2. The regression indicated that patients who are underweight consume more resources than other patients. The current payment adjustment for low BMI under the ESRD PPS is 1.025.

Based on the regression analysis conducted for this proposed rule, we continue to find low BMI to be a strong predictor of cost variation among ESRD patients. The payment adjustment would be 1.017 as indicated in Table 4 in section II.B.1.f.i of this proposed rule, reflective of the regression analysis based upon CY 2012–2013 Medicare cost report and claims data.

(3) Onset of Dialysis

Section 1881(b)(14)(D)(i) of the Act required the ESRD PPS to include a payment adjustment based on case-mix that may take into account a patient's length of time on dialysis. For the CY 2011 ESRD PPS final rule (75 FR 499090), we analyzed the length of time beneficiaries have been receiving dialysis and found that patients who are in their first 4 months of dialysis have higher costs and noted that there was a drop in the separately billable payment amounts after the first 4 months of dialysis. Based upon this analysis, we proposed and finalized the definition of onset of dialysis as beginning on the first date of reported dialysis on CMS Form 2728 through the first 4 months a patient is receiving dialysis. We finalized a 1.510 onset of dialysis payment adjustment for both home and in-facility patients (75 FR 49092). In addition, we acknowledged that there may be patients whose first 4 months of dialysis occur when they are in the coordination of benefits period and not yet eligible for the Medicare ESRD

benefit. We explained that in these circumstances, no onset of dialysis adjustment would be made (75 FR 49090).

Most commenters supported inclusion of an onset of dialysis patient-level adjustment and noted that the higher costs for new patients are due to the stabilization of the health status of the patient and dialysis training. Because the Medicare onset of dialysis payment adjustment reflects the costs associated with all of the renal dialysis services furnished to a Medicare beneficiary in the first 4 months of dialysis, additional payment adjustments are not made for comorbidities or training during the months in which the onset of dialysis payment adjustment is made. We discussed and finalized this payment adjustment in the CY 2011 ESRD PPS final rule (75 FR 49092 through 49094)

Based on the regression analysis conducted for this proposed rule, we find that the onset of dialysis continues to be a strong predictor of cost variation among ESRD patients. The updated payment adjustment would be 1.327 as indicated in Table 4 in section II.B.1.f.i of this proposed rule.

(4) Comorbidities

Section 1881(b)(14)(D)(i) of the Act requires that the ESRD PPS include a payment adjustment based on case-mix that may take into account patient comorbidities. In our CY 2011 ESRD PPS proposed and final rules (74 FR 49952 through 49961 and 75 FR 49094 through 49108, respectively), we described the proposed and finalized comorbidity payment adjustors under the ESRD PPS. Our analysis found that certain comorbidity categories are predictors of variation in costs for ESRD patients and, as such, we proposed the following comorbidity categories as payment adjustors: cardiac arrest; pericarditis; alcohol or drug dependence; positive HIV status or AIDS; gastrointestinal tract bleeding; cancer (excluding non-melanoma skin cancer); septicemia/shock; bacterial pneumonia and other pneumonias/opportunistic infections; monoclonal gammopathy; myelodysplastic syndrome; hereditary hemolytic or sickle cell anemias; and hepatitis B (74 FR 49954).

While all of the proposed comorbidity categories demonstrated a statistically significant relationship for additional cost in the payment model, the various issues and concerns raised in the public comments regarding the proposed categories caused us to do further evaluations. Specifically, we created exclusion criteria that assisted in deciding which categories would be recognized for the payment adjustment. As discussed in the CY 2011 ESRD PPS final rule (75 FR 49095) we further evaluated the comorbidity categories with regard to—(1) inability to create accurate clinical definitions; (2) potential for adverse incentives regarding care; and (3) potential for ESRD facilities to directly influence the prevalence of the comorbidity either by altering dialysis care, diagnostic testing patterns, or liberalizing the diagnostic criteria. As a result of this evaluation, we finalized 6 comorbid patient conditions eligible for additional payment under the ESRD PPS (75 FR 49099 through 49100): pericarditis, bacterial pneumonia, gastrointestinal tract bleeding with hemorrhage, hereditary hemolytic or sickle cell anemias, myelodysplastic syndrome, and monoclonal gammopathy.

Many stakeholders have criticized the comorbidity payment adjustments available under the ESRD PPS. Through industry public comments and stakeholder meetings we have become aware of the documentation burden placed upon facilities in their effort to obtain discharge information from hospitals or other providers or diagnostic information from physicians and other practitioners necessary to substantiate the comorbidity on the facility claim form. Public comments have suggested that we remove all comorbidity payment adjustments from the payment system and return any allocated monies to the base rate. Other commenters have indicated that patient privacy laws have also limited the ability of facilities to obtain the diagnosis documentation necessary in order to append the appropriate International Classification of Diseases code on the claim form.

Acute Comorbidity Categories

There are three acute comorbidity categories (pericarditis, bacterial pneumonia, and gastrointestinal tract bleeding with hemorrhage) finalized in the CY 2011 ESRD PPS final rule (75 FR 49100) due to predicted short term increased facility costs when furnishing dialysis services. Specifically, the costs were identified with increased utilization of ESAs and other services. The payment adjustments are applied to the ESRD PPS base rate for 4 months following an appropriate diagnosis reported on the facility monthly claim. In the CY 2011 ESRD PPS final rule we finalized payment variables as indicated in Table 2 below, effective January 1, 2011.

TABLE 2—ACUTE COMORBIDITY CATEGORIES RECOGNIZED FOR A PAYMENT ADJUSTMENT UNDER THE ESRD PPS

Acute comorbidity category	Current payment multiplier	Proposed payment multiplier
Pericarditis	1.114	1.040
Bacterial Pneumonia	1.135	.....
Gastrointestinal Tract Bleeding w/Hemorrhage	1.183	1.082

Analysis of CYs 2012 and 2013 claims data for the regression analysis continues to demonstrate significant facility resources when furnishing dialysis services to ESRD patients with these acute comorbidities. However, in accordance with section 632(c) of ATRA and in response to stakeholders' public comments and requests for the elimination of all of the comorbid payment adjustments, we have compared the frequency of how often these conditions were indicated on the facility monthly bill type with how often a corroborating claim in another Medicare setting is identified in a 4-month look back period. Of the three acute comorbidity categories, we were unable to corroborate the diagnoses of bacterial pneumonia on ESRD facility claims with the presence of a diagnosis on claims from another Medicare setting because of significant under-reporting of bacterial pneumonia in these settings.

In order for the bacterial pneumonia comorbid payment adjustment to apply, we require three specific sources of documentation: An X-ray, a sputum culture, and a provider assessment. Since 2011, facilities have expressed concern regarding these documentation requirements. Specifically, facilities cite a 'documentation burden' in that they are unable to obtain hospital or other discharge information for the patients in their care, and are therefore unable to submit the diagnosis on the claim form necessary to receive a payment adjustment. In addition, stakeholders have indicated that our requirements are out of step with treatment protocols where many physicians and Medicare providers will diagnose bacterial pneumonia simply by patient assessment and would not consider the X-ray or the sputum culture necessary to their diagnosis.

Because in the opinion of stakeholders the ESRD PPS comorbidity payment adjustments often go unpaid, facilities have encouraged CMS to eliminate these adjustments through the authority granted in section 632(c) of

ATRA. However, we find that all of the acute comorbid payment adjustors continue to be strong predictors of cost variation among ESRD patients based on the regression analysis conducted for this proposed rule. Accordingly, we continue to believe it is appropriate to apply a comorbidity payment adjustment for the acute comorbidities of pericarditis and gastrointestinal tract bleeding with hemorrhage. In consideration of stakeholder concerns about the burden associated with meeting the documentation requirements for bacterial pneumonia, however, we are proposing to eliminate the case-mix payment adjustment for the comorbidity category of bacterial pneumonia beginning in CY 2016. We find that the condition is underreported on facility claims and that we are unable to confirm a positive diagnosis without the additional burden of an X-ray or sputum culture.

Based upon the regression analysis of CY 2012 through 2013 Medicare claims and cost report data, where comorbidities are measured only on 72x claims, the updated payment adjustment for pericarditis would be 1.040 and the adjustment for gastrointestinal tract bleeding with hemorrhage would be 1.082 as indicated in Table 4 in section II.B.1.f.i of this proposed rule.

Chronic Comorbidity Categories

There are three chronic comorbidity categories (hereditary hemolytic and sickle cell anemias, myelodysplastic syndrome, and monoclonal gammopathy), which were finalized as payment adjustors in the CY 2011 ESRD PPS final rule (75 FR 49100) due to a demonstrated prediction of increased facility costs when furnishing dialysis services. In addition, these conditions have demonstrated a persistent effect on costs over time; that is, once the condition is diagnosed for a patient, the condition is likely to persist. For this reason, the payment adjustments are paid continuously when an appropriate diagnosis code is reported on the facility's monthly claim. In the CY 2011 ESRD PPS final rule, we finalized payment variables as indicated in Table 3 below for chronic comorbidities, effective January 1, 2011.

TABLE 3—CHRONIC COMORBIDITY CATEGORIES RECOGNIZED FOR A PAYMENT ADJUSTMENT UNDER THE ESRD PPS

Chronic comorbidity category	Current payment multiplier	Proposed payment multiplier
Hereditary Hemolytic or Sickle Cell Anemias	1.072	1.192
Myelodysplastic Syndrome	1.099	1.095
Monoclonal Gammopathy	1.024	—

Analysis of CY 2012 through 2013 claims and cost report data for the purposes of regression analysis has continued to demonstrate that significant facility resources are used when furnishing dialysis services to ESRD patients with these chronic comorbidities. However, in accordance with section 632(c) of ATRA and in response to stakeholders' public comments and requests for the elimination of all of the comorbid payment adjustments, we compared the frequency of how often these conditions were reported on the facility monthly bill type with how often a corroborating claim is reported in another Medicare setting in a 12-month look back period. This analysis demonstrated significant differences in the reporting of monoclonal gammopathy by ESRD facilities and in other treatment settings.

In order for the monoclonal gammopathy comorbid payment adjustment to apply, Medicare requires a positive serum test and a bone marrow biopsy test. We believe that billing inconsistency may result from poor compliance with these payment policy guidelines. We believe that some facilities may report the diagnosis based upon only the positive serum test, and forgo the bone marrow biopsy, while other facilities may view the bone marrow biopsy as excessive for what is often an asymptomatic condition and therefore forgo the payment adjustment all together.

CMS has historically required the bone marrow biopsy for confirmation of a diagnosis of monoclonal gammopathy because often it is a laboratory-defined disorder, where the disease has no symptoms but where the patient is identified to be at considerable risk for the development of multiple myeloma. Because many ESRD patients suffer from anemic conditions due to their dialysis, they can test false positive for monoclonal gammopathy. We considered modifying our documentation policies for requiring the bone marrow biopsy when making the payment adjustment. However, we are concerned that we will be unable to confirm the diagnosis without a bone marrow test.

Based on the regression analysis conducted for this proposed rule, using CY 2013 ESRD PPS claims and cost report data, we find that all of the chronic comorbid payment adjustors continue to be strong predictors of cost variation among ESRD patients and accordingly, we will continue to make a payment adjustment for the chronic comorbid conditions of hereditary hemolytic and sickle cell anemias and myelodysplastic syndrome. However, in consideration of stakeholders concerns about the excessive burden of meeting the documentation requirements for monoclonal gammopathy, we are proposing to eliminate the case mix payment adjustment for the comorbid condition of monoclonal gammopathy beginning in CY 2016. We no longer believe that it is appropriate to require the patient to submit to an invasive and painful procedure in order to make a payment adjustment to their ESRD facility. Based upon the regression analysis of CY 2012 through 2013 ESRD facility claims and cost report data, the updated payment adjustment for hereditary hemolytic and sickle cell anemias would be 1.192 and for myelodysplastic syndrome the payment adjustment would be 1.095 as indicated in Table 4 in section II.B.1.f.i of this proposed rule. These adjustment amounts reflect the regression analysis based upon CY 2012 and 2013 Medicare claims data.

d. Proposed Refinement of Facility-Level Adjustments

i. Low-Volume Payment Adjustment

Section 1881(b)(14)(D)(iii) of the Act requires a payment adjustment that reflects the extent to which costs incurred by low-volume facilities (as defined by the Secretary) in furnishing renal dialysis services exceed the costs incurred by other facilities in furnishing such services, and for payment for renal dialysis services furnished on or after January 1, 2011, and before January 1, 2014, such payment adjustment shall not be less than 10 percent. As required by this provision, the ESRD PPS provides a facility-level payment adjustment to ESRD facilities that meet the definition of a low-volume facility.

A background discussion on the low-volume payment adjustment (LVPA) and a proposal regarding the LVPA eligibility criteria is provided below.

The current amount of the LVPA is 18.9 percent. In the CY 2011 ESRD PPS final rule (75 FR 49125), we indicated that this increase to the base rate is an appropriate adjustment that will encourage small facilities to continue to provide access to care. With regard to the magnitude of the payment adjustment for low-volume facilities, we stated that it is more appropriate to use the regression-driven adjustment rather than the 10 percent minimum adjustment mentioned in the statute because it is based on empirical evidence and allows us to implement a payment adjustment that is a more accurate depiction of higher costs.

For this proposed rule, we analyzed those ESRD facilities that met the definition of a low-volume facility as specified in 42 CFR 413.232(b) as part of the regression analysis. We found that the cost per treatment for these facilities is still high compared to other facilities. With regard to the magnitude of the payment adjustment for low-volume facilities, we continue to believe that it is appropriate to use the regression-driven adjustment because it is based on empirical evidence and allows us to implement a payment adjustment that is a more accurate depiction of higher costs. The regression analysis indicates a payment multiplier of 1.239 percent as indicated in Table 4 in section II.B.1.f.i of this proposed rule. Accordingly, we propose a new LVPA adjustment factor of 23.9 percent for CY 2016 and future years.

ii. CY 2016 Proposals for the Low-Volume Payment Adjustment (LVPA)

(1) Background

As required by section 1881(b)(14)(D)(iii) of the Act, the ESRD PPS provides a facility-level payment adjustment of 18.9 percent to ESRD facilities that meet the definition of a low-volume facility. Under 42 CFR 413.232(b), a low-volume facility is an ESRD facility that, based on the documentation submitted pursuant to 42 CFR 413.232(h): (1) Furnished less than 4,000 treatments in each of the 3 cost reporting years (based on as-filed or final settled 12-consecutive month cost reports, whichever is most recent) preceding the payment year; and (2) Has not opened, closed, or received a new provider number due to a change in ownership in the 3 cost reporting years (based on as-filed or final settled 12-consecutive month cost reports, whichever is most recent) preceding the payment year. Under 42 CFR 413.232(c), for purposes of determining the number of treatments furnished by the ESRD facility, the number of treatments considered furnished by the ESRD facility equals the aggregate number of treatments furnished by the ESRD facility and the number of treatments furnished by other ESRD facilities that are both under common ownership and 25 road miles or less from the ESRD facility in question. Our regulation at 42 CFR 413.232(d) exempts facilities that were in existence and Medicare-certified prior to January 1, 2011 from the 25-mile geographic proximity criterion, thereby grandfathering them into the LVPA.

For purposes of determining eligibility for the LVPA, ''treatments'' means total hemodialysis (HD) equivalent treatments (Medicare and non-Medicare). For peritoneal dialysis (PD) patients, one week of PD is considered equivalent to 3 HD treatments. In the CY 2012 ESRD PPS final rule (76 FR 70236), we clarified that we base eligibility on the three years preceding the payment year and those years are based on cost reporting periods. We further clarified that the ESRD facility's cost reports for the periods ending in the three years preceding the payment year must report costs for 12-consecutive months (76 FR 70237).

In the CY 2015 ESRD PPS final rule (79 FR 66152 through 66153), we clarified that hospital-based ESRD facilities' eligibility for the LVPA should be determined at an individual facility level and their total treatment counts should not be aggregated with other ESRD facilities that are affiliated with the hospital unless the affiliated facilities are commonly owned and within 25 miles. Therefore, the MAC can consider other supporting data in addition to the total treatments reported in each of the 12-consecutive month cost reports, such as the individual facility's total treatment counts, to verify the number of treatments that were furnished by the individual hospital-based facility that is seeking the adjustment.

In the CY 2015 ESRD PPS final rule (79 FR 66153), with regards to the cost reporting periods used for eligibility, we clarified that when there is a change of ownership that does not result in a new Medicare Provider Transaction Access Number but creates two non-standard cost reporting periods (that is, periods that are shorter or longer than 12 months) the MAC is either to add the two non-standard cost reporting periods together where combined they would equal 12-consecutive months or prorate the data when they would exceed 12-consecutive months to determine the total treatments furnished for a full cost reporting period as if there had not been a CHOW.

In order to receive the LVPA under the ESRD PPS, an ESRD facility must submit a written attestation statement to its MAC confirming that it meets all of the requirements specified at 42 CFR 413.232 and qualifies as a low-volume ESRD facility. In the CY 2012 ESRD PPS final rule (76 FR 70236), we finalized a yearly November 1 deadline for attestation submission and we revised the regulation at § 413.232(f) to reflect this date. We noted that this timeframe provides 60 days for a MAC to verify that an ESRD facility meets the LVPA eligibility criteria. In the CY 2015 ESRD PPS final rule (79 FR 66153 through 66154), we amended § 413.232(f) to accommodate the timing of the policy clarifications finalized for that rule. Specifically, we extended the deadline for the CY 2015 LVPA attestations until December 31, 2014 to allow ESRD facilities time to assess their eligibility based on the policy clarifications for prior years under the ESRD PPS and apply for the LVPA for CY 2015. Further information regarding the administration of the LVPA is provided in the Medicare Benefit Policy Manual, CMS Pub. 100–02, Chapter 11, section 60.B.1.

(2) The United States Government Accountability Office Study on the LVPA

In the CY 2015 ESRD PPS final rule (79 FR 66151 through 66152), we discussed the study that the United States Government Accountability Office (the GAO) completed on the LVPA. We also provided a summary of the GAO's main findings and recommendations. We stated that the GAO found that many of the facilities eligible for the LVPA were located near other facilities, indicating that they may not have been necessary to ensure sufficient access to dialysis care. They also identified certain facilities with relatively low volume that were not eligible for the LVPA, but had above-average costs and appeared to be necessary for ensuring access to care. Lastly, the GAO stated the design of the LVPA provides facilities with an adverse incentive to restrict their service provision to avoid reaching the 4,000 treatment threshold.

In the conclusion of their study, the GAO provided the Congress with the following recommendations: 1) To more effectively target facilities necessary for ensuring access to care, the Administrator of CMS should consider

restricting the LVPA to low-volume facilities that are isolated; 2) To reduce the incentive for facilities to restrict their service provision to avoid reaching the LVPA treatment threshold, the Administrator of CMS should consider revisions such as changing the LVPA to a tiered adjustment; 3) To ensure that future LVPA payments are made only to eligible facilities and to rectify past overpayments, the Administrator of CMS should take the following four actions: (i) Require Medicare contractors to promptly recoup 2011 LVPA payments that were made in error; (ii) investigate any errors that contributed to eligible facilities not consistently receiving the 2011 LVPA and ensure that such errors are corrected; (iii) take steps to ensure that CMS regulations and guidance regarding the LVPA are clear, timely, and effectively disseminated to both dialysis facilities and Medicare contractors; and (iv) improve the timeliness and efficacy of CMS's monitoring regarding the extent to which Medicare contractors are determining LVPA eligibility correctly and promptly re-determining eligibility when all necessary data become available.

As we explained in the CY 2015 ESRD PPS final rule (79 FR 66152), we concurred with the need to ensure that the LVPA is targeted effectively at low-volume high-cost facilities in areas where beneficiaries may lack dialysis care options. We also agreed to take action to ensure appropriate payment is made in the following ways: 1) evaluating our policy guidance and contractor instructions to ensure appropriate application of the LVPA; 2) using multiple methods of communication to MACs and ESRD facilities to deliver clear and timely guidance; and 3) improving our monitoring of MACs and considering measures that can provide specific expectations.

(3) Addressing GAO's Recommendations

As discussed above, in the CY 2015 ESRD PPS final rule (79 FR 66152), we made two clarifications of the LVPA eligibility criteria that were responsive to stakeholder concerns and GAO's concern that the LVPA should effectively target low-volume, high-cost facilities. However, we explained that we did not make changes to the adjustment factor or significant changes to the eligibility criteria because of the interaction of the LVPA with other payment adjustments under the ESRD PPS. Instead, we stated that in accordance with section 632(c) of ATRA, for CY 2016 we would assess facility-level adjustments and address necessary LVPA policy changes when we would use updated data in a regression analysis similar to the analysis that is discussed in the CY 2011 ESRD PPS final rule (75 FR 49083).

For CY 2016, because we are refining the ESRD PPS as discussed in section II.B.1.a of this proposed rule, we reviewed the LVPA eligibility criteria and are proposing changes that we believe address the GAO recommendation to effectively target the LVPA to ESRD facilities necessary for ensuring access to care.

(4) Elimination of the Grandfathering Provision

In the CY 2011 ESRD PPS final rule (75 FR 49118 through 49119), we expressed concern about potential misuse of the LVPA. Specifically, our concern was that the LVPA could incentivize dialysis companies to establish small ESRD facilities in close geographic proximity to other ESRD facilities in order to obtain the LVPA, thereby leading to unnecessary inefficiencies. To address this concern, we finalized that for the purposes of determining the number of treatments under the definition of a low-volume facility, the number of treatments considered furnished by the ESRD facility would be equal to the aggregate number of treatments furnished by the ESRD facility and other ESRD facilities that are both: (i) Under common ownership with; and (ii) 25 road miles or less from the ESRD facility in question. However, we finalized the grandfathering of those commonly owned ESRD facilities that were certified for Medicare participation on or before December 31, 2010, thereby exempting them from the geographic proximity restriction.

We established the grandfathering policy in 2011 in an effort to support low-volume facilities and avoid disruptions in access to essential renal dialysis services while the ESRD PPS was being implemented. However, now that the ESRD PPS transition is over and facilities have adjusted to the ESRD PPS payments and incentives, we believe it is appropriate to eliminate the grandfathering provision. Because we are doing a refinement of the payment adjustments under the ESRD PPS for CY 2016, the timing is appropriate for eliminating the grandfathering policy so that this change can be assessed along with other proposed changes to the ESRD PPS resulting from the regression analysis.

We are proposing that for the purposes of determining the number of treatments under the definition of a low-volume facility, beginning in CY 2016, the number of treatments considered furnished by any ESRD facility regardless of when it came into existence and was Medicare certified would be equal to the aggregate number of treatments actually furnished by the ESRD facility and the number of treatments furnished by other ESRD facilities that are both: (i) Under common ownership with; and (ii) 5 road miles or less from the ESRD facility in question. The proposed 5 road mile geographic proximity mileage criterion is discussed below. We propose to amend the regulation text by removing paragraph (d) in 42 CFR 413.232 to reflect that the geographic proximity provision described in paragraph (c) and discussed below is applicable to any ESRD facility that is Medicare certified to furnish outpatient maintenance dialysis. We are soliciting comment on the proposed change to remove the grandfathering provision by deleting paragraph (d) from our regulation at 42 CFR 413.232.

(5) Geographic Proximity Mileage Criterion

In GAO's report, they stated that the LVPA did not effectively target low-volume facilities that had high costs and appeared necessary for ensuring access to care. The GAO stated that nearly 30 percent of LVPA-eligible facilities were located within 1 mile of another facility in 2011, and about 54 percent were within 5 miles, which indicated to them that these facilities might not have been necessary for ensuring access to care. Furthermore, the GAO indicated that in many cases, the LVPA-eligible facilities were located near high-volume facilities. The GAO explained in the report that providers that furnish a low volume of services may incur higher costs of care because they cannot achieve the economies of scale that are possible for larger providers. They also stated that low-volume providers in areas where other care options are limited may warrant higher payments because, if Medicare's payment methods did not account for these providers' higher cost of care, beneficiary access to care could be reduced if these providers were unable to continue operating. They further explained that in contrast, low-volume providers that are in close proximity to other providers may not warrant an adjustment because beneficiaries have other care options nearby.

We agree with the GAO's assertion that it may not be appropriate to provide additional payment to an ESRD facility that is located in close proximity to another ESRD facility when the facilities

are commonly owned. The purpose of the LVPA is to recognize high cost, low-volume facilities that are unable to achieve the economies of scale that are possible for larger providers such as large dialysis organizations (LDO) and medium dialysis organizations (MDO). In addition, we note that under the current LVPA eligibility criteria, approximately half of low-volume facilities are LDO and MDO facilities that have the support of their parent companies in controlling their cost of care.

We analyzed the ESRD facilities receiving payment under Medicare for furnishing renal dialysis services in CY 2013 for purposes of simulating different eligibility scenarios for the LVPA. The CY 2013 claims and cost report data is the best data available. The CY 2014 cost reports will not be available until later this year. We simulated the MAC's verification process in order to determine LVPA eligibility. Our analysis considered the treatment counts on cost reporting periods ending in 2010 through 2012, the corresponding CY 2013 LVPA eligibility criteria defined at 42 CFR 413.232, and the location of low-volume facilities to assess the impact of various potential geographic proximity criteria. Because we used the CY 2013 claims and attestations, our analysis may not match the facilities currently receiving the LVPA because we are unable to analyze 2014 cost reports of LVPA facilities at this time. However, this analysis allowed us to test various geographic proximity mileage amounts to determine whether facilities eligible for the LVPA in 2013 would continue to be eligible for the LVPA as well as allowing us to determine the existence of any other ESRD facilities in those areas.

Initially, we applied the low-volume eligibility criteria (without grandfathering) and the current 25 road mile criterion and categorized facilities by urban/rural location, type of ownership, and other factors, and determined that out of the total of 434 low-volume facilities, 38 percent of LVPA facilities would lose low-volume status, including 19 percent in rural areas. For those determined to meet the LVPA criteria, we also assessed the extent to which there were other ESRD facilities (in the same chain or other chain), located within 5 road miles and 10 road miles from the LVPA facilities. Based on our concern that too many rural and independent facilities would lose low-volume status based on the 25 road mile geographic proximity criterion, we then analyzed 1 road mile, 5 road miles, 10 road miles, 15 road miles, and 20 road miles in order to determine a mileage criterion that protected rural facilities and supporting access to renal dialysis services in rural areas. We believe that ESRD facilities located in rural areas are necessary for access to care and we would not want to limit LVPA eligibility for rural providers.

Based on this analysis, we are proposing to reduce the geographic proximity criterion from 25 road miles to 5 road miles because our analysis showed that no rural facilities would lose LVPA eligibility due to the proposed 5 road mile geographic proximity criterion. This policy would discourage ESRD facilities from inefficiently operating two ESRD facilities within close proximity of each other. This policy would also allow ESRD facilities that are commonly owned to be considered individually when they are more than 5 miles from another facility that is under common ownership. We propose to amend the regulation text by revising paragraph (c)(2) in 42 CFR 413.232 to reflect the change in the mileage for the geographic proximity provision. We are soliciting comment on the proposed change to 42 CFR 413.232(c)(2). We note that our analysis indicated that approximately 30 facilities that are part of LDOs and MDOs would lose the LVPA due to the 5 mile proximity change and the elimination of grandfathering which caused many facilities to exceed 4000 treatments. For this reason, we are considering whether a transition would be appropriate and are requesting public comments.

iii. Geographic Payment Adjustment for ESRD Facilities Located in Rural Areas

(1) Background

Section 1881(b)(14)(D)(iv)(III) of the Act provides that the ESRD PPS may include such payment adjustments as the Secretary determines appropriate, such as a payment adjustment for ESRD facilities located in rural areas. Accordingly, in the CY 2011 ESRD PPS proposed rule we analyzed rural status as part of the regression analysis used to develop the payment adjustments under the ESRD PPS. In the CY 2011 ESRD PPS proposed rule (74 FR 49978), we discuss our analysis of rural status as part of the regression analysis and explained that to decrease distortion among independent variables, rural facilities were considered control variables rather than payment variables. We indicated that based on our impact analysis, rural facilities would be adequately reimbursed under the proposed ESRD PPS. Therefore, we did not propose a facility-level adjustment based on rural location and we invited public comments on our proposal.

In the CY 2011 ESRD PPS final rule (75 FR 49125 through 49126), we addressed commenters' concerns regarding not having a facility-level adjustment based on rural location. Some of the commenters provided an explanation of the unique situations that exist for rural areas and the associated costs. Specifically, the commenters identified several factors that contribute to higher costs including higher recruitment costs to secure qualified staff; a limited ability to offset costs through economies of scale; and decreased negotiating power in contractual arrangements for medications, laboratory services, and equipment maintenance. The commenters were concerned about a negative impact on beneficiary access to care that may result from insufficient payment to cover these costs. In addition, the commenters further noted that rural ESRD facilities have lower revenues because they serve a smaller volume of patients of which a larger proportion are indigent and lack insurance, and a smaller proportion have higher paying private insurance.

In response to the comments discussed above, we indicated that according to our impact analysis for the CY 2011 ESRD PPS final rule, rural facilities, as a group, were projected to receive less of a reduction in payments as a result of implementation of the ESRD PPS than urban facilities and many other subgroups of ESRD facilities and, therefore, we did not implement a facility-level payment adjustment that is based on rural location. However, we stated our intention to monitor how rural ESRD facilities fared under the ESRD PPS and consider other options if access to renal dialysis services in rural areas is compromised under the ESRD PPS.

(2) Determining a Facility-Level Payment Adjustment for ESRD Facilities Located in Rural Areas Beginning in CY 2016

Since implementing the ESRD PPS, we have heard from industry stakeholders that rural areas continue to have the unique difficulties described above when furnishing renal dialysis services that cause low to negative Medicare margins. Because we are committed to promoting beneficiary access to renal dialysis services, especially in rural areas, we analyzed rural location as a payment variable in the regression analysis conducted for this proposed rule.

Including rural areas as a payment variable in the regression analysis showed that this facility characteristic was a significant predictor of higher costs among ESRD facilities. Accordingly, we propose a payment multiplier of 1.008 as indicated in Table 4 in section II.B.1.f.i of this proposed rule. This adjustment would be applied to the ESRD PPS base rate for all ESRD facilities that are located in a rural area. In the CY 2011 ESRD PPS final rule (75 FR 49126), we finalized the definition of rural areas in 42 CFR 413.231(b)(2) as any area outside an urban area. We define urban area in 42 CFR 413.231(b)(1) as a Metropolitan Statistical Area or a Metropolitan division (in the case where Metropolitan Statistical Area is divided into Metropolitan Divisions). We propose to add a new § 413.233 to provide that the base rate will be adjusted for facilities that are located in rural areas, as defined in § 413.231(b)(2). The rural facility adjustment would also apply in situations where a facility is eligible to receive the low-volume payment adjustment. In other words, a facility could be eligible to receive both the rural and low-volume payment adjustments. Low-volume and rural areas are two independent variables in the regression analysis. We believe that the low-volume variable measures costs facilities incur as a result of furnishing a small number of treatments whereas the rural area variable measures the costs associated with locality. The regression analysis indicated that being in a rural area—regardless of treatments furnished—explains an increase in costs for furnishing dialysis compared to urban areas. Since low-volume and rural areas are independent variables in the regression we believe that a low-volume facility located in a rural area would be eligible for both adjustments because measure. We believe that while the magnitude of the payment multiplier is small, rural facilities would still benefit from the adjustment and, therefore, we propose a 1.008 facility-level payment multiplier under the ESRD PPS for rural areas. We solicit comment on this proposal.

(3) Further Investigation Into Targeting High-Cost Rural ESRD Facilities

Section 3127 of the Patient Protection and Affordable Care Act of 2010 (the Affordable Care Act) required that the Medicare Payment Advisory Commission (MedPAC) study and report to Congress on: 1) Adjustments in payments to providers of services and suppliers that furnish items and services in rural areas; 2) access by Medicare beneficiaries' to items and services in rural areas; 3) the adequacy of payments to providers of services and suppliers that furnish items and services in rural areas; and 4) the quality of care furnished in rural areas. The report required by section 3127(b) of the Affordable Care Act was published in the MedPAC June 2012 Report to Congress: Medicare and the Health Care Delivery System (hereinafter referred to as June 2012 Report to Congress), which is available at *http://medpac.gov/-documents-/reports.* In addition to the findings presented on each of the four topics, this report presented a set of principles designed to guide expectations and policies with respect to rural access, quality, and payments for all sectors, which can be used to guide Medicare payment policy. For purposes of this proposed rule, we were most interested in the principles of payment adequacy and special payments to rural providers.

In the June 2012 Report to Congress, MedPAC explained that providers in rural areas often have a low volume of patients and in some cases, this lack of scale increases costs and puts the provider at risk of closure. MedPAC stated that to maintain access in these cases, Medicare may need to make higher payments to low-volume providers that cannot achieve the economies of scale available to urban providers. However, they explained that low volume alone is not a sufficient measure to assess whether higher payments are warranted and that Medicare should not pay higher rates to two competing low-volume providers in close proximity. They stated that these payments may deter small neighboring providers from consolidating care in one facility, which results in poorly targeted payments and can contribute to poorer outcomes for the types of care where there is a volume–outcome relationship. MedPAC further explained that to target special payments when warranted, Medicare should direct these payments to providers that are uniquely essential for maintaining access to care in a given community. The payments need to be structured in a way that encourages efficient delivery of healthcare services.

MedPAC presented three principles guiding special payments that will allow beneficiaries' needs to be met efficiently: 1) Payments should be targeted toward low-volume isolated providers—that is, providers that have low patient volume and are at a distance from other providers. Distance is required because supporting two neighboring providers who both struggle with low-volume can discourage mergers that could lead to lower cost and higher quality care; 2) the magnitude of special rural payment adjustments should be empirically justified—that is, the payments should increase to the extent that factors beyond the providers' control increase their costs; and 3) rural payment adjustments should be designed in ways that encourage cost control on the part of providers.

We were interested in the information that MedPAC provided in their report regarding services furnished to Medicare beneficiaries in rural areas. We believe that the adjustment that we proposed in this rule, which we arrived at through a regression analysis, is consistent with principle two above, which states that the magnitude of special rural payment adjustments should be empirically justified. We considered alternatives to deriving the adjustment from the regression analysis in an effort to increase the value of the adjustment. For example, we could establish a larger adjustment outside of the regression and offset it by a reduction to the base rate. We also considered analyzing different subsets of rural areas and designating those areas as the payment variable in our model. Because we were able to determine through the regression analysis that rural location is a predictor of cost variation among ESRD facilities, we are planning to analyze the facilities that are located in rural areas to see if there are subsets of rural providers that experience higher costs. We are also planning to explore potential policies to target areas that are isolated or identify where there is a need for health care services, such as, for example, the frontier counties (that is, counties with a population density of six or fewer people per square mile) and we would also consider the use of Health Professional Shortage Area (HPSA) designations managed by the Health Resources and Services Administration (HRSA). Information regarding HPSAs can be found on the HRSA Web site:*http://bhpr.hrsa.gov/shortage/hpsas/designationcriteria/.*

We believe that this type of analysis would be consistent with the June 2012 Report to Congress's principle that special payments should target the low-volume facilities that are isolated. We are soliciting comments on establishing a larger payment adjustment outside of the regression analysis. We note that such an adjustment would need to be offset by a further reduction to the base rate. For example, we could compare the average cost per treatment reported on the cost report of ESRD facilities located in rural areas with ESRD facilities located in urban areas and develop a methodology to derive the

magnitude of the adjustment. In addition, we are soliciting comments on targeting subsets of rural areas for purposes of using those facilities located in those areas for analysis as payment variables in the regression analysis used to develop the payment multipliers for the refinement for CY 2016.

e. Proposed Refinement of the Case-Mix Adjustments for Pediatric Patients

Section 1881(b)(14)(A)(i) of the Act requires the Secretary to implement a payment system under which a single payment is made for renal dialysis services. This provision does not distinguish between services furnished to adult and pediatric patients. Therefore, we developed a methodology that used the ESRD PPS base rate for pediatric patients and finalized pediatric payment adjusters in our CY 2011 ESRD PPS final rule at 75 FR 49131 through 49134. Specifically, the methodology for calculating the pediatric payment adjusters reflects case mix adjustments for age and modality. We noted in our CY 2011 ESRD PPS final rule that the payment adjustments applicable to composite rate services for pediatric patients were obtained from the facility level model of composite rate costs for patients less than 18 years of age and yielded a regression-based multiplier of 1.199. However, based upon public comments received expressing concern that the payment multiplier was inadequate for pediatric care, we revised our methodology and we finalized pediatric payment adjusters that reflected the overall difference in average payments per treatment between pediatric and adult dialysis patients for composite rate (CR) services and separately billable (SB) items in CY 2007 based on the 872 pediatric dialysis patients reflected in the data.

We indicated in the CY 2011 ESRD PPS final rule (75 FR 49131 through 49134), that the average CY 2007 MAP for composite rate services for pediatric dialysis patients was $216.46, compared to$156.12 for adult patients. The difference in composite rate payment is reflected in the overall adjustment for pediatric patients as calculated using the variables of (1) age less than 13 years, or 13 through 17 years; (2) dialysis modality PD or HD. While the composite rate Medicare Allowable Payment (MAP) for pediatric patients was higher than that for adult patients ($216.46 versus $156.12), the separately billable MAP was lower for pediatric patients ($48.09versus $83.27), in CY 2007. There are fewer separately billable items in the pediatric model, largely because of the predominance of the PD modality for younger patients and the smaller body size of pediatric patients. The overall difference in the CY 2007 MAP between adult and pediatric dialysis patients was computed at 10.5 percent or $216.46 + $48.09 = $264.55 and $156.12 + $83.27 = $239.39. $264.55/$239.39 = 1.105.

For purposes of regression analysis, we are not proposing any changes to the formula used to establish the pediatric payment multipliers and will continue to apply the computations of Mult*EB*= P * C * (W*CR* + W*SB* * Mult*SB*), where P is the ratio of the average MAP per session for pediatric patients to the average MAP per session for adult patients as shown below, C is the average payment multiplier for adult patients (1.1151), WCR (0.798) and WSB (0.202) are the proportion of MAP for CR and SB services, respectively, among pediatric patients, and MultSB represents the SB model multipliers. We are using updated values for P, C, WCR, and WSB along with the updated SB multipliers to calculate the updated EB multipliers. The overall difference in the CY 2013 MAP between adult and pediatric dialysis patients was computed at 8.2 percent (P = $283.42/ $ 261.91= 1.082). The regression analysis for a new pediatric payment model for Medicare pediatric ESRD patients for CY 2016 will use the same methodology that was used for the CY 2011 ESRD PPS final rule, except for the use of more recent data years (2012 through 2013) and in the method of obtaining payment data. Specifically, we used the projected total expanded bundle MAP based on 2013 claims to calculate the ratio of pediatric total MAP per session to adult total MAP per session. The projected MAP was calculated by pricing out utilization of SBs based on line items in the claims, rather than using actual payments from the claims as in the pre-2011 data. These adjustment factors reflect a proposed 8.21 percent increase to account for the overall difference in average payments per treatment for pediatric patients. The proposed updated pediatric SB and EB multipliers are shown below in Table 5.

f. Proposed Refinement Payment Multipliers

i. Proposed Adult Case-Mix and Facility-Level Payment Adjustments

TABLE 4—CY 2016 PROPOSED ADULT CASE–MIX AND FACILITY–LEVEL PAYMENT ADJUSTMENTS

	PY2011 Final Rule (based on 2006–2008 data)		PY2016 NPRM (based on 2012–2013 data)			
	% of Medicare dialysis treatments on average	Expanded bundle payment multiplier	% of Medicare dialysis treatments on average	Composite rate multipliers based on Freestanding and Hospital-based facilities	Separately billable multipliers	Expanded bundle payment multiplier
Age:						
18–44	13.5	1.171	12.8	1.308	1.044	1.257
45–59	26.8	1.013	27.8	1.084	1.000	1.068
60–69	23.8	1.000	25.8	1.086	1.005	1.070
70–79	22.9	1.011	21.1	1.000	1.000	1.000
80+	13.0	1.016	12.4	1.145	0.961	1.109
Body surface area (per 0.1 m^2)[3]	.....	1.020	.....	1.039	1.000	1.032
Underweight (BMI < 18.5)	4.0	1.025	3.3	1.000	1.090	1.017
Time since onset of renal dialysis < 4 months	4.8	1.510	4.0	1.307	1.409	1.327
Facility low volume status	1.8	1.189	1.7	1.368	0.955	1.239
Comorbidities:[4]						
Pericarditis (acute)	0.4	1.114	0.1	1.000	1.209	1.040
Gastro-intestinal tract bleeding (acute)	1.1	1.183	0.5	1.000	1.426	1.082
Bacterial pneumonia (acute)	2.0	1.135	.....	.....	.....	.....

TABLE 4—CY 2016 PROPOSED ADULT CASE–MIX AND FACILITY–LEVEL PAYMENT ADJUSTMENTS—Continued

	PY2011 Final Rule (based on 2006–2008 data)		PY2016 NPRM (based on 2012–2013 data)			
	% of Medicare dialysis treatments on average	Expanded bundle payment multiplier	% of Medicare dialysis treatments on average	Composite rate multipliers based on Freestanding and Hospital-based facilities	Separately billable multipliers	Expanded bundle payment multiplier
Hereditary hemolytic or sickle cell anemia (chronic)	2.0	1.072	0.1	1.000	1.999	1.192
Myelodysplastic syndrome (chronic)	1.6	1.099	0.3	1.000	1.494	1.095
Monoclonal gammopathy (chronic)	1.2	1.024	.....	.....	.....	.....
Rural	—	—	15.0	1.015	0.978	1.008

ii. Proposed Pediatric Case-Mix Payment Adjustments

TABLE 5—CY 2016 PROPOSED PEDIATRIC CASE-MIX PAYMENT ADJUSTMENTS

Cell	Patient characteristics		PY 2011 Final rule (based on 2006–2008 data)		PY 2016 NPRM (based on 2012 and 2013 data)		
	Age	Modality	Population %	Payment multiplier	Population %	Separately billable multiplier	Expanded bundle payment multiplier
1	<13	PD	20.58	1.033	27.62	0.410	1.063
2	<13	HD	16.57	1.219	19.23	1.406	1.306
3	13–17	PD	18.20	1.067	20.19	0.569	1.102
4	13–17	HD	44.66	1.277	32.96	1.494	1.327

2. Proposed CY 2016 ESRD PPS Update

a. ESRD Bundled Market Basket

i. Overview and Background

In accordance with section 1881(b)(14)(F)(i) of the Act, as added by section 153(b) of MIPPA and amended by section 3401(h) of the Affordable Care Act, beginning in 2012, the ESRD payment amounts are required to be annually increased by an ESRD market basket increase factor that is reduced by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act. The application of the productivity adjustment may result in the increase factor being less than 0.0 for a year and may result in payment rates for a year being less than the payment rates for the preceding year. The statute also provides that the market basket increase factor should reflect the changes over time in the prices of an appropriate mix of goods and services used to furnish renal dialysis services.

Section 1881(b)(14)(F)(i)(I) of the Act, as added by section 217(b)(2)(A) of PAMA, provides that in order to accomplish the purposes of subparagraph (I) with respect to 2016, 2017, and 2018, after determining the market basket percentage increase factor for each of 2016, 2017, and 2018, the Secretary shall reduce such increase factor by 1.25 percentage points for each of 2016 and 2017 and by 1 percentage point for 2018.. Accordingly, for CY 2016, we will reduce the proposed amount of the market basket percentage increase factor by 1.25 percent as required by section 1881(b)(14)(F)(i)(I) of the Act, and will further reduce it by the productivity adjustment.

ii. Proposed Market Basket Update Increase Factor and Labor-Related Share for ESRD Facilities for CY 2016

As required under section 1881(b)(14)(F)(i) of the Act, CMS developed an all-inclusive ESRDB input price index (75 FR 49151 through 49162) and subsequently revised and rebased the ESRDB input price index in the CY 2015 ESRD final rule (79 FR 66129 through 66136). Although ''market basket'' technically describes the mix of goods and services used for ESRD treatment, this term is also commonly used to denote the input price index (that is, cost categories, their respective weights, and price proxies combined) derived from a market basket. Accordingly, the term ''ESRDB market basket,'' as used in this document, refers to the ESRDB input price index.

We propose to use the CY 2012-based ESRDB market basket as finalized and described in the CY 2015 ESRD PPS final rule (79 FR 66129 through 66136) to compute the CY 2016 ESRDB market basket increase factor and labor-related share based on the best available data. Consistent with historical practice, we estimate the ESRDB market basket update based on IHS Global Insight (IGI), Inc.'s forecast using the most recently available data. IGI is a nationally recognized economic and financial forecasting firm that contracts with CMS to forecast the components of the market baskets.

Using this methodology and the IGI forecast for the first quarter of 2015 of the CY 2012-based ESRDB market basket (with historical data through the fourth quarter of 2014), and consistent with our historical practice of estimating market basket increases based on the best available data, the proposed CY 2016 ESRDB market basket increase factor is 2.0 percent. As required by section 1881(b)(14)(F)(i)(I) of the Act as amended by section 217(b)(2) of PAMA, we must reduce the amount of the market basket increase factor by 1.25 percent, resulting in a proposed CY 2016 ESRDB market basket percentage increase factor of 0.75 percent.

For the CY 2016 ESRD payment update, we propose to continue using a labor-related share of 50.673 percent for the ESRD PPS payment, which was finalized in the CY 2015 ESRD final rule (79 FR 66136) but was applied in CY 2015 using a 2-year transition.

iii. Proposed Productivity Adjustment

Under section 1881(b)(14)(F)(i) of the Act, as amended by section 3401(h) of the Affordable Care Act, for CY 2012 and each subsequent year, the ESRD market basket percentage increase factor shall be reduced by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act. The statute defines the productivity adjustment as equal to the 10-year moving average of changes in annual economy-wide private nonfarm business MFP (as projected by the Secretary for the 10-year period ending with the applicable fiscal year, year, cost reporting period, or other annual period) (the ''MFP adjustment''). The Bureau of Labor Statistics (BLS) is the agency that publishes the official measure of private nonfarm business MFP. Please see *http://www.bls.gov/mfp* to obtain the BLS historical published MFP data.

MFP is derived by subtracting the contribution of labor and capital input growth from output growth. The projections of the components of MFP are currently produced by IGI, a nationally recognized economic forecasting firm with which CMS contracts to forecast the components of the market basket and MFP. As described in the CY 2012 ESRD PPS final rule (76 FR 40503 through 40504), to generate a forecast of MFP, IGI replicates the MFP measure calculated by the BLS using a series of proxy variables derived from IGI's U.S. macroeconomic models. In the CY 2012 ESRD PPS final rule, we identified each of the major MFP component series employed by the BLS to measure MFP as well as provided the corresponding concepts determined to be the best available proxies for the BLS series.

Beginning with the CY 2016 rulemaking cycle, the MFP adjustment is calculated using a revised series developed by IGI to proxy the aggregate capital inputs. Specifically, IGI has replaced the Real Effective Capital Stock used for Full Employment GDP with a forecast of BLS aggregate capital inputs recently developed by IGI using a regression model. This series provides a better fit to the BLS capital inputs, as measured by the differences between the actual BLS capital input growth rates and the estimated model growth rates over the historical time period. Therefore, we are using IGI's most recent forecast of the BLS capital inputs series in the MFP calculations beginning with the CY 2016 rulemaking cycle. A complete description of the MFP projection methodology is available on our Web site at *http://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/MedicareProgramRatesStats/MarketBasketResearch.html.* Although we discuss the IGI changes to the MFP proxy series in this proposed rule, in the future, when IGI makes changes to the MFP methodology, we will announce them on our Web site rather than in the annual rulemaking.

Using IGI's first quarter 2015 forecast, the MFP adjustment for CY 2016 (the 10-year moving average of MFP for the period ending CY 2016) is projected to be 0.6 percent. We invite public comment on these proposals.

iv. Calculation of the ESRDB Market Basket Update, Adjusted for Multifactor Productivity for CY 2016

Under section 1881(b)(14)(F) of the Act, beginning in CY 2012, ESRD PPS payment amounts shall be annually increased by an ESRD market basket percentage increase factor reduced by the productivity adjustment. For CY 2016, section 1881(b)(14)(F)(i)(I) of the Act, as amended by section 217(b)(2)(A)(ii) of PAMA, requires the Secretary to implement a 1.25 percentage point reduction to the ESRDB market basket increase factor in addition to the productivity adjustment.

As a result of these provisions, the proposed CY 2016 ESRD market basket increase is 0.15 percent. The proposed ESRDB market basket percentage increase factor for CY 2016 is 2.0 percent, which is based on the 1st quarter 2015 forecast of the CY 2012-based ESRDB market basket. This market basket percentage is then reduced by the 1.25 percent, as required by the section 1881(b)(14)(F)(i)(I). The market basket percentage increase is then further reduced by the MFP adjustment (the 10-year moving average of MFP for the period ending CY 2016) of 0.6 percent, which is also based on IGI's 1st quarter 2015 forecast. As is our general practice, if more recent data is subsequently available (for example, a more recent estimate of the market basket or MFP adjustment), we will use such data to determine the CY 2016 market basket update and MFP adjustment in the CY 2016 ESRD PPS final rule.

b. The Proposed CY 2016 ESRD PPS Wage Indices

i. Annual Update of the Wage Index

Section 1881(b)(14)(D)(iv)(II) of the Act provides that the ESRD PPS may include a geographic wage index payment adjustment, such as the index referred to in section 1881(b)(12)(D) of the Act, as the Secretary determines to be appropriate. In the CY 2011 ESRD PPS final rule (75 FR 49117), we finalized the use of the Office of Management and Budget's (OMB) Core-Based Statistical Areas (CBSAs)-based geographic area designations to define urban and rural areas and their corresponding wage index values.

For CY 2016, we would continue to use the same methodology as finalized in the CY 2011 ESRD PPS final rule (75 FR 49117) for determining the wage indices for ESRD facilities. Specifically, we are updating the wage indices for CY 2016 to account for updated wage levels in areas in which ESRD facilities are located. We use the most recent pre-floor, pre-reclassified hospital wage data collected annually under the inpatient prospective payment system. The ESRD PPS wage index values are calculated without regard to geographic reclassifications authorized under section 1886(d)(8) and (d)(10) of the Act and utilize pre-floor hospital data that are unadjusted for occupational mix. The proposed CY 2016 wage index values for urban areas are listed in Addendum A (Wage Indices for Urban Areas) and the proposed CY 2016 wage index values for rural areas are listed in Addendum B (Wage Indices for Rural Areas). Addenda A and B are located on the CMS Web site at*http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ESRDpayment/End-Stage-Renal-Disease-ESRD-Payment-Regulations-and-Notices.html*.

In the CY 2011 and CY 2012 ESRD PPS final rules (75 FR 49116 through 49117 and 76 FR 70239 through 70241, respectively), we also discussed and finalized the methodologies we use to calculate wage index values for ESRD facilities that are located in urban and rural areas where there is no hospital data. For urban areas with no hospital data, we compute the average wage index value of all urban areas within the State and use that value as the wage index. For rural areas with no hospital data, we compute the wage index using the average wage index values from all contiguous CBSAs to represent a reasonable proxy for that rural area.

For CY 2016, we are applying this criteria to American Samoa and the Northern Mariana Islands, where we apply the wage index for Guam as established in the CY 2014 ESRD PPS final rule (78 FR 72172) (0.9611), and Hinesville-Fort Stewart, Georgia, where we apply the statewide urban average based on the average of all urban areas within the state (78 FR 72173) (0.8699). We note that if hospital data becomes available for these areas, we will use that data for the appropriate CBSAs instead of the proxy.

A wage index floor value has been used in lieu of the calculated wage index values below the floor in making payment for renal dialysis services under the ESRD PPS. In the CY 2011 ESRD PPS final rule (75 FR 49116 through 49117), we finalized that we would continue to reduce the wage index floor by 0.05 for each of the remaining years of the ESRD PPS transition. In the CY 2012 ESRD PPS final rule (76 FR 70241), we finalized the 0.05 reduction to the wage index floor for CYs 2012 and 2013, resulting in a wage index floor of 0.5500 and 0.5000, respectively. We continued to apply and to reduce the wage index floor by 0.05 in the CY 2013 ESRD PPS final rule (77 FR 67459 through 67461). Although our intention initially was to provide a wage index floor only through the 4-year transition to 100 percent implementation of the ERSD PPS (75 FR 49116 through 49117; 76 FR 70240 through 70241), in the CY 2014 ESRD PPS final rule (78 FR 72173), we continued to apply the wage index floor and continued to reduce the floor by 0.05 per year for CY 2014 and for CY 2015.

For CY 2016, we are proposing to continue to apply the CY 2015 wage index floor, that is, 0.4000, to areas with wage index values below the floor but we are not proposing to reduce the wage index floor for CY 2016. Our review of the wage indices show that CBSAs in Puerto Rico continue to be the only areas with wage index values that would benefit from a wage index floor because they are so low. Therefore, we believe that we need more time to study the wage indices that are reported for Puerto Rico to assess the appropriateness of discontinuing the wage index floor and leave it at 0.4000. Because the wage index floor is only applicable to a small number of CBSAs, the impact to the base rate through the wage index budget neutrality factor would be insignificant. To the extent other geographical areas fall below the floor in CY 2016 or beyond, we believe they should have the benefit of the 0.4000 wage index floor as well. We will continue to review wage index values and the appropriateness of a wage index floor in the future.

ii. Implementation of New Labor Market Delineations

As noted earlier in this section, in the CY 2011 ESRD PPS final rule (75 FR 49117), we finalized for the ESRD PPS the use of the CBSA-based geographic area designations described in OMB bulletin 03–04, issued June 6, 2003 as the basis for revising the urban and rural areas and their corresponding wage index values. This bulletin, as well as subsequent bulletins, is available online at *http://www.whitehouse.gov/omb/bulletins_index2003-2005.*

OMB publishes bulletins regarding CBSA changes, including changes to CBSA numbers and titles. In accordance with our established methodology, we have historically adopted via rulemaking CBSA changes that are published in the latest OMB bulletin. On February 28, 2013, OMB issued OMB Bulletin No. 13–01, which established revised delineations for Metropolitan Statistical Areas, Micropolitan Statistical Areas, and Combined Statistical Areas, and provided guidance on the use of the delineations of these statistical areas. A copy of this bulletin may be obtained at *http://www.whitehouse.gov/sites/default/files/omb/bulletins/2013/b-13-01.pdf.* According to OMB, ''[t]his bulletin provides the delineations of all Metropolitan Statistical Areas, Metropolitan Divisions, Micropolitan Statistical Areas, Combined Statistical Areas, and New England City and Town Areas in the United States and Puerto Rico based on the standards published on June 28, 2010, in the **Federal Register** (75 FR 37246 through 37252) and Census Bureau data.'' In the CY 2015 ESRD PPS final rule (79 FR 40226) and this proposed rule, when referencing the new OMB geographic boundaries of statistical areas, we use the term ''delineations'' rather than the term ''definitions'' that we have used in the past, consistent with OMB's use of the terms (75 FR 37249). Because the bulletin was not issued until February 28, 2013, with supporting data not available until later, and because the changes made by the bulletin and their ramifications needed to be extensively reviewed and verified, we were unable to undertake such a lengthy process before publication of the FY 2014 IPPS/LTCH PPS proposed rule and, thus, did not implement changes to the hospital wage index for FY 2014 based on these new CBSA delineations.

Likewise, for the same reasons, the CY 2014 ESRD PPS wage index (based upon the pre-floor, pre-reclassified hospital wage data, which is unadjusted for occupational mix) also did not reflect the new CBSA delineations. In the FY 2015 IPPS/LTCH PPS final rule, we implemented the new CBSA delineations as described in the February 28, 2013 OMB Bulletin No. 13–01, beginning with the FY 2015 IPPS wage index (79 FR 49951 through 49963). Similarly, in the CY 2015 ESRD PPS final rule (79 FR 66137 through 66142), we implemented the new CBSA delineations as described in the February 28, 2013 OMB Bulletin No. 13–01, beginning with the CY 2015 ESRD PPS wage index.

In order to implement these changes for the ESRD PPS, we identified the new labor market area delineation for each county and facility in the country and determined that there would be new CBSAs, urban counties that would become rural, rural counties that would become urban, and existing CBSAs that would be split apart. In the CY 2015 final rule (79 FR 66137 and 66138), we provided tables that showed the CBSA delineations and wage index values for CY 2014 and the CY 2015 CBSA delineations, wage index values, and the percentage change in these values for those counties that changed from rural to urban, from urban to rural, and from one urban area to another and also showed the changes to the statewide rural wage index.

While we believe that the new CBSA delineations result in wage index values that are more representative of the actual costs of labor in a given area, we recognized that use of the new CBSA delineations results in reduced payments to some facilities. For this reason, we implemented the new CBSA delineations using a 2-year transition with a 50/50 blended wage index value for all facilities in CY 2015 and 100 percent of the wage index based on the new CBSA delineations in CY 2016. Therefore, for CY 2016, we are completing the transition and will apply 100 percent of the wage index based on the new CBSA delineations and the most recent hospital wage data.

A facility's wage index is applied to the labor-related share of the ESRD PPS base rate. In the CY 2011 ESRD PPS final rule (75 FR 49117), we finalized a policy to use the labor-related share of 41.737 percent for the ESRD PPS which was based on the ESRDB market basket finalized in that rule. In the CY 2015 ESRD PPS final rule (79 FR 66136), we finalized a new labor-related share of 50.673 percent, which was based on the rebased and revised ESRDB market basket finalized in that rule, and transitioned the new labor-related share over a 2-year period. For CY 2015, the labor-related share is based 50 percent on the old labor-related share and 50 percent on the new labor-related share, and the labor-related share in CY 2016 is based 100 percent on the new labor-related share.

c. CY 2016 Update to the Outlier Policy

Section 1881(b)(14)(D)(ii) of the Act requires that the ESRD PPS include a payment adjustment for high cost outliers due to unusual variations in the type or amount of medically necessary

care, including variability in the amount of erythropoiesis stimulating agents (ESAs) necessary for anemia management. Some examples of the patient conditions that may be reflective of higher facility costs when furnishing dialysis care would be frailty, obesity, comorbidities such as cancer, and possibly race and gender. The ESRD PPS recognizes high cost patients, and we have codified the outlier policy in our regulations at 42 CFR 413.237, which provide that ESRD outlier services are the following items and services that are included in the ESRD PPS bundle: (i) ESRD-related drugs and biologicals that were or would have been, prior to January 1, 2011, separately billable under Medicare Part B; (ii) ESRD-related laboratory tests that were or would have been, prior to January 1, 2011, separately billable under Medicare Part B; (iii) medical/surgical supplies, including syringes, used to administer ESRD-related drugs, that were or would have been, prior to January 1, 2011, separately billable under Medicare Part B; and (iv) renal dialysis service drugs that were or would have been, prior to January 1, 2011, covered under Medicare Part D, excluding oral-only drugs used in the treatment of ESRD.

In the CY 2011 ESRD PPS final rule (75 FR 49142), we stated that for purposes of determining whether an ESRD facility would be eligible for an outlier payment, it would be necessary for the facility to identify the actual ESRD outlier services furnished to the patient by line item on the monthly claim. Renal dialysis drugs, laboratory tests, and medical/surgical supplies that are recognized as outlier services were originally specified in Attachment 3 of Change Request 7064, Transmittal 2033 issued August 20, 2010, rescinded and replaced by Transmittal 2094, dated November 17, 2010. Transmittal 2094 identified additional drugs and laboratory tests that may also be eligible for ESRD outlier payment. Transmittal 2094 was rescinded and replaced by Transmittal 2134, dated January 14, 2011, which was issued to correct the subject on the Transmittal page and made no other changes. Furthermore, we use administrative issuance and guidance to continually update the renal dialysis service items available for outlier payment via our quarterly update CMS Change Requests, when applicable. We use this separate guidance to identify renal dialysis service drugs which were or would have been covered under Part D for outlier eligibility purposes and in order to provide unit prices for calculating imputed outlier services. In addition, we also identify through our monitoring efforts items and services that are either incorrectly being identified as eligible outlier services or any new items and services that may require an update to the list of renal dialysis items and services that qualify as outlier services, which are made through administrative issuances.

Our regulations at 42 CFR 413.237 specify the methodology used to calculate outlier payments. An ESRD facility is eligible for an outlier payment if its actual or imputed MAP amount per treatment for ESRD outlier services exceeds a threshold. The MAP amount represents the average incurred amount per treatment for services that were or would have been considered separately billable services prior to January 1, 2011. The threshold is equal to the ESRD facility's predicted ESRD outlier services MAP amount per treatment (which is case-mix adjusted) plus the fixed-dollar loss amount. In accordance with § 413.237(c) of the regulations, facilities are paid 80 percent of the per treatment amount by which the imputed MAP amount for outlier services (that is, the actual incurred amount) exceeds this threshold. ESRD facilities are eligible to receive outlier payments for treating both adult and pediatric dialysis patients.

In the CY 2011 ESRD PPS final rule, using 2007 data, we established the outlier percentage at 1.0 percent of total payments (75 FR 49142 through 49143). We also established the fixed-dollar loss amounts that are added to the predicted outlier services MAP amounts. The outlier services MAP amounts and fixed-dollar loss amounts are different for adult and pediatric patients due to differences in the utilization of separately billable services among adult and pediatric patients (75 FR 49140). As we explained in the CY 2011 ESRD PPS final rule (75 FR 49138 through 49139), the predicted outlier services MAP amounts for a patient are determined by multiplying the adjusted average outlier services MAP amount by the product of the patient-specific case-mix adjusters applicable using the outlier services payment multipliers developed from the regression analysis to compute the payment adjustments.

For the CY 2016 outlier policy, we would use the existing methodology for determining outlier payments by applying outlier services payment multipliers that resulted from the updated regression analyses performed for this proposed rule. The updated outlier services payment multipliers are represented by the updated separately billable payment multipliers presented in Table 4 for patients age 18 years and older and in Table 5 for patients age <18 years. We used these updated outlier services payment multipliers to calculate the predicted outlier service MAP amounts and projected outlier payments for CY 2016.

For CY 2016, we propose that the outlier services MAP amounts and fixed-dollar loss amounts would be derived from claims data from CY 2014. Because we believe that any adjustments made to the MAP amounts under the ESRD PPS should be based upon the most recent data year available in order to best predict any future outlier payments, we propose the outlier thresholds for CY 2016 would be based on utilization of renal dialysis items and services furnished under the ESRD PPS in CY 2014. We recognize that the utilization of ESAs and other outlier services have continued to decline under the ESRD PPS, and that we have lowered the MAP amounts and fixed-dollar loss amounts every year under the ESRD PPS. However, we believe for the first time since the implementation of the ESRD PPS that data for CY 2014 is reflective of relatively stable ESA use. We have included Table 6 (Total Medicare ESA Utilization in the ESRD Population) below to demonstrate the leveling off of the decline in ESA utilization.

TABLE 6—TOTAL MEDICARE ESA UTILIZATION IN THE ESRD POPULATION

	2009	2010	2011	2012	2013	2014 [1]
Total ESA Utilization						
Epogen (×100,000)	2,083,893	2,075,217	1,655,778	1,319,383	1,262,186	1,143,405
Darbepoetin (×100,000)	533	496	379	280	242	291

TABLE 6—TOTAL MEDICARE ESA UTILIZATION IN THE ESRD POPULATION—Continued

	2009	2010	2011	2012	2013	2014 [1]
ESA Utilization per Session						
Epogen	5,404	5,171	3,995	3,078	2,895	2,858
Darbepoetin	1.38	1.24	0.91	0.65	0.55	0.73

[1] 2014 based on December 2014 claims.

i. CY 2016 Update to the Outlier Services MAP Amounts and Fixed-Dollar Loss Amounts

For CY 2016, we are not proposing any change to the methodology used to compute the MAP or fixed-dollar loss amounts. Rather, we will continue to update the outlier services MAP amounts and fixed-dollar loss amounts to reflect the utilization of outlier services reported on 2014 claims. For this proposed rule, the outlier services MAP amounts and fixed dollar loss amounts were updated using the 2014 claims from the March 2015 claims file. The impact of this update is shown in Table 7, which compares the outlier services MAP amounts and fixed-dollar loss amounts used for the outlier policy in CY 2015 with the updated proposed estimates for this rule. The estimates for the proposed CY 2016 outlier policy, which are included in Column II of Table 7, were inflation adjusted to reflect projected 2016 prices for outlier services.

TABLE 7—OUTLIER POLICY: IMPACT OF USING UPDATED DATA TO DEFINE THE OUTLIER POLICY

	Column I Final outlier policy for CY 2015 (based on 2013 data price inflated to 2015) *		*Column II* Proposed outlier policy for CY 2016 (based on 2014 data price inflated to 2016) *	
	Age < 18	Age >= 18	Age < 18	Age >= 18
Average outlier services MAP amount per treatment	$39.89	$52.98	$38.87	$50.20
Adjustments:				
Standardization for outlier services	1.1145	0.9878	0.9929	0.9788
MIPPA reduction	0.98	0.98	0.98	0.98
Adjusted average outlier services MAP amount	43.57	51.29	37.82	48.15
Fixed-dollar loss amount that is added to the predicted MAP to determine the outlier threshold	54.35	86.19	49.99	85.66
Patient months qualifying for outlier payment	6.3%	6.3%	7.7%	6.4%

As demonstrated in Table 7, the estimated fixed-dollar loss amount per treatment that determines the CY 2016 outlier threshold amount for adults (Column II; $85.66) is slightly lower than that used for the CY 2015 outlier policy (Column I; $86.19). The lower threshold is accompanied by a decline in the adjusted average MAP for outlier services from $51.29 to $48.15. For pediatric patients, the fixed dollar loss amount also fell, from $54.35 to $49.99. Likewise, the adjusted average MAP for outlier services fell from $43.57 to $37.82.

We estimate that the percentage of patient months qualifying for outlier payments in CY 2016 will be 6.4 percent for adult patients and 7.7 percent for pediatric patients, based on the 2014 claims data. The pediatric outlier MAP and fixed-dollar loss amounts continue to be lower for pediatric patients than adults due to the continued lower use of outlier services (primarily reflecting lower use of ESAs and other injectable drugs).

ii. Outlier Policy Percentage

In the CY 2011 ESRD PPS final rule (75 FR 49081), in accordance with 42 CFR 413.220(b)(4), we reduced the per treatment base rate by 1 percent to account for the proportion of the estimated total payments under the ESRD PPS that are outlier payments. Based on the 2014 claims, outlier payments represented approximately 0.9 percent of total payments, slightly below the 1 percent target due to small declines in the use of outlier services. Recalibration of the thresholds using 2014 data is expected to result in aggregate outlier payments close to the 1 percent target in CY 2016. We believe the update to the outlier MAP and fixed-dollar loss amounts for CY 2016 will increase payments for ESRD beneficiaries requiring higher resource utilization and move us closer to meeting our 1 percent outlier policy. We note that recalibration of the fixed-dollar loss amounts in this proposed rule would result in no change in payments to ESRD facilities for beneficiaries with renal dialysis items and services that are not eligible for outlier payments, but would increase payments to ESRD facilities for beneficiaries with renal dialysis items and services that are eligible for outlier payments. Therefore, beneficiary co-insurance obligations would also increase for renal dialysis services eligible for outlier payments.

We note that many industry stakeholder associations and renal facilities have expressed disappointment that the outlier target percentage has not been achieved under the ESRD PPS and have asked that CMS eliminate the outlier policy. With regard to the suggestion that we eliminate the outlier adjustment altogether, we note that, under section 1881(b)(14)(D)(ii) of the Act, the ESRD PPS must include a payment adjustment for high cost outliers due to unusual variations in the type or amount of medically necessary care, including variations in the amount of erythropoiesis stimulating agents necessary for anemia management. We believe that the ESRD PPS is required to include an outlier adjustment in order to comply with section 1881(b)(14)(D)(ii) of the Act.

In addition, we believe that the ESRD PPS base rate captures the cost for the average renal patient, and to the extent data analysis continues to show that certain patients, including certain racial and ethnic groups, receive more ESAs than the average patient, we believe an outlier policy, even a small one, is an important payment adjustment to provide under the ESRD PPS. We are not proposing to modify the 1 percent outlier percentage for CY 2016 because we believe that the regression analysis continues to demonstrate high cost patients and that the proposed elimination of the comorbidity categories of bacterial pneumonia and monoclonal gammopathy and other regression updates would assist facilities in receiving outlier payments in CY 2016 that are 1 percent of total ESRD PPS payments.

We understand the industry's frustration that payments under the outlier policy have not reached 1 percent of total ESRD PPS payments since the implementation of the payment system. As we explained in the CY 2014 ESRD PPS final rule (78 FR 72165), each year we simulate payments under the ESRD PPS in order to set the outlier fixed-dollar loss and MAP amounts for adult and pediatric patients to try to achieve the 1 percent outlier policy. We would not increase the base rate to account for years where outlier payments were less than 1 percent of total ESRD PPS payments, nor would we reduce the base rate if the outlier payments exceed 1 percent of total ESRD PPS payments.

We believe the 1 percent outlier percentage has not been reached under the payment system due to the significant drop, over 25 percent, in the utilization of high cost drugs such as Epogen since the implementation of the payment system. However, we have learned in our discussions with ESRD facilities that many facilities are not willing to report outlier services on the ESRD facility monthly claim form as they do not believe that they will reach the outlier threshold. We issued sub-regulatory guidance for CY 2015 that instructs ESRD facilities to include all composite rate drugs and biologicals furnished to the beneficiary on the monthly claim form (Change Request 8978, issued December 2, 2014). In CY 2015 ESRD PPS final rule (79 FR 66149 through 66150), we discussed the drug categories that we consider to be used for the treatment of ESRD with the expectation that all of those drugs and biologicals would be reported on the claim. In addition to this guidance, we also have included a clarification for how facilities are to report laboratory services and drugs and biologicals on the monthly claim form in sections II.C.1 and II.C.2 of this proposed rule, respectively.

d. Annual Updates and Policy Changes to the CY 2016 ESRD PPS

i. ESRD PPS Base Rate

In the CY 2011 ESRD PPS final rule (75 FR 49071 through 49083), we discussed the implementation of the ESRD PPS per treatment base rate that is codified in the Medicare regulations at § 413.220 and § 413.230. The CY 2011 ESRD PPS final rule also provides a detailed discussion of the methodology used to calculate the ESRD PPS base rate and the computation of factors used to adjust the ESRD PPS base rate, outlier payments, and geographic wage budget neutrality in accordance with sections 1881(b)(14)(D)(ii) and 1881(b)(14)(A)(ii) of the Act, respectively. Specifically, the ESRD PPS base rate was developed from CY 2007 claims, that is, the lowest per patient utilization year as required by section 1881(b)(14)(A)(ii) of the Act, updated to CY 2011, and represented the average per treatment MAP for renal dialysis services. The payment system is updated annually by the ESRDB market basket less productivity adjustment which is discussed in section II.B.2.a.iv of this proposed rule.

ii. Annual Payment Rate Update for CY 2016

We are proposing an ESRD PPS base rate for CY 2016 of $230.20. This update reflects several factors, described in more detail below.

Market Basket Increase: Section 1881(b)(14)(F)(i)(I) of the Act provides that, beginning in 2012, the ESRD PPS payment amounts are required to be annually increased by the ESRD market basket percentage increase factor. The latest CY 2016 projection for the ESRDB market basket is 2.0 percent. In CY 2016, this amount must be reduced by 1.25 percentage points as required by section 1881(b)(14)(F)(i)(I), as amended by section 217(b)(2)(A) of PAMA, which is calculated as $2.0 - 1.25 = 0.75$. This amount is then further reduced by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act as required by section 1881(b)(14)(F)(i)(II) of the Act. The proposed multi-factor productivity adjustment for CY 2016 is 0.6, thus yielding a proposed update to the base rate of 0.15 percent for CY 2016 ($0.75 - 0.6 = 0.15$ percent).

Wage Index Budget-Neutrality Adjustment Factor: We compute a wage index budget-neutrality adjustment factor that is applied to the ESRD PPS base rate. For CY 2016, we are not proposing any changes to the methodology used to calculate this factor which is described in detail in CY 2014 ESRD PPS final rule (78 FR 72174). The CY 2016 proposed wage index budget-neutrality adjustment factor is 1.000332.

Refinement Budget-Neutrality Adjustment Factor: In order to implement the refinement in a budget-neutral manner, we are proposing to adjust the ESRD PPS base rate by a budget-neutrality adjustment factor so that total projected PPS payments in CY 2016 are equal to what the payments would have been in CY 2016 had we not implemented the refinement. In CY 2011, we standardized the base rate to account for the overall effects of the ESRD PPS adjustment factors by making a 5.93 percent reduction to the base rate. To account for the overall effects of the refinement, we are proposing a 4 percent reduction (that is, a factor of 0.959703) to the ESRD PPS base rate to account for the additional dollars paid to facilities through the payment adjustments. While the per treatment base rate would be reduced, we believe that this refinement improves payment accuracy and we would expect payments to be better targeted to those characteristics that increase costs for facilities. Notably, a significant portion of impact of the adjusters on the base rate arises from changes in the age adjustments.

In summary, we are proposing a CY 2016 ESRD PPS base rate of $230.20. This reflects a market basket increase of 0.15 percent, the CY 2016 wage index budget-neutrality adjustment factor of 1.000332, and the refinement budget-neutrality adjustment of 0.959703.

3. Section 217(c) of PAMA and the ESRD PPS Drug Designation Process

As part of the CY 2016 ESRD PPS rulemaking, section 217(c) of PAMA requires the Secretary to implement a drug designation process for—

(1) Determining when a product is no longer an oral-only drug; and

(2) Including new injectable and intravenous products into the bundled payment under such system.

In accordance with section 217(c) of PAMA, we are proposing a process that would allow us to recognize when an oral-only renal dialysis service drug or biological is no longer oral only and to include new injectable and intravenous products into the ESRD PPS bundled payment, and, when appropriate, to modify the ESRD PPS payment amount to reflect the costs of furnishing a new injectable or intravenous renal dialysis service drug or biological that is not bundled in the ESRD PPS payment

amount. We believe that this process, which we refer to as the drug designation process under the ESRD PPS, would provide a systematic method for including new injectable and intravenous drugs and biologicals that are designated as renal dialysis services in the ESRD PPS bundled payment.

a. Stakeholder Comments From the CY 2015 ESRD PPS Proposed and Final Rules

In the CY 2015 ESRD PPS proposed rule (79 FR 40235), we sought stakeholder comments on the potential components of a drug designation process. While we did not directly address these comments in our CY 2015 final rule, we committed to considering the comments in formulating our drug designation process proposal in CY 2016. We were encouraged by the consensus among stakeholders regarding the significant and fundamental elements of a drug designation process and the recommendation that CMS rely upon the rulemaking process when considering any change to the ESRD PPS to account for new injectable and intravenous drugs or biologicals. We contemplated these comments in the development of the drug designation process proposed below.

We note that commenters largely emphasized the additional costs associated with furnishing new injectable and intravenous renal dialysis services and encouraged CMS to use the most recent year of data for pricing and utilization when adding new injectable drugs and biologicals to the bundled payment. Specifically, an industry association and many of its members offered a 7-principle drug designation process that included:

- A clear definition of what drugs and biologicals are in the ESRD PPS.
- A criterion related to the frequency with which a drug or biological may be used.
- A criterion for determining when drugs or biologicals are equivalent or interchangeable with existing products that are already in the bundle.
- Reliance upon rulemaking whenever making changes to the bundle.
- A transition for adding new drugs and biologicals to the ESRD bundle.
- Tracking of costs of new drugs and biologicals before adding them to the ESRD bundle.
- An increase in the bundled rate to cover the costs of providing such drugs and biologicals.

b. Background

Section 1881(b)(14)(A)(i) of the Act requires the Secretary to implement the ESRD PPS, under which a single payment is made to a provider of services or a renal dialysis facility for renal dialysis services in lieu of any other payment. The renal dialysis services that are included in the ESRD PPS bundle are described in section 1881(b)(14)(B) of the Act and include: (i) Items and services included in the composite rate for renal dialysis services as of December 31, 2010; (ii) erythropoiesis stimulating agents (ESAs) and any oral form of such agents that are furnished to individuals for the treatment of ESRD; (iii) other drugs and biologicals that are furnished to individuals for the treatment of ESRD and for which payment was made separately under Title XVIII of the Act, and any oral equivalent form of such drug or biological; and (iv) diagnostic laboratory tests and other items and services not described in clause (i) that are furnished to individuals for the treatment of ESRD.

We implemented the ESRD PPS in our CY 2011 ESRD PPS final rule (75 FR 49030 through 49214) and codified our definition of renal dialysis services at 42 CFR 413.171. In addition to former composite rate items and services and ESAs, we defined renal dialysis services at 42 CFR 413.171(3) as including other drugs and biologicals that are furnished to individuals for the treatment of ESRD and for which payment was (prior to January 1, 2011) made separately under Title XVIII of the Act (including drugs and biologicals with only an oral form). In the CY 2011 ESRD PPS final rule (75 FR 49037 through 49053), we discussed the other drugs and biologicals referenced at 42 CFR 413.171(3) and finalized how they were included in the ESRD PPS. We explained that we interpreted clause (iii) as encompassing not only injectable drugs and biologicals (other than ESAs) used for the treatment of ESRD, but also all non-injectable drugs furnished under Title XVIII of the Act (75 FR 49039). Under this interpretation, the ''any oral equivalent form of such drug or biological'' language pertains to the oral versions of injectable drugs other than ESAs. In addition, as we discuss in section II.B.4 of this proposed rule (75 FR 49040), we concluded that, to the extent oral-only drugs and biologicals that are used for the treatment of ESRD do not fall within clause (iii) of the statutory definition of renal dialysis services, such drugs would fall under clause (iv).

In the CY 2011 ESRD PPS final rule (75 FR 49044 through 49053) we explained that to identify drugs and biologicals that are used for the treatment of ESRD and that therefore meet the definition of renal dialysis services that would be included in the ESRD PPS base rate, we performed an extensive analysis of Medicare payments for Part B drugs and biologicals billed on ESRD claims and said that we evaluated each drug and biological to identify its category by indication or mode of action. We also explained that categorizing drugs and biologicals on the basis of drug action would allow us to determine which categories (and therefore, the drugs and biologicals within the categories) would be considered used for the treatment of ESRD (75 FR 49047).

Using this approach, in our CY 2011 ESRD PPS final rule we established categories of drugs and biologicals that are *not* considered used for the treatment of ESRD (75 FR 49049–49050), categories that are *always* considered used for the treatment of ESRD (75 FR 49050), and categories of drugs that *may be* used for the treatment of ESRD but are also commonly used to treat other conditions (75 FR 49051). Those drugs and biologicals that were identified as *not* used for the treatment of ESRD were not considered renal dialysis services and therefore these drugs were not included in computing the base rate. The categories of drugs and biologicals that are always considered used for the treatment of ESRD were identified as access management, anemia management, anti-infectives (specifically vancomycin and daptomycin used to treat access site infections) bone and mineral metabolism, and cellular management (75 FR 49050). We note that we removed anti-infectives from the list of categories of drugs and biologicals that are included in the ESRD PPS base rate and not separately payable in the CY 2015 ESRD PPS final rule (79 FR 66149–66150). The current categories of drugs that are included in the ESRD PPS base rate and that may be used for the treatment of ESRD but are also commonly used to treat other conditions are antiemetics, anti-infectives, antipruritics, anxiolytics, drugs used for excess fluid management, drugs used for fluid and electrolyte management including volume expanders, and pain management (analgesics) (79 FR 66150).

In the CY 2011 ESRD PPS final rule (75 FR 49050) we explained that for those categories of drugs and biologicals that are always considered used for the treatment of ESRD we used the payments for the drugs included in the category in computing the ESRD PPS base rate, that is, the injectable forms

(previously covered under Part B) and oral or other forms of administration (covered under Part D). For purposes of the inclusion of payments related to the oral or other forms of administration for those drugs that are always considered used for the treatment of ESRD, we stated that based on our determination at the time of the final rule, there were oral or other forms of injectable drugs only for the bone and mineral metabolism and cellular management categories. Therefore, we included the payments under Part D for oral vitamin D (calcitrol, doxercalcitrol and paracalcitrol) and oral levocarnitine in our computation of the base rate (75 FR 49042).

Regarding why we chose to identify ESRD drugs and biologicals by category rather than in a specific list, in response to a commenter's request to provide a specific list of ESRD-only drugs, we explained that using categories of drugs and biologicals allows us to respond to changes in drug therapies over time based upon many factors including new developments, evidence-based medicine, and patient outcomes (75 FR 49050). By categorizing drugs and biologicals based on drug action, we can account for other drugs and biologicals that may be used for those same actions in the future under the ESRD PPS. We further explained that, while we have included drugs and biologicals used in 2007 in the final ESRD base rate, we recognize that these may change. Because there are many drugs and biologicals that have many uses and because new drugs and biologicals are being developed, we stated that we did not believe that a drug-specific list would be beneficial (75 FR 49050). Rather than specifying the specific drugs and biologicals used for the treatment of ESRD, we identified drugs and biologicals based on the mechanism of action. We stated that we did not finalize a specific list of the drugs and biologicals because we did not want to inadvertently exclude drugs that may be substitutes for drugs identified and we wanted the ability to reflect new drugs and biologicals as they become available. We did, however, provide a list of the specific Part B drugs and biologicals that were included in the proposed and final ESRD PPS base rate in Table C in the Appendix of the CY 2011 ESRD PPS final rule (75 FR 49205 through 49209) and a list of the former Part D drugs that were bundled in the ESRD PPS in Table C in the Appendix of the final rule (75 FR 49210). This list is located at the following address: *http://www.gpo.gov/fdsys/pkg/FR-2010-08-12/pdf/2010-18466.pdf.*

We emphasized that any drug or biological furnished for the purpose of access management, anemia management, vascular access or peritonitis, cellular management and bone and mineral metabolism will be considered a renal dialysis service under the ESRD PPS and will not be eligible for separate payment. We also noted that any ESRD drugs or biologicals developed in the future that are administered by a route of administration other than injection or oral would be considered renal dialysis services and would be in the ESRD PPS bundled base rate. We also stated that any drug or biological used as a substitute for a drug or biological that was included in the ESRD PPS bundled base rate would also be a renal dialysis service and would not be eligible for separate payment (75 FR 49050).

In the CY 2011 ESRD PPS final rule (75 FR 49050 through 49051) we explained that for categories of drugs and biologicals that may be used for the treatment of ESRD but are also commonly used to treat other conditions, we used the payments made under Part B in 2007 for these drugs in computing the ESRD PPS base rate, which only included payments made for the injectable forms of the drugs. We excluded the Part D payments for the oral (or other form of administration) substitutes for the drugs and biological described above because they were not furnished or billed by ESRD facilities or furnished in conjunction with dialysis treatments (75 FR 49051). For those reasons, we presumed that these drugs and biologicals that were paid under Part D were prescribed for reasons other than for the treatment of ESRD. However, we noted that if these drugs and biologicals currently paid under Part D are furnished by an ESRD facility for the treatment of ESRD, they would be considered renal dialysis services and we would not provide separate payment.

In the CY 2011 ESRD PPS final rule (75 FR 49075), we included in Table 19 the Medicare allowable payments for all of the components of the ESRD PPS base rate for CY 2007 inflated to CY 2009, including payments for drugs and biologicals and the amount each contributed to the base rate, except for the oral-only renal dialysis drugs where payment under the ESRD PPS has been delayed. We grouped the injectable and intravenous drugs and biologicals by action, specifically, into functional categories. In past rules we have referred to these categories as drug categories but we believe the term functional categories is more precise and better reflects how we use the categories. We propose to define this term in 42 CFR 413.234(a) later in this discussion. Since the ESRD PPS CY 2011 final rule was published, the base rate has been updated by the ESRDB market basket, discussed in section II.B.2.a of this proposed rule, which reflects changes in the drug price indices. In addition, we have designated several new drugs and biologicals as renal dialysis services because they fit within the functional categories captured in the base rate and no adjustment to the base rate was made. We are proposing that this approach of considering drugs and biologicals as included in the ESRD PPS base rate if they fit within one of our functional categories would continue as part of the drug designation process described below.

c. Proposed Drug Designation Process

i. Inclusion of New Injectable and Intravenous Products in the ESRD PPS Bundled Payment

In accordance with section 217(c)(2) of PAMA, we propose to include new injectable and intravenous products in the ESRD PPS bundled payment by first determining whether the new injectable or intravenous products are reflected currently in the ESRD PPS. We propose to make this determination by assessing whether the product can be used to treat or manage a condition for which there is an ESRD PPS functional category. Under our proposed regulation at 42 CFR 413.234(b)(1), if the new injectable or intravenous product can be used to treat or manage a condition for which there is an ESRD PPS functional category, the new injectable or intravenous product would be considered reflected in the ESRD PPS bundled payment and no separate payment would be available. Specifically, any new drug, biosimilar, or biologic that fits into one of the ESRD functional categories would be considered to be included in the ESRD PPS. These drugs and biologicals would count toward the calculation of an outlier payment. In the calculation of the outlier payment we price drugs using the ASP payment methodology, which is currently ASP+6 percent.

If, however, the new injectable or intravenous product is used to treat or manage a condition for which there is not an ESRD PPS functional category, the new injectable or intravenous product would not be considered included in the ESRD PPS bundled payment, and we propose to take the following steps as described in our proposed regulation at § 413.234(b)(2): (i) Revise an existing ESRD PPS

functional category or add a new ESRD PPS functional category for the condition that the new injectable or intravenous product is used to treat or manage; (ii) pay for the new injectable or intravenous product using the transitional drug add-on payment adjustment discussed in section II.B.3.c.ii below; and (iii) add the new injectable or intravenous product to the ESRD PPS bundled payment following payment of the transitional drug add-on payment adjustment.

For purposes of the drug designation process, we propose to define a new injectable or intravenous product in our regulation at § 413.234(a) as an injectable or intravenous product that is approved by the Food and Drug Administration (FDA) under section 505 of the Federal Food, Drug, and Cosmetic Act or section 351 of the Public Health Service Act, commercially available, assigned a Healthcare Common Procedure Coding System (HCPCS) code, and designated by CMS as a renal dialysis service under § 413.171. Following FDA approval, injectable or intravenous drugs then go through a process to establish a billing code, specifically a HCPCS code. Information regarding the HCPCS process is available on the CMS Web site at *http://www.cms.gov/medicare/coding/MedHCPCSGenInfo/Application_Form_and_Instructions.html.* We would designate injectable and intravenous products as renal dialysis services under the ESRD PPS by analyzing the FDA labeling information, the HCPCS application information, and studies submitted as part of these two standardized processes. A change request would be issued to include new drugs added to the functional categories.

We propose to define ESRD PPS functional category at § 413.234(a) as a distinct grouping of drugs and biologicals, as determined by CMS, whose end action effect is the treatment or management of a condition or conditions associated with ESRD. We would codify this definition in regulation text to formalize the approach we adopted in CY 2011 because the drug designation process is dependent on the functional categories. As discussed above, we have established 12 functional categories that are used to treat conditions associated with ESRD, which are displayed in Table 8 below.

TABLE 8—ESRD PPS FUNCTIONAL CATEGORIES

Category	Rationale for association
Access Management	Drugs used to ensure access by removing clots from grafts, reverse anticoagulation if too much medication is given, and provide anesthetic for access placement.
Anemia Management	Drugs used to stimulate red blood cell production and/or treat or prevent anemia. This category includes ESAs as well as iron.
Bone and Mineral Metabolism	Drugs used to prevent/treat bone disease secondary to dialysis. This category includes phosphate binders and calcimimetics.
Cellular Management	Drugs used for deficiencies of naturally occurring substances needed for cellular management. This category includes levocarnitine.
Antiemetic	Used to prevent or treat nausea and vomiting secondary to dialysis. Excludes antiemetics used in conjunction with chemotherapy as these are covered under a separate benefit category.
Anti-infectives	Used to treat infections. May include antibacterial and antifungal drugs.
Antipruritic	Drugs in this classification have multiple clinical indications and are included for their action to treat itching secondary to dialysis.
Anxiolytic	Drugs in this classification have multiple actions but are included for the treatment of restless leg syndrome secondary to dialysis.
Excess Fluid Management	Drug/fluids used to treat fluid excess/overload.
Fluid and Electrolyte Management Including Volume Expanders.	Intravenous drugs/fluids used to treat fluid and electrolyte needs.
Pain Management	Drugs used to treat graft site pain and to treat pain medication overdose.

We propose to determine whether a new injectable or intravenous product falls into one of our existing functional categories by assessing whether the product is used to treat or manage the condition for which we have created a category. We believe that this approach to determining whether a new drug falls into one of our existing drug categories is consistent with the policy we finalized in the CY 2011 ESRD PPS final rule (75 FR 49047 through 49052).

ii. Transitional Drug Add-On Payment Adjustment

We anticipate that there may be new drugs that do not fall within the existing ESRD PPS functional categories and therefore, are not reflected in the ESRD PPS payment amount. Where a new injectable or intravenous product is used to treat or manage a condition for which there is not a functional category, we propose to pay for the new injectable or intravenous product using a transitional drug add-on payment adjustment under the authority of section 1881(b)(14)(D)(iv) of the Act. The transitional drug add-on payment adjustment would be based on the ASP pricing methodology and would be paid until we have collected sufficient claims data for rate setting for the new injectable or intravenous product, but not for less than 2 years. We believe that a 2-year timeframe is necessary for adequate data collection, rate-setting and regulation development. Two years is necessary for rulemaking purposes because it is a year-long process that involves developing policies based on data, proposing those policies, allowing for public comment, finalizing the proposed rule, and allowing for a period of time before the rule becomes effective. The minimum 2-year period also allows 1 year for payment of the adjustment before the beginning of a rulemaking cycle in which we could propose to add the drug to the bundled payment. For these reasons, we believe 2 years is the minimum amount of time necessary to pay the adjustment. The proposed regulation text for the transitional drug add-on payment adjustment is at § 413.234(c).

We believe paying a transitional drug add-on payment adjustment for new injectable and intravenous products will allow us to analyze price and utilization data for both the injectable and, if applicable, any oral or other forms of the drug in order to pay for the drugs under the ESRD PPS. We propose that when a facility furnishes the new injectable drug they would report the drug to Medicare on the monthly facility bill and would append a CMS payment modifier that would instruct our claims

processing systems to include a payment amount that equals the Part B drug payment amount, which is derived using the ASP methodology. We believe that this payment approach is consistent with the policy we finalized in the CY 2013 ESRD PPS final rule (77 FR 67463) which states that we will use the ASP methodology, including any modifications finalized in the Physician Fee Schedule (PFS) final rules, to compute outlier MAP amounts, the drug add-on (formerly paid under the composite rate and no longer paid as part of the ESRD PPS), and any other policy that requires the use of payment amounts for drugs and biologicals that would be separately paid absent the ESRD PPS. We would issue sub-regulatory billing and payment guidance along with the payment modifier in conjunction with our final rule guidance. Under our proposed regulations at § 413.234(c), following payment of the transitional drug add-on payment adjustment, we would propose to modify the ESRD PPS base rate, if appropriate, to account for the new injectable or intravenous product.

We note that outlier payments would not be available for new injectable or intravenous products during the time in which these products are paid for using the new transitional drug add-on payment adjustment. While a new injectable drug or biological being paid under the transitional drug-add would otherwise be considered an outlier service because the drug or biological would have been considered separately billable prior to the implementation of the ESRD PPS, we do not believe that it would be appropriate to include the payment amount for the new drug or biological in the outlier calculation during this interim transition period. This is because during the interim period we would be making a payment for the specific drug in addition to the base rate, whereas outlier services have been incorporated into the base rate. For example, we have included the MAP amount for EPO in the base rate and it qualifies as an outlier. However, when the product is reflected in the base rate after payment of the transitional drug add-on payment adjustment, it would be considered eligible for outlier payments discussed in section II.B.2.c of this rule.

iii. Determination of When an Oral-Only Renal Dialysis Service Drug is no Longer Oral-Only

Section 217(c)(1) of PAMA requires us to adopt a process for determining when oral-only drugs are no longer oral-only. In our CY 2011 ESRD PPS final rule (75 FR 49038 through 49039), we described oral-only drugs as those that have no injectable equivalent or other form of administration. We propose to define the term oral-only drug as part of our drug designation process in our regulations at 42 CFR 413.234(a). For CY 2016, and in accordance with Section 217(c)(1) of PAMA, we propose that an oral-only drug would no longer be considered oral-only if an injectable or other form of administration of the oral-only drug is approved by the FDA. We propose to codify this process in our regulations at 42 CFR 413.234(d).

We note that the FDA has well defined standards for identifying all drug dosages and forms of administration that are approved for use in the United States and this list may be viewed at *www.FDA.gov/developmentapprovalprocess.gov.*

In the CY 2011 ESRD PPS proposed and final rules (74 FR 49929 and 75 FR 49038), we noted that the only oral-only drugs and biologicals that we identified were phosphate binders and calcimimetics, which fall into the bone and mineral metabolism category. We defined these oral-only drugs as renal dialysis services in our regulations at § 413.171 (75 FR 49044), we delayed the Medicare Part B payment for these oral-only drugs until CY 2014 at § 413.174(f)(6) and continued to pay for them under Medicare Part D. If injectable or intravenous forms of phosphate binders or calcimimetics are approved by the FDA, under our proposed drug designation process at § 413.234(b)(1), these drugs would be considered reflected in the ESRD PPS bundled payment because these drugs are included in an existing functional category so no additional payment would be available for inclusion of these drugs.

However, we are proposing that we would not apply this process to injectable or intravenous forms of phosphate binders and calcimimetics when they are approved because payment for the oral forms of these drugs was delayed. As we discussed above, we determined in CY 2011 that both classes of drugs (phosphate binders and calcimimetics) were furnished for the treatment of ESRD and are therefore renal dialysis services. In addition, we had utilization data for both classes of drugs because the oral versions existed at that time. However, for reasons discussed in the CY 2011 ESRD PPS final rule (75 FR 49043 through 49044), we chose to delay their inclusion in the payment amount. We propose that when a non-oral version of a phosphate binder or calcimimetic is approved by the FDA, we would include the oral and any non-oral version of the drug in the ESRD PPS bundled payment. Specifically, we propose that we would develop a computation for the inclusion of the oral and non-oral forms of the phosphate binder or calcimimetic so that the drug could be appropriately reflected in the ESRD PPS base rate. We would not take this approach for any subsequent drugs that are approved by the FDA and fall within the bone and mineral metabolism functional category (or any other functional categories) because we did not delay payment for any other drugs or biologicals for which we had 2007 utilization data when the ESRD PPS was implemented in CY 2011 and, therefore, we believe the other functional categories appropriately reflect renal dialysis service drugs and biologicals.

4. Delay of Payment for Oral-Only Renal Dialysis Services

As we discussed in the CY 2014 ESRD PPS final rule (78 FR 72185 through 72186) and again in the CY 2015 ESRD PPS final rule (79 FR 66147 through 66148), section 1881(b)(14)(A)(i) of the Act requires the Secretary to implement a payment system under which a single payment is made to a provider of services or a renal dialysis facility for renal dialysis services in lieu of any other payment. Section 1881(b)(14)(B) of the Act defines renal dialysis services, and subclause (iii) of such section states that these services include other drugs and biologicals that are furnished to individuals for the treatment of ESRD and for which payment was made separately under this title, and any oral equivalent form of such drug or biological.

We interpreted this provision as including not only injectable drugs and biologicals used for the treatment of ESRD (other than ESAs and any oral form of ESAs, which are included under clause (ii) of section 1881(b)(14)(B) of the Act), but also all oral drugs and biologicals used for the treatment of ESRD and furnished under title XVIII of the Act. We also concluded that, to the extent oral-only drugs or biologicals used for the treatment of ESRD do not fall within clause (iii) of section 1881(b)(14)(B), such drugs or biologicals would fall under clause (iv) of such section, and constitute other items and services used for the treatment of ESRD that are not described in clause (i) of section 1881(b)(14)(B).

We finalized and promulgated the payment policies for oral-only renal dialysis service drugs or biologicals in the CY 2011 ESRD PPS final rule (75 FR 49038 through 49053), where we defined renal dialysis services at 42 CFR 413.171 as including other drugs and biologicals that are furnished to

individuals for the treatment of ESRD and for which payment was made separately prior to January 1, 2011 under Title XVIII of the Act, including drugs and biologicals with only an oral form. Although we included oral-only renal dialysis service drugs and biologicals in the definition of renal dialysis services in the CY 2011 ESRD PPS final rule (75 FR 49044), we also finalized a policy to delay payment for these drugs under the PPS until January 1, 2014 in the same rule. We stated that there were certain advantages to delaying the implementation of payment for oral-only drugs and biologicals, including allowing ESRD facilities additional time to make operational changes and logistical arrangements in order to furnish oral-only renal dialysis service drugs and biologicals to their patients. Accordingly, we codified the delay in payment for oral-only renal dialysis service drugs and biologicals at 42 CFR 413.174(f)(6), and provided that payment to an ESRD facility for renal dialysis service drugs and biologicals with only an oral form is incorporated into the PPS payment rates effective January 1, 2014.

On January 3, 2013, ATRA was enacted. Section 632(b) of ATRA precluded the Secretary from implementing the policy under 42 CFR 413.176(f)(6) relating to oral-only renal dialysis service drugs and biologicals prior to January 1, 2016. Accordingly, in the CY 2014 ESRD PPS final rule (78 FR 72185 through 72186), we delayed payment for oral-only renal dialysis service drugs and biologicals under the ESRD PPS until January 1, 2016. We implemented this delay by revising the effective date at § 413.174(f)(6) for providing payment for oral-only renal dialysis service drugs under the ESRD PPS from January 1, 2014 to January 1, 2016. In addition, we changed the date when oral-only renal dialysis service drugs and biologicals would be eligible for outlier services under the outlier policy described in § 413.237(a)(1)(iv) from January 1, 2014 to January 1, 2016.

On April 1, 2014, PAMA was enacted. Section 217(a)(1) of PAMA amended section 632(b)(1) of ATRA, which now precludes the Secretary from implementing the policy under 42 CFR 413.174(f)(6) relating to oral-only renal dialysis service drugs and biologicals prior to January 1, 2024. We implemented this delay in the CY 2015 ESRD PPS final rule (79 FR 66262) by modifying the effective date for providing payment for oral-only renal dialysis service drugs and biologicals under the ESRD PPS at § 413.174(f)(6) from January 1, 2016 to January 1, 2024. We also changed the date in § 413.237(a)(1)(iv) regarding outlier payments for oral-only renal dialysis service drugs made under the ESRD PPS from January 1, 2016 to January 1, 2024.

On December 19, 2014, section 204 of ABLE was enacted, which delays the inclusion of renal dialysis service oral-only drugs and biologicals under the ESRD PPS until 2025. It amended section 632(b)(1) of ATRA, as amended by section 217(a)(1) of PAMA by striking ''2024'' and inserting ''2025.'' As we did in the CY 2014 ESRD PPS final rule (78 FR 72186) and the CY 2015 ESRD PPS final rule (79 FR 66148) referenced above, we are proposing to implement this delay by modifying the effective date for providing payment for oral-only renal dialysis service drugs and biologicals under the ESRD PPS at 42 CFR 413.174(f)(6) from January 1, 2024 to January 1, 2025. We also are proposing to change the date in § 413.237(a)(1)(iv) regarding outlier payments for oral-only renal dialysis service drugs made under the ESRD PPS from January 1, 2024 to January 1, 2025. We continue to believe that oral-only renal dialysis service drugs and biologicals are an essential part of the ESRD PPS bundle and should be paid for under the ESRD PPS.

5. Reporting Medical Director Fees on ESRD Facility Cost Reports

In the 1980s, following audits by the Office of the Inspector General and the Medicare administrative contractors (MACs) that revealed instances in which independent facilities compensated their medical directors and administrators excessively, CMS set limits for reasonable compensation when reporting medical director fees on ESRD facility cost reports. End-Stage Renal Disease Program; Prospective Reimbursement for Dialysis Services and Approval of Special Purpose Renal Dialysis Facilities, 48 FR 21254, 21261 through 21262 (May 11, 1983); End-Stage Renal Disease Program: Composite Rates and Methodology for Determining the Rates, 51 FR 29404, 29407 (Aug. 15, 1986). In Transmittal 12, issued in July 1989, of the Provider Reimbursement Manual Part I, Chapter 27, titled, ''Reimbursement for ESRD and Transplant Services'', CMS adopted a policy for reporting allowable compensation for physician owners and medical directors of ESRD facilities and set a limit at the Reasonable Compensation Equivalent (RCE) limit of the specialty of internal medicine for a metropolitan area of greater than one million people. In the Provider Reimbursement Manual Part I, Chapter 27—Outpatient Maintenance Dialysis Services, 2723—Responsibility of Intermediaries, we explain that the intermediary reviews facility cost reports to ensure that the compensation paid to medical directors does not exceed the RCE limit. The RCE limit for a board-certified physician of internal medicine has been updated over the interim years. The most recent update to the RCE limit was finalized in the FY 2015 IPPS final rule published on August 22, 2014 (79 FR 50157 through 50162). In that rule, CMS finalized an RCE limit of $197,500 per year beginning in CY 2015 for a board-certified physician of internal medicine.

The requirements for medical directors of ESRD facilities are discussed in the Conditions for Coverage for ESRD facilities, which were updated in 2008 to reflect advances in dialysis technology and standard care practices since the requirements were last revised in their entirety in 1976. Conditions for Coverage for ESRD Facilities, (73 FR 20470) April 15, 2008). With the update to the Conditions for Coverage, all Medicare-certified ESRD facilities are required to have a medical director who is responsible for the delivery of patient care and outcomes in the facility as codified in 42 CFR part 494 (Conditions for Coverage for End-Stage Renal Disease Facilities). We discuss the qualifications of an ESRD facility medical director in 42 CFR 494.140(a) (Standard: Medical director), where we require that a medical director must be a board-certified physician in internal medicine or pediatrics by a professional board and have completed a board-approved training program in nephrology with at least 12 months of experience providing care to patients receiving dialysis, but if such a physician is not available, another physician may direct the facility, subject to the approval of the Secretary. We recognize that the RCE limit of $197,500 per year for a board-certified physician of internal medicine may be less than the expense a facility incurs if they employ a board-certified nephrologist as their medical director.

We also appreciate that the reasonable compensation limits are generally used when determining payment for providers that are reimbursed on a reasonable cost basis; they typically are not used in prospective payment systems, like the ESRD PPS, that update payment rates using market basket methodologies. We believe that the application of the RCE limit is no longer relevant now that 100 percent of ESRD facilities are paid under the ESRD PPS beginning in CY 2014. Therefore, beginning in CY 2016 we propose to

eliminate the RCE limit for reporting an ESRD facility's medical director fees on ESRD facility cost reports. We note that the elimination of the RCE limit does not supersede or alter in any way the reporting guidance furnished in the Provider Reimbursement Manual, Part 2, Chapter 42, sections 4210, 4210.1 and 4210.2. In addition, we will continue to apply the ESRD facility-specific policy under which the time spent by a physician in an ESRD facility on administrative duties is limited to 25 percent per facility unless documentation is furnished supporting the claim. In addition, if an individual provides services to more than one dialysis facility, the individual's time must be prorated among the different facilities and may not exceed 100 percent.

C. Clarifications Regarding the ESRD PPS

1. Laboratory Renal Dialysis Services

Section 1881(b)(14)(B)(iv) of the Act requires diagnostic laboratory tests not included under the composite payment rate (that is, laboratory services separately paid prior to January 1, 2011) to be included as part of the ESRD PPS payment bundle. In the CY 2011 ESRD PPS final rule (75 FR 49053), we defined renal dialysis services at 42 CFR 413.171 to include items and services included in the composite payment rate for renal dialysis services as of December 31, 2010 and diagnostic laboratory tests and other items and services not included in the composite rate that are furnished to individuals for the treatment of ESRD. The composite payment rate covered routine items and services furnished to ESRD beneficiaries for outpatient maintenance dialysis, including some laboratory tests. We finalized a policy to include in the definition of laboratory tests under 42 CFR 413.171(4) those laboratory tests that were separately billed by ESRD facilities as of December 31, 2010 and laboratory tests ordered by a physician who receives monthly capitation payments (MCPs) for treating ESRD patients that were separately billed by independent laboratories (75 FR 49055). We determined the average Medicare Allowable Payment (MAP) amount was $8.40, as listed on Table 19 titled, ''Average Medicare Allowable Payments for composite rate and separately billable services, 2007, with adjustment for price inflation to 2009'' (75 FR 49075). This amount included the laboratory tests that were already included under the composite rate, as well as laboratory tests billed separately by ESRD facilities (that is, all laboratory services paid on the 72X claim furnished in CY 2007) and laboratory tests that were ordered by Monthly Capitation Payment (MCP) practitioners that were separately billed by independent labs in CY 2007.

Through the comments we received on the CY 2011 ESRD PPS proposed rule, we learned that holding the ESRD facilities responsible for any laboratory test that is furnished in the ESRD facility or ordered by an MCP could have unintended consequences to patients (75 FR 49054). In particular, commenters noted that in many instances the MCP physician is the ESRD patient's primary care physician and often orders laboratory tests that are unrelated to the patient's ESRD. These commenters raised concerns that requiring ESRD facilities to pay for these tests would result in large numbers of tests that are unrelated to ESRD being included in the ESRD bundle. We agreed with commenters that it would be in the best interest of the beneficiaries for an ESRD facility to draw blood for laboratory tests that are not for the treatment of ESRD during the dialysis session.

Commenters also requested that we produce a list of the ESRD-related laboratory tests that are included in the ESRD PPS bundle (75 FR 49054). We received several laboratory service lists from the commenters that they considered to be generally furnished for the treatment of ESRD. While there was agreement for many of the laboratory services, the lists were inconsistent and lacked stakeholder consensus. When Medicare provides a payment for a benefit that is based on a bundle of items and services, CMS establishes claims processing edits that prevent payment in other settings for items and services that are identified as being accounted for in the bundled payment. Therefore, we needed to develop a list of ESRD-related laboratory tests to implement claims processing edits that prevent payment in other settings for items and services that are identified as renal dialysis services to ensure that payment is not made to independent laboratories for ESRD-related laboratory tests. Under the ESRD PPS we call these edits consolidated billing (CB) requirements. We performed a clinical review of the lists provided by the industry and all of the laboratory tests reported in the claims data to determine which laboratory tests are routinely furnished to ESRD beneficiaries for the treatment of ESRD. Our clinical review resulted in Table F in the Addendum of the CY 2011 ESRD PPS final rule as the list of laboratory tests that are subject to the ESRD PPS CB requirements (75 FR 49213). We acknowledged in that rule that the list of laboratory tests displayed in Table F is not an all-inclusive list and we recognized that there are other laboratory tests that may be furnished for the treatment of ESRD (75 FR 49169). We stated in the Medicare Benefit Policy Manual, Pub. 100–02, Chapter 11—End-Stage Renal Disease, Section 20.2 Laboratory Services, that the determination of whether a laboratory test is ESRD-related is a clinical decision for the ESRD patient's ordering practitioner. If a laboratory test is ordered for the treatment of ESRD, then the laboratory test is not paid separately.

Due to the commenters' concerns that ESRD beneficiaries should be able to have blood drawn for non-ESRD-related laboratory tests in the ESRD facility, we created a methodology for allowing ESRD facilities to receive separate payment when a laboratory service is furnished for reasons other than for the treatment of ESRD (75 FR 49054). We created CB requirements using a modifier to allow independent labs or ESRD facilities (with the appropriate clinical laboratory certification in accordance with the Clinical Laboratory Improvement Amendments), to receive separate payment. This modifier, which is called the AY modifier, serves as an attestation that the item or service is medically necessary for the patient but is not being used for the treatment of ESRD.

Following publication of the CY 2011 ESRD PPS final rule, we received numerous inquiries regarding Table F (75 FR 49213). Stakeholders have communicated to us that having a list of laboratory services that is not all-inclusive is confusing because there is no definitive guidance on which laboratory tests are included in, and excluded from, the ESRD PPS. They further stated that leaving the determination of when a laboratory test is ordered for the treatment of ESRD to the practitioner creates inconsistent billing practices and potential overuse of the AY modifier. Stakeholders stated that practitioners can have different positions on when a laboratory test is being ordered for the treatment of ESRD. For example, some practitioners may believe that laboratory tests ordered commonly for diabetes could be considered as for the treatment of ESRD because in certain situations a patient's ESRD is a macro vascular complication of the diabetes. Commenters believe these varying perspectives among practitioners can translate into inconsistent billing practices.

Stakeholders have also expressed concern about potential overuse of the AY modifier because they are aware that

CMS monitors the claims data for trends and behaviors. The industry's position is that if there is a laboratory service that is subject to the CB requirements, it is because CMS has determined that test to be routinely furnished for the treatment of ESRD and if certain tests are frequently reported with the AY modifier, then those laboratories or ESRD facilities could appear to be inappropriately billing Medicare.

While we recognize stakeholders' concerns, for CY 2016, we are reiterating our policy that any laboratory test furnished to an ESRD beneficiary for the treatment of ESRD is considered to be a renal dialysis service and is not payable outside of the ESRD PPS. We continue to believe that it is necessary to use a list of laboratory services that are routinely furnished for the treatment of ESRD for enforcing the CB requirements. In addition, we continue to believe it is convenient for ESRD beneficiaries to have their blood drawn at the time of dialysis for laboratory testing for reasons other than for the treatment of ESRD.

We have included appropriate payments into the base rate to account for any laboratory test that a practitioner determines to be used for the treatment of ESRD. It is important that medical necessity be the reason for how items and services are reported to Medicare. When services are reported appropriately, payments are made appropriately out of the Trust Fund and ESRD beneficiaries are not unfairly inconvenienced by constraints placed upon them because a certain laboratory test is or is not included in the ESRD PPS. Therefore, in order to maintain practitioner flexibility for ordering tests believed medically necessary for the treatment of ESRD, and have those tests included and paid under the ESRD PPS, we are not proposing a specific list of laboratory services that are always considered furnished for the treatment of ESRD.

We are, however, soliciting comment on the current list of laboratory services that is used for the ESRD PPS CB requirements to determine if there is consensus among stakeholders regarding whether the list includes those laboratory tests that are routinely furnished for the treatment of ESRD. Table 9 is the list of laboratory tests that is used for the CB requirements. We agree with the stakeholders that there can be different interpretations among practitioners as to what is considered to be furnished for the treatment of ESRD and that there can be some views that are more conservative than others. Stakeholder comments will assist us in determining whether any of the laboratory services included in the current list generally are not furnished for ESRD treatment.

In the context of this clarification, we are proposing to remove the lipid panel from the CB list. As we stated in the CY 2013 ESRD PPS final rule (77 FR 67470), it was our understanding that the lipid panel was routinely used for the treatment of ESRD. We explained that because some forms of dialysis, particularly peritoneal dialysis, are associated with increased cholesterol and triglyceride levels, a lipid profile laboratory test to assess these levels would be considered furnished for the treatment of ESRD. However, since the CY 2013 final rule was published we have learned from stakeholders that the lipid panel is mostly used to monitor cardiac conditions and is not routinely furnished for the treatment of ESRD. We believe that the proposal to remove the lipid panel is consistent with the clarification provided in this rule that laboratory services included in Table 9 and subject to ESRD consolidated billing are those that are routinely furnished for the treatment of ESRD but that may occasionally be used to treat non-ESRD-related conditions. In contrast, the lipid profile laboratory test is not routinely used for the treatment of ESRD. We solicit comment on this proposal.

TABLE 9—LABORATORY SERVICES SUBJECT TO ESRD CONSOLIDATED BILLING

Short description	CPT/ HCPCS
Basic Metabolic Panel (Calcium, ionized)	80047
Basic Metabolic Panel (Calcium, total)	80048
Electrolyte Panel	80051
Comprehensive Metabolic Panel	80053
Lipid Panel	80061
Renal Function Panel	80069
Hepatic Function Panel	80076
Assay of serum albumin	82040
Assay of aluminum	82108
Vitamin d, 25 hydroxy	82306
Assay of calcium	82310
Assay of calcium, Ionized	82330
Assay, blood carbon dioxide	82374
Assay of carnitine	82379
Assay of blood chloride	82435
Assay of creatinine	82565
Assay of urine creatinine	82570
Creatinine clearance test	82575
Vitamin B–12	82607
Vit d 1, 25-dihydroxy	82652
Assay of erythropoietin	82668
Assay of ferritin	82728
Blood folic acid serum	82746
Assay of iron	83540
Iron binding test	83550
Assay of magnesium	83735

TABLE 9—LABORATORY SERVICES SUBJECT TO ESRD CONSOLIDATED BILLING—Continued

Short description	CPT/ HCPCS
Assay of parathormone	83970
Assay alkaline phosphatase	84075
Assay of phosphorus	84100
Assay of serum potassium	84132
Assay of prealbumin	84134
Assay of protein, serum	84155
Assay of protein by other source	84157
Assay of serum sodium	84295
Assay of transferrin	84466
Assay of urea nitrogen	84520
Assay of urine/urea-n	84540
Urea-N clearance test	84545
Hematocrit	85014
Hemoglobin	85018
Complete (cbc), automated (HgB, Hct, RBC, WBC, and Platelet count) and automated differential WBC count	85025
Complete (cbc), automated (HgB, Hct, RBC, WBC, and Platelet count)	85027
Automated rbc count	85041
Manual reticulocyte count	85044
Automated reticulocyte count	85045
Reticyte/hgb concentrate	85046
Automated leukocyte count	85048
Hep b core antibody, total	86704
Hep b core antibody, igm	86705
Hep b surface antibody	86706
Blood culture for bacteria	87040
Culture, bacteria, other	87070
Culture bacteri aerobic othr	87071
Culture bacteria anaerobic	87073
Cultr bacteria, except blood	87075
Culture anaerobe ident, each	87076
Culture aerobic identify	87077
Culture screen only	87081
Hepatitis b surface ag, eia	87340
CBC/diff wbc w/o platelet	G0306
CBC without platelet	G0307

Although we are not proposing to change our policy related to payment for ESRD-related laboratory services under the ESRD PPS, we are clarifying that to the extent a laboratory test is performed to monitor the levels or effects of any of the drugs that we have specifically excluded from the ESRD PPS, these tests would be separately billable. In the CY 2011 ESRD PPS final rule, we discuss when certain drugs and biologicals would not be considered for the treatment of ESRD. Specifically, Table 10, which appeared as Table 3—ESRD Drug Category Excluded from the Final ESRD PPS Base Rate in the CY 2011 ESRD PPS final rule (75 FR 49049), lists the drug categories that were excluded from the ESRD PPS and the rationale for their exclusion. Laboratory services that are furnished to monitor the medication levels or effects of drugs and biologicals that fall in those categories would not be considered to be furnished for the

treatment of ESRD. We are soliciting comment on this clarification.

TABLE 10—ESRD DRUG CATEGORIES EXCLUDED FROM THE FINAL ESRD PPS BASE RATE

Drug category	Rationale for exclusion
Anticoagulant	Drugs labeled for non-renal dialysis conditions and not for vascular access.
Antidiuretic	Used to prevent fluid loss.
Antiepileptic	Used to prevent seizures.
Anti-inflammatory	May be used to treat kidney disease (glomerulonephritis) and other inflammatory conditions.
Antipsychotic	Used to treat psychosis.
Antiviral	Used to treat viral conditions such as shingles.
Cancer management	Includes oral, parenteral and infusions. Cancer drugs are covered under a separate benefit category.
Cardiac management	Drugs that manage blood pressure and cardiac conditions.
Cartilage	Used to replace synovial fluid in a joint space.
Coagulants	Drugs that cause blood to clot after anti-coagulant overdose or factor VII deficiency.
Cytoprotective agents	Used after chemotherapy treatment.
Endocrine/metabolic management	Used for endocrine/metabolic disorders such as thyroid or endocrine deficiency, hypoglycemia, and hyperglycemia.
Erectile dysfunction management	Androgens were used prior to the development of ESAs for anemia management and currently are not recommended practice. Also used for hypogonadism and erectile dysfunction.
Gastrointestinal management	Used to treat gastrointestinal conditions such as ulcers and gallbladder disease.
Immune system management	Anti-rejection drugs covered under a separate benefit category.
Migraine management	Used to treat migraine headaches and symptoms.
Musculoskeletal management	Used to treat muscular disorders such as prevent muscle spasms, relax muscles, improve muscle tone as in myasthenia gravis, relax muscles for intubation and induce uterine contractions.
Pharmacy handling for oral anti-cancer, anti-emetics and immunosuppressant drugs.	Not a function performed by an ESRD facility.
Pulmonary system management	Used for respiratory/lung conditions such as opening airways and newborn apnea.
Radiopharmaceutical procedures	Includes contrasts and procedure preparation.
Unclassified drugs	Should only be used for drugs that do not have a HCPCS code and therefore cannot be identified.
Vaccines	Covered under a separate benefit category.

2. Renal Dialysis Service Drugs and Biologicals

a. 2014 Part D Call Letter Follow-up

Last year, we received public comments that expressed concern that the 2014 Part D Call Letter provision for prior authorization for drug categories that may be used for ESRD as well as other conditions resulted in Part D plan sponsors' inappropriately refusing to cover oral drugs that are not renal dialysis services. Specifically, they noted that beneficiaries had difficulties obtaining necessary medications such as oral antibiotics prescribed for pneumonia and that the 2014 Part D Call Letter provision led to confusion for Part D plan sponsors and delays in beneficiaries obtaining essential medications at the pharmacy.

In response to the comments, we explained that the guidance in the 2014 Part D Call Letter was issued in response to increases in billing under Part D for drugs that may be prescribed for renal dialysis services but may also be prescribed for other conditions. The guidance strongly encouraged Part D sponsors to place beneficiary-level prior authorization edits on all drugs in the seven categories identified in the CY 2011 ESRD PPS final rule as drugs that may be used for dialysis and non-dialysis purposes (75 FR 49051). These include: Antiemetics, anti-infectives, anti-pruritics, anxiolytics, drugs used for excess fluid management, drugs used for fluid and electrolyte management including volume expanders, and drugs used for pain management (analgesics). We indicated in the CY 2015 ESRD PPS final rule (79 FR 66151) that we were considering various alternatives for dealing with this issue, as it has always been our intention to eliminate or minimize disruptions or delays in ESRD beneficiaries receiving essential medications and that we planned to issue further guidance to address the issue.

In the Health Plan Management System memo issued on November 14, 2014, we encouraged sponsors to remove the beneficiary-level prior authorization (PA) edits on these drugs. When claims are submitted to Part D for drugs in the seven categories, we expect that they are not being used for the treatment of ESRD and, therefore, may be coverable under Part D. We also expect that Medicare ESRD facilities will continue to provide all of the medications used for the treatment of ESRD, including drugs in the seven categories. We will continue to monitor the utilization of renal dialysis drugs and biologicals under Part B and Part D.

b. Oral or Other Forms of Renal Dialysis Injectable Drugs and Biologicals

The ESRD PPS includes certain drugs and biologicals that were previously paid under Part D. Oral or other forms of injectable drugs and biologicals used for the treatment of ESRD, for example, vitamin D analogs, levocarnitine, antibiotics or any other oral or other form of a renal dialysis injectable drug or biological are also included in the ESRD PPS and may not be separately paid. These drugs are included in the ESRD PPS payment because the payments made for both the injectable and oral forms were included in the ESRD PPS base rate. As discussed in section II.B.4 of this proposed rule, implementation of oral-only drugs used in the treatment of ESRD (that is, drugs with no injectable equivalent) under the ESRD PPS payment has been delayed until 2025.

In the CY 2011 ESRD PPS final rule (75 FR 49172), we stated that ESRD facilities are required to record the quantity of oral medications provided for the monthly billing period. In addition, ESRD facilities would submit claims for oral drugs only after having

received an invoice of payment. We indicated that we would address recording of drugs on an ESRD claim in future guidance. We included this requirement because renal dialysis drugs and biologicals that were paid separately prior to the ESRD PPS, as many of these oral medications were, are eligible outlier items and services. If an ESRD facility were to report a 90-day supply of a drug on a monthly claim, the claim could receive an outlier payment erroneously.

On June 7, 2013, we issued an update to the Medicare Benefits Policy Manual, Pub. 100–02, Chapter 11 to reflect implementation of the ESRD PPS in Change Request 8261. In section 20.3.C of the updated Medicare Benefits Policy Manual, we stated that for ESRD-related oral or other forms of drugs that are filled at the pharmacy for home use, ESRD facilities should report one line item per prescription, but only for the quantity of the drug expected to be taken during the claim billing period.

Example: A prescription for oral vitamin D was ordered for one pill to be taken 3 times daily for a period of 45 days. The patient began taking the medication on April 15, 2011. On the April claim, the ESRD facility would report the appropriate National Drug Code (NDC) code for the drug with the quantity 45 (15 days × 3 pills per day). The remaining pills which would be taken in May would appear on the May claim for a quantity of 90 (30 days × 3 pills per day). Prescriptions for a 3 month supply of the drug would never be reported on a single claim. Only the amount expected to be taken during the month would be reported on that month's claim.

In February 2015, we were informed by one of the large dialysis organizations that they, and many other ESRD chain organizations, are out of compliance with the requirement that only the quantity of the drug expected to be taken during the claim billing period should be indicated on the ESRD monthly claim. They indicated that some facilities are incorrectly reporting units that reflect a 60-day or 90-day prescription while other facilities are not reporting the oral drugs prescribed. The reason given for these reporting errors is the lack of prescription processing information. Specifically, while the facilities know when the pharmacy fills the prescription, they do not know when the patient picks up the drug from the pharmacy and begins to take the drug.

Due to this confusion and lack of compliance, we are reiterating our current policy that all renal dialysis service drugs and biologicals prescribed for ESRD patients, including the oral forms of renal dialysis injectable drugs, must be reported by ESRD facilities and the units reported on the monthly claim must reflect the amount expected to be taken during that month. The facilities should use the best information they have in determining the amount expected to be taken in a given month, including fill information from the pharmacy and the patient's plan of care. Any billing system changes to effectuate this change must be made as soon as possible as this requirement has been in effect since the ESRD PPS began in 2011. We are analyzing ESRD facility claims data to determine the extent of the reporting error and may take additional actions in the future.

c. Reporting of Composite Rate Drugs

As we indicated in the Medicare Claims Processing Manual, Pub. 100–04, Chapter 8, section 50.3, as revised by Change Request 8978, issued December 2, 2014, in an effort to enhance the ESRD claims data for possible future refinements to the ESRD PPS, CMS announced that ESRD facilities should begin reporting composite rate drugs on their monthly claims. Specifically, ESRD facilities should only report the composite rate drugs identified on the consolidated billing drug list and provided below in Table 11.

TABLE 11—COMPOSITE RATE DRUGS AND BIOLOGICALS

Composite Rate Drugs and Biologicals	A4802	INJ PROTAMINE SULFATE
	J0670	INJ MEPIVACAINE HYDROCHLORIDE
	J1200	INJ DIPHENHYDRAMINE HCL
	J1205	INJ CHLOROTHIAZIDE SODIUM
	J1240	INJ DIMENHYDRINATE
	J1940	INJ FUROSEMIDE
	J2001	INJ LIDOCAINE HCL FOR INTRAVENOUS INFUSION, 10 MG
	J2150	INJ MANNITOL
	J2720	INJ PROTAMINE SULFATE
	J2795	INJ ROPIVACAINE HYDROCHLORIDE
	J3410	INJ HYDROXYZINE HCL
	J3480	INJ. POTASSIUM CHLORIDE, PER 2 MEQ.
	Q0163	DIPHENHYDRAMINE HYDROCHLORIDE

The ESRD PPS payment policy remains the same for composite rate drugs, therefore, no separate payment is made and these drugs will not be designated as eligible outlier services. This information will provide CMS with the full scope of renal dialysis services which may better target outlier services to the most costly patients.

III. End-Stage Renal Disease (ESRD) Quality Incentive Program (QIP) for Payment Year (PY) 2019

A. Background

For more than 30 years, monitoring the quality of care provided by dialysis facilities to patients with end-stage renal disease (ESRD) has been an important component of the Medicare ESRD payment system. The ESRD Quality Incentive Program (QIP) is the most recent step in fostering improved patient outcomes by establishing incentives for dialysis facilities to meet or exceed performance standards established by CMS. The ESRD QIP is authorized by section 1881(h) of the Social Security Act (the Act), which was added by section 153(c) of the Medicare Improvements for Patients and Providers Act (MIPPA).

Section 1881(h) of the Act requires the Secretary to establish an ESRD QIP by (1) selecting measures; (2) establishing the performance standards that apply to the individual measures; (3) specifying a performance period with respect to a year; (4) developing a methodology for assessing the total performance of each facility based on the performance standards with respect to the measures for a performance period; and (5) applying an appropriate payment reduction to facilities that do not meet or exceed the established Total Performance Score (TPS). This proposed rule discusses each of these elements and our proposals for their application to PY 2019 and future years of the ESRD QIP.

B. Clarification of ESRD QIP Terminology: ''CMS Certification Number (CCN) Open Date''

Some stakeholders have expressed confusion about the use of the term

''CMS Certification Number (CCN) Open Date'' under the ESRD QIP (for example, see 79 FR 66186). We interpret this term to mean the ''Medicare effective date'' under 42 CFR 489.13, which governs when the facility can begin to receive Medicare reimbursement for ESRD services under the ESRD PPS. Thus, a facility is eligible, with respect to a particular payment year, to receive scores on individual measures and participate in general in the ESRD QIP based on the facility's CCN Open Date (*i.e.,* Medicare effective date).

C. Proposal To Use the Hypercalcemia Measure as a Measure Specific to the Conditions Treated With Oral-Only Drugs

Section 217(d) of The Protecting Access to Medicare Act of 2014 (PAMA) (Pub. L. 113–93), enacted on April 1, 2014, amends section 1881(h)(2) of the Act to require the Secretary to adopt measures in the ESRD QIP (outcomes based, to the extent feasible) that are specific to the conditions treated with oral-only drugs for 2016 and subsequent years. We stated in the CY 2015 ESRD PPS final rule (79 FR 66168–69) that we believed the Hypercalcemia clinical measure, which was adopted beginning with the PY 2016 program meets this new statutory requirement; nevertheless, we also recognized that, consistent with PAMA, we could adopt measures as late as for CY 2016, which would be included in the PY 2018 ESRD QIP. We also stated that we would take into account comments on whether the Hypercalcemia clinical measure can be appropriately characterized as a measure specific to the conditions treated with oral-only drugs.

Although section 1881(h)(2)(E)(i) does not define the term ''oral-only drugs,'' we have previously interpreted that term to mean ''drugs for which there is no injectable equivalent or other form of administration'' (75 FR 49038). We have also previously identified calcimimetics and phosphate binders as two types of ''oral-only drugs'' (75 FR 49044).

We are currently aware of three conditions that are treated with calcimimetics and phosphate binders: Secondary Hyperparathyroidism, Tertiary Hyperparathyroidism, and Hypercalcemia. Hypercalcemia is a condition that results when the entry of calcium into the blood exceeds the excretion of calcium into the urine or deposition in bone; the condition may be caused by a number of other conditions, including hyperparathyroidism. Although multiple treatment options are available for patients with early forms of hypercalcemia, calcimimetics are frequently prescribed for those patients who develop hypercalcemia secondary to tertiary hyperparathyroidism, in order to most easily control the patients' serum calcium levels. Because hypercalcemia is a condition that is frequently treated with calcimimetics, and because calcimimetics are oral-only drugs, we believe that the current Hypercalcemia clinical measure (NQF #1454) meets the requirement that the ESRD QIP measure set include for 2016 and subsequent years measures that are specific to the conditions treated with oral-only drugs.

We acknowledge that the Hypercalcemia clinical measure is not an outcome-based measure, and we have considered the possibility of adopting outcome-based measures that are specific to the conditions treated with oral-only drugs. However, we are currently not aware of any outcome-based measures that would satisfy this requirement. We welcome comments on whether such outcome-based measures are either ready for implementation now or are being developed, and we intend to consider the feasibility of developing such a measure in the future.

We seek comments on this proposal.

D. Sub-Regulatory Measure Maintenance in the ESRD QIP

In the CY 2013 ESRD PPS final rule, we finalized our policy to use a sub-regulatory process to make non-substantive updates to measures (77 FR 67477). We currently make available the technical specifications for ESRD QIP measures at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/ESRDQIP/061_TechnicalSpecifications.html* but are in the process of drafting a CMS ESRD Measures Manual which will include not only the ESRD QIP measure specifications, but also technical information on quality indicators that facilities report for other CMS ESRD programs. We expect to release the first version of the CMS ESRD Measures Manual in the near future at the following web address: *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/ESRDQIP/index.html.* The manual will be released before the beginning of the applicable performance period, preferably at least 6 months in advance. We believe that this update frequency will be sufficient to provide facilities with information needed to incorporate these updates into their ESRD data collection activities. We note that this policy is consistent with our policy for updating the CMS National Hospital Inpatient Quality Measures Specifications Manual, which is posted on the QualityNet Web site (*www.qualitynet.org*).

We welcome recommendations from the public on technical updates to ESRD QIP measures. We will consider the appropriateness of all recommendations, notify those who submit recommendations as to whether we accept the recommendation, and incorporate accepted recommendations in a future release of the CMS ESRD Measure Manual. At present, we intend to use JIRA, a web-based collaboration platform maintained by the Office of the National Coordinator for Health Information Technology, to receive, consider, and respond to recommendations for non-substantive measure changes. Further information about how to use the JIRA tool to make such recommendations will be published in an upcoming CROWN Memo and will be posted to *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/ESRDQIP/index.html.*

E. Proposed Revision to the Requirements for the PY 2017 ESRD QIP

1. Proposal To Modify the Small Facility Adjuster Calculation for All Clinical Measures Beginning With the PY 2017 ESRD QIP

In the CY 2013 ESRD PPS final rule we adopted a scoring adjustment for facilities with relatively small numbers of patients, called the small facility adjuster, which aims to ensure that any error in measure rates due to a small number of cases will not adversely affect facility payment (77 FR 67511). Since we first implemented the methodology to implement the small facility adjuster, we have encountered two issues related to basing the adjustment on the within-facility standard error. First, facility scores for some of the outcome measures adopted in the ESRD QIP, such as the National Healthcare Safety Network (NHSN) Bloodstream Infection (BSI) clinical measure, do not approximate a normal or ''bell-shaped'' distribution. In such cases, the within-facility standard error does not necessarily capture the spread of the data as it would if facility scores were normally distributed. Second, facilities and other stakeholders have commented that it is difficult for them to independently calculate pooled within-facility standard errors because doing so requires data for all patient-months across all facilities, which makes the small facility adjuster unnecessarily opaque. For these reasons, we have developed an equation for determining the small facility adjuster that does not rely upon a

within-facility standard error, but nonetheless preserves the intent of the adjuster to include as many facilities in the ESRP QIP as possible while ensuring that the measure scores are reliable.

Therefore, beginning with the PY 2017 ESRD QIP, we propose to use the following methodology to determine the small facility adjustment:

- For the ith facility, suppose the facility's original measure rate is p_i and the number of patients (or other unit used to establish data minimums for the measure. For example, index discharges for the Standardized Readmission Ratio clinical measure) at the ith facility is n_i.
- Where the number of eligible patients (or other appropriate unit) needed to receive a score on a measure is L and the upper threshold for applying the small facility adjuster is C, the ith facility will be eligible for the adjustment when $L \leq n_i < C$. Accordingly, L and C set the upper and lower thresholds of eligible patients (or other appropriate unit) a facility needs to have in order to be considered for a small facility adjustment; consistent with previously finalized policies, facilities with fewer than L eligible patients (or other appropriate unit) for a measure will not receive a score on that measure, and facilities with more than C eligible patients (or other appropriate unit) for a measure will not receive an adjustment for that measure.
- Assuming

$$L \leq n_i < C \text{ , let } w_i = \frac{n_i}{C}$$

where n^i is the number of patients (or other appropriate unit) at the ith facility and C is the upper thresholds of eligible patients (or other appropriate unit) a facility needs to have in order to be considered for a small facility adjustment. This calculation will produce the facility's weighting coefficient for a given clinical measure, w_i, which provides a metric for assessing the uncertainty due to small facility sizes.

- For measures where higher scores are better (for example, the Vascular Access Type (VAT): Fistula clinical measure and the Dialysis Adequacy clinical measures), a small facility's adjusted performance rates (t_i) will be pegged to the national mean performance rate ($\overline{P}$) as follows:
  - If $p_i < \overline{P}$, then $t_i = w_i * p_i + (1 - w_i) * \overline{P}$,
  - If p_i is greater than or equal to $\overline{P}$, the facility will not receive an adjustment.
- For measures where lower scores are better (for example, VAT: Catheter, NHSN BSI, Hypercalcemia, Standardized Readmission Ratio (SRR), and Standardized Transfusion Ratio (STrR) clinical measures), a small facility's adjusted performance rates (t_i) will be pegged to the national mean performance rate ($\overline{P}$) as follows:
  - If $p_i > \overline{P}$, then $t_i = w_i * p_i + (1 - w_i) * \overline{P}$
  - If p_i is less than or equal to $\overline{P}$, the facility will not receive an adjustment.
- For the standardized ratio measures, such as the SRR and STrR clinical measures, the national mean measure rate (that is, $\overline{P}$) is set to 1.

We note that the equation $t_i = w_i * p_i + (1 - w_i) * \overline{P}$ is designed to ''shrink'' the facility mean toward the national mean, and that w_i reflects the degree of confidence in the estimation of the facility mean, because it depends on facility size. Some research has shown that this type of ''shrinkage estimator'' equation gives a small mean squared error (that is, the combination of bias and variance) if the national mean truly reflects the performance of a small facility, which was the intention of the equation.[2]

To assess the impact of the proposed small facility adjuster, we conducted an impact analysis of this proposed methodology on individual measure scores and facility TPSs, using the final dataset used to calculate PY 2015 ESRD QIP scores. The full results of this analysis can be found at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/ESRDQIP/061_TechnicalSpecifications.html.* Table 12 summarizes these results, presenting changes in measure scores observed after applying the proposed small facility adjuster, as compared to measure scores calculated with the existing small facility adjuster. For the purposes of this analysis and for all of the measures, L was set to 11 and C was set to 26.

TABLE 12—IMPACT OF PROPOSED SMALL FACILITY ADJUSTER ON INDIVIDUAL MEASURE SCORES, USING THE FINAL DATASET FOR THE PY 2015 ESRD QIP

Measure	# facilities received SFA in PY 2015	National mean in the performance period (CY 2013) (%)	# facilities receiving SFA under new method	# facilities with score change due to new SFA method N (% out of scored facilities)	# facilities with higher score under new SFA method	# facilities with lower score under new SFA method
Hgb≥12	1,253	0.4	63	32 out of 5,513 (0.6%)	32	0
Fistula	938	64.1	391	341 out of 5,547 (6.1%)	66	275
Catheter	826	11.7	352	301 out of 5,562 (5.4%)	65	236
HD Kt/V	588	91.1	173	248 out of 5,641 (4.4%)	22	226
Ped HD Kt/V	11	80.1	1	8 out of 11 (72.7%)	0	8
PD Kt/V	787	76.4	192	400 out of 1,203 (33.3%)	62	338
TPS				513 out of 5,650 (9.1%)	96	417
Reduction				43 out of 5,650 (0.8%)	23	20

As the results in Table 12 indicate, fewer facilities received an adjustment under the proposed small facility adjuster methodology, because small facilities with performance rates above the national mean do not receive an adjustment. However, those facilities that did receive an adjustment generally received a larger adjustment under the proposed methodology. For example, of the 43 facilities that received a different payment reduction under the proposed small facility adjuster, 23 (53 percent) received a lower payment reduction.

[2] Efron B, Morris C. Empirical Bayes on vector observations: An extension of Stein's method. *Biometrika,* 59(2):335–347. Ahmed SE, Khan SM. Improved estimation of the Poisson parameter. *Statistica,* anno LIII n.2, 268–286, 1993. Ahmed SE. Combining Poisson means. *Communications in Statistics: Theory and Methods,* 20, 771–789, 1991.

We also assessed the impact of the proposed small facility adjuster on the distribution of payment reductions, using the final dataset used to calculate PY 2015 ESRD QIP payment reductions. The full results of this analysis can be found at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/ESRDQIP/061_Technical Specifications.html.* Table 13 below compares the distribution of payment reductions using the existing small facility adjuster to the distribution of payment reductions using the proposed small facility adjuster. For the purposes of this analysis and for all of the measures, L was set to 11 and C was set to 26.

TABLE 13—COMPARISON OF THE DISTRIBUTION OF PAYMENT REDUCTIONS DETERMINED WITH THE EXISTING AND PROPOSED SMALL FACILITY ADJUSTER, USING THE FINAL DATASET FOR THE PY 2015 ESRD QIP

Payment reduction distribution in PY 2015 using the existing SFA			Estimated payment reduction distribution in PY 2015 using the new SFA		
Payment reduction (%)	Number of facilities	Percent of facilities (%)	Payment reduction (%)	Number of facilities	Percent of facilities (%)
0.0	5,307	93.93	0.0	5,296	93.73
0.5	242	4.28	0.5	255	4.51
1.0	41	0.73	1.0	45	0.80
1.5	23	0.41	1.5	26	0.46
2.0	378	0.65	2.0	28	0.50

Note: This table excludes 488 facilities that did not receive a score because they did not have enough data to receive a TPS.

These results suggest that a similar number of facilities would receive a payment reduction under the proposed small facility adjuster methodology. A total of 343 (6.1 percent) facilities would receive a payment reduction with the existing small facility adjuster; under the proposed small facility adjuster methodology, a total of 354 (6.3 percent) facilities would have received a payment reduction. Based on the results of these analyses, we believe that the proposed small facility adjuster does not systematically alter the distribution of measure scores, TPSs, and payment reductions, as compared to the existing small facility adjuster. Coupled with the benefits of removing the within-facility standard error variable from the existing adjuster (discussed above), this leads us to believe that the benefits of the proposed adjuster outweigh the benefits of the existing adjuster. We therefore propose to modify the methodology for determining the small facility adjustment as explained above.

We seek comments on this proposal.

2. Proposal To Reinstate Qualifying Patient Attestations for the ICH CAHPS Clinical Measure

In the CY 2015 ESRD PPS final rule, we finalized our proposal to remove the case minimum attestation for the ICH CAHPS reporting measure due to facility confusion regarding the attestation process (79 FR 66185). We further finalized that we would determine facility eligibility for the ICH CAHPS reporting measure based on available data submitted via CROWNWeb, Medicare claims, and other CMS administrative data sources. Following the publication of that rule we have determined that we do not have reliable data sources for determining some of the patient-level exclusions. For example, we have been unable to locate a reliable data source for determining whether a patient is receiving hospice care or is residing in an institution such as a prison or a jail.

Although some facilities may be experiencing issues related to the attestation process (for example, during the preview period, we have encountered numerous instances where facilities have either attested inappropriately or have failed to attest in a timely fashion), we believe that facilities are generally able to determine whether their patients meet one or more of the exclusion criteria for the measure. For this reason, we believe that having facilities attest that they are ineligible for the measure will result in more accurate measure scores, as compared to using unreliable data sources to determine whether facilities treated the requisite number of eligible patients during the eligibility period, (defined as the calendar year immediately preceding the performance period). Because we have no reason to believe that reliable data sources for some of the patient-level exclusions for the ICH CAHPS clinical measure will become available in the near term, and because the PY 2017 ICH CAHPS reporting measure and the PY 2018 ICH CAHPS clinical measure employ the same exclusion criteria, we propose to reinstate the attestation process we previously adopted in the CY 2014 ESRD PPS final rule (78 FR 72220 through 72222) beginning with the PY 2017 program year. However, we are now proposing to have facilities attest on the basis of the eligibility criteria finalized in the CY 2015 ESRD PPS final rule (79 FR 66169 through 66170). Accordingly, facilities seeking to avoid scoring on the ICH CAHPS measure due to ineligibility must attest in CROWNWeb by January 31 of the year immediately following the performance period (for example, January 31, 2017, for the PY 2018 ESRD QIP) that they did not treat enough eligible patients during the eligibility period to receive a score on the ICH CAHPS measure. Facilities that submit attestations regarding the number of eligible patients treated at the facility during the eligibility period by the applicable deadline will not receive a score on the ICH CAHPS clinical measure for that program year. Facilities that do not submit such attestations will be eligible to receive a score on the measure. However, even if a facility is eligible to receive a score on the measure because it has treated at least 30 survey-eligible patients during the eligibility period (defined as the calendar year before the performance period), the facility will still not receive a score on the measure if it cannot collect at least 30 survey completes during the performance period. Facility attestations are limited to the number of eligible patients treated at the facility during the eligibility period, and are not intended to capture the number of completed surveys at a facility during the performance period. The ESRD QIP system will determine how many completed surveys a facility received during the performance period. We are not proposing to change any of the other data minimum requirements for the PY 2017 ICH CAHPS reporting measure, or for the ICH CAHPS clinical measure in PY 2018 and future payment years. To reduce confusion, we will release a

CROWN Memo detailing how facilities are expected to attest.

We seek comments on this proposal.

F. Proposed Requirements for the PY 2018 ESRD QIP

1. Estimated Performance Standards, Achievement Thresholds, and Benchmarks for the Clinical Measures Finalized for the PY 2018 ESRD QIP

In the CY 2015 ESRD PPS final rule, we stated that we would publish values for the PY 2018 clinical measures, using data from CY 2014 and the first portion of CY 2015, in the CY 2016 ESRD PPS final rule (79 FR 66209). At this time, we do not have the necessary data to assign numerical values to the proposed performance standards, achievement thresholds, and benchmarks because we do not yet have complete data from CY 2014. Nevertheless, we are able to estimate these numerical values based on the most recent data available. For the Vascular Access Type and Hypercalcemia clinical measures, this data comes from the period of January through December 2014. For the SRR and STrR clinical measures, this data comes from the period of January through December 2013. In Table 14, we have provided the estimated numerical values for all of the finalized PY 2018 ESRD QIP clinical measures, except the ICH CAHPS clinical measure, because the performance standards for that measure will be calculated using CY 2015 data. We will publish updated values for the clinical measures, using data from the first part of CY 2015, in the CY 2016 ESRD PPS final rule.

TABLE 14—ESTIMATED NUMERICAL VALUES FOR THE PERFORMANCE STANDARDS FOR THE PY 2018 ESRD QIP CLINICAL MEASURES USING THE MOST RECENTLY AVAILABLE DATA

Measure	Achievement threshold	Benchmark	Performance standard
Vascular Access Type:.			
% Fistula	53.52%	79.67%	66.02%.
% Catheter	17.44%	2.73%	9.24%.
Kt/V.			
Adult Hemodialysis	89.83%	98.22%	95.07%.
Adult Peritoneal Dialysis	74.68%	96.50%	88.67%.
Pediatric Hemodialysis	50.00%	96.90%	89.45%.
Pediatric Peritoneal Dialysis	43.22%	88.39%	72.60%.
Hypercalcemia	3.86%	0.00%	1.13%.
NHSN Bloodstream Infection SIR	1.811	0	0.861.
Standardized Readmission Ratio	1.261	0.649	0.998.
Standardized Transfusion Ratio	1.488	0.451	0.915.
ICH CAHPS	50th percentile of eligible facilities' performance during CY 2015.	15th percentile of eligible facilities' performance during CY 2015.	90th percentile of eligible facilities' performance during CY 2015.

We believe that the ESRD QIP should not have lower performance standards than in previous years. Accordingly, if the final numerical value for a performance standard, achievement threshold, and/or benchmark is worse than it was for that measure in the PY 2017 ESRD QIP, then we propose to substitute the PY 2017 performance standard, achievement threshold, and/or benchmark for that measure.

We seek comments on this proposal.

2. Proposed Modification to Scoring Facility Performance on the Pain Assessment and Follow-Up Reporting Measure

In the CY 2015 ESRD PPS final rule, we finalized the following calculation for scoring facility performance on the Pain Assessment and Follow-Up reporting measure under the PY 2018 ESRD QIP (79 FR 66211):

$$\left\{\frac{\text{Number of patients for whom facility reports one of six conditions during the first six months}}{\text{Number of eligible patients in the first six months}} + \frac{\text{Number of patients for whom facility reports one of six conditions during the second six months}}{\text{Number of eligible patients in the second six months}}\right\} \div 2$$

We have since determined that this calculation may unduly penalize facilities that treat no eligible patients in one of the two six-month periods evaluated under this measure; under this calculation, those facilities would have a ''0'' for the applicable period's data, in effect giving the facility half of its score on the remaining six-month period as a measure score. In order to avoid such an undue impact on facility scores, we propose that, beginning with the PY 2018 ESRD QIP, if a facility treats no eligible patients in one of the two six-month periods, then that facility's score will be based solely on the percentage of eligible patients treated in the other six-month period for whom the facility reports one of six conditions.

We seek comments on this proposal.

3. Proposed Payment Reductions for the PY 2018 ESRD QIP

Section 1881(h)(3)(A)(ii) of the Act requires the Secretary to ensure that the application of the ESRD QIP scoring methodology results in an appropriate distribution of payment reductions across facilities, such that facilities achieving the lowest TPSs receive the largest payment reductions. In the CY 2015 ESRD PPS final rule, we finalized our proposal for calculating the minimum TPS for PY 2018 and future payment years (79 FR 66221 through 66222). Under our current policy, a facility will not receive a payment reduction if it achieves a minimum TPS

that is equal to or greater than the total of the points it would have received if: (i) It performs at the performance standard for each clinical measure; and (ii) it receives the number of points for each reporting measure that corresponds to the 50th percentile of facility performance on each of the PY 2016 reporting measures (79 FR 66221). We are proposing to clarify how we will account for measures in the minimum TPS when we lack the baseline data necessary to calculate a numerical performance standard before the beginning of the performance period (per criterion (i) above), because we inadvertently omitted this detail in the CY 2015 ESRD PPS final rule. Specifically, we propose, for the PY 2018 ESRD QIP, to add the following criterion previously adopted for the PY 2017 program (79 FR 66187): ''it received zero points for each clinical measure that does not have a numerical value for the performance standard established through rulemaking before the beginning of the PY 2018 performance period.'' Under this proposal, for PY 2018, a facility will not receive a payment reduction if it achieves a minimum TPS that is equal to or greater than the total of the points it would have received if: (i) It performs at the performance standard for each clinical measure; (ii) it received zero points for each clinical measure that does not have a numerical value for the performance standard established through rulemaking before the beginning of the PY 2018 performance period; and (iii) it receives the number of points for each reporting measure that corresponds to the 50th percentile of facility performance on each of the PY 2016 reporting measures.

We were unable to calculate a minimum TPS for PY 2018 in the CY 2015 ESRD PPS final rule because we were not yet able to calculate the performance standards for each of the clinical measures. We therefore stated that we would publish the minimum TPS for the PY 2018 ESRD QIP in the CY 2016 ESRD PPS final rule (79 FR 66222).

Based on the estimated performance standards listed above, we estimate that a facility must meet or exceed a minimum TPS of 39 for PY 2018. For all of the clinical measures except the SRR, STrR, and ICH CAHPS clinical measures, these data come from CY 2014. The data for the SRR and STrR clinical measures come from CY 2013 Medicare claims. For the ICH CAHPS clinical measure, we set the performance standard to zero for the purposes of determining this minimum TPS, because we are not able to establish a numerical value for the performance standard through the rulemaking process before the beginning of the PY 2018 performance period. We are proposing that a facility failing to meet the minimum TPS, as established in the CY 2016 ESRD PPS final rule, will receive a payment reduction based on the estimated TPS ranges indicated in Table 15 below.

TABLE 15—ESTIMATED PAYMENT REDUCTION SCALE FOR PY 2018 BASED ON THE MOST RECENTLY AVAILABLE DATA FROM CY 2014

Total performance score	Reduction %
100–39	0.0
38–29	0.5
28–19	1.0
18–9	1.5
8–0	2.0

We seek comments on these proposals.

4. Data Validation

One of the critical elements of the ESRD QIP's success is ensuring that the data submitted to calculate measure scores and TPSs are accurate. We began a pilot data-validation program in CY 2013 for the ESRD QIP, and procured the services of a data-validation contractor that was tasked with validating a national sample of facilities' records as reported to CROWNWeb. For validation of CY 2014 data, our first priority was to develop a methodology for validating data submitted to CROWNWeb under the pilot data-validation program. That methodology was fully developed and adopted through the rulemaking process. For the PY 2016 ESRD QIP (78 FR 72223 through 72224), we finalized a requirement to sample approximately 10 records from 300 randomly selected facilities; these facilities had 60 days to comply once they received requests for records. We continued this pilot for the PY 2017 ESRD QIP, and propose to continue doing so for the PY 2018 ESRD QIP. Under this continued validation study, we will sample the same number of records (approximately 10 per facility) from the same number of facilities (that is, 300) during CY 2016. If a facility is randomly selected to participate in the pilot validation study but does not provide us with the requisite medical records within 60 days of receiving a request, then we propose to deduct 10 points from the facility's TPS. Once we have developed and adopted a methodology for validating the CROWNWeb data, we intend to consider whether payment reductions under the ESRD QIP should be based, in part, on whether a facility has met our standards for data validation.

In the CY 2015 ESRD PPS final rule, we also finalized that there will be a feasibility study for validating data reported to CDC's NHSN Dialysis Event Module for the NHSN Bloodstream Infection clinical measure. Healthcare-Acquired Infections (HAI) are relatively rare, and we finalized that the feasibility study would target records with a higher probability of including a dialysis event, because this would enrich the validation sample while reducing the burden on facilities. For PY 2018, we propose to use the same methodology that was discussed in the CY 2015 ESRD QIP final rule (79 FR 66187). This methodology resembles the methodology we use in the Hospital Inpatient Quality Reporting Program to validate the central line-associated bloodstream infection measure, the catheter-associated urinary tract infection measure, and the surgical site infection measure (77 FR 53539 through 53553). For the PY 2018 ESRD QIP, we propose to randomly select nine facilities to participate in the feasibility study for data reported in CY 2016. A CMS contractor will send these facilities quarterly requests for lists of candidate dialysis events (for example, all positive blood cultures drawn from its patients during the quarter, including any positive blood cultures that were collected from the facility's patients on the day of, or the day following, their admission to a hospital). Facilities will have 60 days to respond to quarterly requests for lists of positive blood cultures and other candidate events. A CMS contractor will then determine when a positive blood culture or other ''candidate dialysis event'' is appropriate for further validation. With input from CDC, the CMS contractor will utilize a methodology for identifying and requesting the candidate dialysis events other than positive blood cultures. The contractor will analyze the records of patients who had candidate events in order to determine whether the facility reported dialysis events for those patients in accordance with the NHSN Dialysis Event Protocol. If the contractor determines that additional medical records are needed from a facility to validate whether the facility accurately reported the dialysis events, then the contractor will send a request for additional information to the facility, and the facility will have 60 days from the date of the letter to respond to the request. Overall, we estimate that, on

average, quarterly lists will include two positive blood cultures per facility, but we recognize these estimates may vary considerably from facility to facility. If a facility is randomly selected to participate in the feasibility study but does not provide CMS with the requisite lists of positive blood cultures or the requisite medical records within 60 days of receiving a request, then we proposed to deduct 10 points from the facility's TPS.

We seek comments on these proposals.

G. Proposed Requirements for the PY 2019 ESRD QIP

1. Proposed Replacement of the Four Measures Currently in the Dialysis Adequacy Clinical Measure Topic Beginning With the PY 2019 Program Year

We consider a quality measure for removal or replacement if: (1) Measure performance among the majority of ESRD facilities is so high and unvarying that meaningful distinctions in improvements or performance can no longer be made (in other words, the measure is topped-out); (2) performance or improvement on a measure does not result in better or the intended patient outcomes; (3) a measure no longer aligns with current clinical guidelines or practice; (4) a more broadly applicable (across settings, populations, or conditions) measure for the topic becomes available; (5) a measure that is more proximal in time to desired patient outcomes for the particular topic becomes available; (6) a measure that is more strongly associated with desired patient outcomes for the particular topic becomes available; or (7) collection or public reporting of a measure leads to negative or unintended consequences (77 FR 67475). In the CY 2015 ESRD PPS final rule, we adopted statistical criteria for determining whether a clinical measure is topped out, and also adopted a policy under which we could retain an otherwise topped-out measure if we determined that its continued inclusion in the ESRD QIP measure would address the unique needs of a specific subset of the ESRD population (79 FR 66172 through 66174).

Subsequent to the publication of the CY 2015 ESRD PPS final rule, we evaluated the finalized PY 2018 ESRD QIP measures against all of these criteria. We determined that none of these measures met criterion (1), (2), (3), (5), (6), or (7). As part of this evaluation for criterion one, we performed a statistical analysis of the PY 2018 measures to determine whether any measures were ''topped out.'' The full results of this analysis can be found at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/ESRDQIP/061_Technical Specifications.html* and a summary of our topped-out analysis results appears in Table 16 below.

TABLE 16—PY 2018 CLINICAL MEASURES USING CROWNWEB AND MEDICARE CLAIMS DATA

Measure	N	75th percentile	90th percentile	Std. Error	Statistically indistinguishable	Truncated CV	TCV < 0.10
Adult HD Kt/V	5822	97.0	98.3	0.09	No	0.03	Yes.
Pediatric HD Kt/V	7	94.4	96.9	13.4	Yes	0.23	No.
Adult PD Kt/V	1287	94.4	97.1	0.45	No	0.10	No.
Pediatric PD Kt/V	3	88.4	88.4	13.9	Yes	N/A[1]	N/A.[1]
VAT: Fistula[2]	5763	73.3	79.7	0.15	No	0.14	No.
VAT: Catheter[3]	5744	5.4	2.7	0.10	No	<0.01	Yes.
Hypercalcemia[2]	6042	0.33	0.0	0.03	No	<0.01	Yes.

[1] Insufficient data
[2] Medicare claims data from CY 2014 were used in these calculations.
[3] CROWNWeb data from CY 2014 was used in this calculation.

As the information presented in Table 16 indicates, none of these clinical measures are currently topped-out in the ESRD QIP. We note that only three facilities had 11 or more qualifying patients for the Pediatric Peritoneal Dialysis Adequacy clinical measure, resulting in insufficient data available to calculate a truncated coefficient of variation. However, because the Pediatric Peritoneal Dialysis Adequacy clinical measure addresses the unique needs of the pediatric population, we are not proposing to remove the measure at this time. Accordingly, we are not proposing to remove any of these measures from the ESRD QIP.

Beginning with the PY 2019 ESRD QIP, we are proposing to replace the four measures in the Kt/V Dialysis Adequacy measure topic—(1) Hemodialysis Adequacy: Minimum delivered hemodialysis dose; (2) Peritoneal Dialysis Adequacy: Delivered dose above minimum; (3) Pediatric Hemodialysis Adequacy: Minimum spKt/V; and (4) Pediatric Peritoneal Dialysis Adequacy—with a single more broadly applicable measure for the topic. The new measure, Delivered Dose of Dialysis above Minimum—Composite Score clinical measure (''Dialysis Adequacy clinical measure'') (Measure Applications Partnership #X3717), is a single comprehensive measure of dialysis adequacy assessing the percentage of all patient-months, for both pediatric and adult patients, whose average delivered dose of dialysis (either hemodialysis or peritoneal dialysis) met the specified Kt/V threshold during the performance period. As discussed in more detail below, this measure's specifications allow the measure to capture a greater number of patients, particularly pediatric hemodialysis and peritoneal dialysis patients, than the four individual dialysis adequacy measures, and will result in a larger and broader collection of data from patients whose dialysis adequacy is assessed under the ESRD QIP. The measure assesses the adequacy of dialysis using the same thresholds applied to those patients by the existing dialysis adequacy measures, as described below. For these reasons, we believe the new dialysis adequacy measure meets criterion four above. We therefore propose to remove the four individual measures within the Kt/V Dialysis Adequacy Measure Topic, as well as the measure topic itself, and to replace those measures with a single Dialysis Adequacy clinical measure beginning with the PY 2019 ESRD QIP. However, if based on public comments, we do not finalize our proposal to adopt the Dialysis Adequacy clinical measure, then we would not finalize this proposal to remove these measures and the Dialysis Adequacy measure topic.

We seek comments on this proposal.

2. Proposed Measures for the PY 2019 ESRD QIP

a. PY 2018 Measures Continuing for PY 2019 and Future Payment Years

We previously finalized 16 measures in the CY 2015 ESRD PPS final rule for the PY 2018 ESRD QIP, and these measures are summarized in Table 17 below. In accordance with our policy to continue using measures unless we propose to remove or replace them, (77 FR 67477), we will continue to use 12 of these measures in the PY 2019 ESRD QIP. As noted above, we are proposing to remove four of these clinical measures—(1) Hemodialysis Adequacy: Minimum delivered hemodialysis dose; (2) Peritoneal Dialysis Adequacy: Delivered dose above minimum; (3) Pediatric Hemodialysis Adequacy: Minimum spKt/V; and (4) Pediatric Peritoneal Dialysis Adequacy—and replace them with a single, comprehensive clinical measure covering the patient populations previously captured by these four individual clinical measures.

TABLE 17—PY 2018 ESRD QIP MEASURES BEING CONTINUED IN PY 2019

NQF #	Measure title and description
0257	Vascular Access Type: AV Fistula, a clinical measure Percentage of patient-months on hemodialysis during the last hemodialysis treatment of the month using an autogenous AV fistula with two needles.
0256	Vascular Access Type: Catheter ≥ 90 days, a clinical measure Percentage of patient-months for patients on hemodialysis during the last hemodialysis treatment of month with a catheter continuously for 90 days or longer prior to the last hemodialysis session.
N/A[1]	National Healthcare Safety Network (NHSN) Bloodstream Infection in Hemodialysis Patients, a clinical measure Number of hemodialysis outpatients with positive blood cultures per 100 hemodialysis patient-months.
1454	Hypercalcemia, a clinical measure Proportion of patient-months with 3-month rolling average of total uncorrected serum calcium greater than 10.2 mg/dL.
N/A	Standardized Readmission Ratio, a clinical measure Standardized hospital readmissions ratio of the number of observed unplanned readmissions to the number of expected unplanned readmissions.
N/A	Standardized Transfusion Ratio, a clinical measure Risk-adjusted standardized transfusion ratio for all adult Medicare patients.
0258	In-Center Hemodialysis Consumer Assessment of Healthcare Providers and Systems (ICH CAHPS) Survey Administration, a clinical measure Facility administers, using a third-party CMS-approved vendor, the ICH CAHPS survey in accordance with survey specifications and submits survey results to CMS.
N/A[2]	Mineral Metabolism Reporting, a reporting measure Number of months for which facility reports serum phosphorus or serum plasma for each Medicare patient.
N/A	Anemia Management Reporting, a reporting measure Number of months for which facility reports ESA dosage (as applicable) and hemoglobin/hematocrit for each Medicare patient.
N/A[3]	Pain Assessment and Follow-Up, a reporting measure Facility reports in CROWNWeb one of six conditions for each qualifying patient once before August 1 of the performance period and once before February 1 of the year following the performance period.
N/A[4]	Clinical Depression Screening and Follow-Up, a reporting measure Facility reports in CROWNWeb one of six conditions for each qualifying patient once before February 1 of the year following the performance period.
N/A[5]	NHSN Healthcare Personnel Influenza Vaccination, a reporting measure Facility submits Healthcare Personnel Influenza Vaccination Summary Report to CDC's NHSN system, according to the specifications of the Healthcare Personnel Safety Component Protocol, by May 15 of the performance period.

[1] We note that this measure is based upon a current NQF-endorsed bloodstream infection measure (NQF#1460).
[2] We note that this measure is based upon a current NQF-endorsed serum phosphorus measure (NQF #0255).
[3] We note that this measure is based upon a current NQF-endorsed pain assessment and follow-up measure (NQF #0420).
[4] We note that this measure is based upon a current NQF-endorsed clinical depression screening and follow-up measure (NQF #0418).
[5] We note that this measure is based upon an NQF-endorsed HCP influenza vaccination measure (NQF #0431).

b. Proposed New Dialysis Adequacy Clinical Measure Beginning With the PY 2019 ESRD QIP

Section 1881(h)(2)(A)(i) of the Act states that the ESRD QIP measure set must include measures on ''dialysis adequacy.'' Kt/V is a widely accepted measure of dialysis adequacy in the ESRD community. It is a measure of small solute (urea) removal from the body, is relatively simple to measure and report, and is associated with survival among dialysis patients. While the current dialysis adequacy measures have allowed us to capture a greater proportion of the ESRD population than previously accounted for under the URR Hemodialysis Adequacy clinical measure, the specifications for these measures still result in the exclusion of some patients from the measures. For example, the Pediatric Hemodialysis Adequacy clinical measure's specifications have limited the number of pediatric patients included in the ESRD QIP because very few facilities (10 facilities, based on CY 2013 data) were eligible to receive a score on the measure. We are therefore proposing to adopt a single comprehensive Dialysis Adequacy clinical measure under the authority of section 1881(h)(2)(A)(i) of the Act.

The Measure Applications Partnership conditionally supported the proposed Dialysis Adequacy clinical measure in its *2015 Pre-Rulemaking Report,* noting that this measure meets critical program objectives to include more outcome measures and measures applicable to the pediatric population in the set.[3]

The Dialysis Adequacy clinical measure assesses the percentage of all patient-months for both adult and pediatric patients whose average delivered dose of dialysis (either hemodialysis or peritoneal dialysis) met the specified threshold during the performance period. A primary difference between the single

[3] *https://www.qualityforum.org/map/*

comprehensive Dialysis Adequacy clinical measure and the four previously finalized dialysis adequacy clinical measures is how facility eligibility for the measure is determined. Under the four previously finalized dialysis adequacy clinical measures, facility eligibility was determined based on the number of qualifying patients treated for each individual measure (for example, the number of qualifying adult hemodialysis patients for the Hemodialysis Adequacy: Minimum Delivered Hemodialysis Dose clinical measure). As a result, a facility had to treat at least 11 qualifying patients for each of these measures in order to receive a score on that measure. By contrast, a facility's eligibility to receive a score on the proposed Dialysis Adequacy clinical measure, which includes both adults and children, and both hemodialysis and peritoneal dialysis modalities, is determined based on the total number of qualifying patients treated at a facility. As a result, a facility that would not be eligible to receive a score on one or more of our current dialysis adequacy clinical measures because it did not meet the case minimum for one or more of those measures would be eligible to receive a score on the proposed dialysis adequacy measure if it had at least 11 total qualifying patients, defined as adults and pediatric patients receiving either hemodialysis or peritoneal dialysis. Therefore, we anticipate that adopting the single comprehensive Dialysis Adequacy clinical measure will allow us to evaluate the care provided to a greater proportion of ESRD patients, particularly pediatric ESRD patients.

We are proposing that patients' dialysis adequacy would be assessed based on the following Kt/V thresholds previously assessed under the individual dialysis adequacy clinical measures:

- For hemodialysis patients, all ages: spKt/V ≥ 1.2 (calculated from the last measurement of the month)
- For pediatric (age < 18 years) peritoneal dialysis patients: Kt/V urea > 1.8 (dialytic + residual, measured within the past six months)
- For adult (age > 18 years) peritoneal dialysis patients: Kt/V urea > 1.7 (dialytic + residual, measured within the past four months)

These thresholds reflect the best evidence-based minimum threshold for adequate dialysis for the described patient groups and are consistent with dialysis adequacy measures previously implemented in the QIP. Patient eligibility for inclusion in the measure would be determined on a patient-month level, based on the patient's age, treatment modality type, whether a patient has been on dialysis for 90 days or more, and the number of hemodialysis treatments the patient receives per week. All eligible patient-months at a facility would be counted toward the denominator. Eligible patient months where the patient met the specific dialysis adequacy threshold would be counted toward the numerator. Technical specifications for the Dialysis Adequacy clinical measure can be found at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/ESRDQIP/061_TechnicalSpecifications.html.*

We seek comments on our proposal to adopt this measure beginning with the PY 2019 ESRD QIP.

c. Proposed New Reporting Measures Beginning With the PY 2019 ESRD QIP

i. Proposed Ultrafiltration Rate Reporting Measure

The ultrafiltration rate measures the rapidity with which fluid (ml) is removed at dialysis per unit (kg) body weight in unit (hour) time. A patient's ultrafiltration rate is under the control of the dialysis facility and is monitored throughout a patient's hemodialysis session. Studies suggest that higher ultrafiltration rates are associated with higher mortality and higher odds of an ''unstable'' dialysis session,[4] and that rapid rates of fluid removal during dialysis can precipitate events such as intradialytic hypotension, subclinical yet significantly decreased organ perfusion, and in some cases myocardial damage and heart failure.

Section 1881(h)(2)(A)(iv) gives the Secretary authority to adopt other measures for the ESRD QIP that cover a wide variety of topics. Section 1881(h)(2)(B)(ii) of the Act states that ''In the case of a specified area or medical topic determined appropriate by the Secretary for which a feasible and practical measure has not been endorsed by the entity with a contract under section 1890(a) of Act [in this case NQF], the Secretary may specify a measure that is not so endorsed so long as due consideration is given to measures that have been endorsed or adopted by a consensus organization identified by the Secretary.'' We have given due consideration to endorsed measures, as well as those adopted by a consensus organization. Because no NQF-endorsed measures or measures adopted by a consensus organization on ultrafiltration rates currently exist, we are proposing to adopt the Ultrafiltration Rate reporting measure under the authority of section 1881(h)(2)(B)(ii) of the Act.

We are proposing to adopt a measure that is based on Measure Applications Partnership #XAHMH, ''Ultrafiltration Rate Greater than 13 ml/kg/hr'' (''Ultrafiltration Rate measure''). This measure assesses the percentage of patient-months for patients with an ultrafiltration rate greater than 13 ml/kg/hr. The Measure Applications Partnership expressed conditional support for the Ultrafiltration Rate measure, noting it would ''consider the measure for inclusion in the program once it has been reviewed for endorsement.'' The measure upon which our proposed measure is based is currently under review for endorsement by NQF; however, we believe the measure is ready for adoption because it has been fully tested for reliability and addresses a critical aspect of patients' clinical care not currently addressed by the ESRD QIP measure set.

For PY 2019 and future payment years, we propose that facilities must report an ultrafiltration rate for each qualifying patient at least once per month in CROWNWeb. Qualifying patients for this proposed measure are defined as patients 18 years of age or older, on hemodialysis, and who are assigned to the same facility for at least the full calendar month (for example, if a patient is admitted to a facility during the middle of a month, the facility will not be required to report for that patient for that month). We further propose that facilities will be granted a one month period following the calendar month to enter this data. For example, we would require a facility to report ultrafiltration rates for January 2017 on or before February 28, 2017. Facilities would be scored on whether they successfully report the required data within the timeframe provided, not on the values reported. Technical specifications for the Ultrafiltration Rate reporting measure can be found at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/ESRDQIP/061_Technical Specifications.html.*

We seek comments on this proposal.

[4] Flythe SE., Kimmel SE., Brunelli SM. Rapid fluid removal during dialysis is associated with cardiovascular morbidity and mortality. Kidney International (2011) Jan; 79(2):250–7. Flythe JE, Curhan GC, Brunelli SM. Disentangling the ultrafiltration rate—mortality association: The respective roles of session length and weight gain. Clin J Am Soc Nephrol. 2013 Jul;8(7):1151–61. Movilli, E et al. ''Association between high ultrafiltration rates and mortality in uraemic patients on regular hemodialysis. A 5-year prospective observational multicenter study.'' Nephrology Dialysis Transplantation 22.12(2007): 3547–3552.

ii. Proposed Full-Season Influenza Vaccination Reporting Measure

According to the Centers for Disease Control and Prevention (CDC), seasonal influenza, which occurs between October and March/April of the following year, is associated with approximately 20,000 deaths [5] and 226,000 hospitalizations annually.[6] While overall rates of influenza infection are highest among children, rates of serious illness and mortality are highest among adults aged 65 years or older, children aged two or younger, and immunocompromised patients such as patients with ESRD. Observational data have found associations between influenza vaccination and reduced mortality and hospitalization in this patient population. Specifically, multiple studies have found that vaccinated patients have significantly lower odds of all-cause mortality and modestly lower odds of all-cause hospitalization compared to unvaccinated patients.[7] However, influenza vaccination rates in the ESRD population have historically been lower than the Healthy People 2020 goal of 70 percent of both pediatric and adult populations in the United States,[8] with recent reports from the U.S. Renal Data System and Dialysis Facility Reports showing vaccination rates of 67 percent and 68 percent, respectively, among ESRD patients for the 2011–2012 season.[9] Based on these findings, we believe that encouraging closer evaluation of patients' influenza vaccination status in the dialysis facility will increase the number of patients with ESRD who receive an influenza vaccination and increase influenza vaccination rates in this population, which will in turn improve patient health and well-being.

We are proposing to use a measure that is based on ''ESRD Vaccination—Full-Season Influenza Vaccination'' (Measure Applications Partnership #XDEFM). This measure assesses the percentage of ESRD patients ≥ 6 months of age on October 1 and on chronic dialysis ≥ 30 days in a facility at any point between October 1 and March 31 who either (1) received an influenza vaccination; (2) were offered but declined the vaccination; or (3) were determined to have a medical contraindication. The Measure Applications Partnership conditionally supported the use of the ESRD Vaccination—Full-Season Influenza Vaccination measure in the ESRD QIP in its January 2014 Pre-Rulemaking Report because ''influenza vaccination is very important for dialysis patients.'' Nevertheless, the Measure Applications Partnership declined to give the measure full support because it was not sure that the measure was more suitable to drive improvement than NQF #0226: ''Influenza Immunization in the ESRD Population (Facility Level)''. We have reviewed the measure specifications for NQF #0226 and determined that it is not appropriate to use as the basis for a reporting measure because the denominator statement of NQF #0226 excludes all patients for whom data during the flu season is incomplete, potentially excluding patients who died from influenza, but might not have died if they had received an influenza vaccination. We therefore believe it is more appropriate to adopt a reporting measure based on the ESRD Vaccination—Full-Season Influenza Vaccination measure (Measure Applications Partnership #XDEFM) because this measure includes patients who died from influenza, but might not have died if they had received an influenza vaccination, and we believe it is important to include such patients in an influenza immunization clinical measure for the ESRD QIP, should we propose to adopt such a measure in the future.

For these reasons, we are proposing to adopt a reporting measure based on ''ESRD Vaccination—Full-Season Influenza Vaccination'' (''Full-Season Influenza Vaccination reporting measure'') so that we can collect data that we can use in the future to calculate both achievement and improvement scores, should we propose to adopt a clinical version of this measure in future rulemaking.

Section 1881(h)(2)(B)(ii) of the Act states that ''In the case of a specified area or medical topic determined appropriate by the Secretary for which a feasible and practical measure has not been endorsed by the entity with a contract under section 1890(a) of the Act [in this case NQF], the Secretary may specify a measure that is not so endorsed as long as due consideration is given to measures that have been endorsed or adopted by a consensus organization identified by the Secretary.'' Because we have given due consideration to endorsed measures, as well as those adopted by a consensus organization, and determined it is not practical or feasible to adopt those measures in the ESRD QIP, we are proposing to adopt the Full-Season Influenza Vaccination reporting measure under the authority of section 1881(h)(2)(B)(ii) of the Act.

For PY 2019 and future payment years, we propose that facilities must report one of the following conditions in CROWNWeb once per performance period, for each qualifying patient (defined below):

1. If the patient received an influenza vaccination:
   a. Influenza Vaccination Date
   b. Where Influenza Vaccination Received: (1) Documented at facility; (2) Documented outside facility; or (3) Patient self-reported outside facility
2. If the patient did not receive an influenza vaccination:
   a. Reason:
   i. Already vaccinated this flu season
   ii. Medical Reason: Allergic or adverse reaction
   iii. Other medical reason
   iv. Declined
   v. Other reason

We note that while facilities are expected to retain patient influenza immunization documentation for their own records, facilities are not required to supply this documentation to CMS under the Full-Season Influenza Vaccination reporting measure.

For this measure, a qualifying patient would be defined as a patient aged six months or older as of October 1 who has been on chronic dialysis for 30 or more days in a facility at any point between October 1 and March 31. This measure would include in-center hemodialysis, peritoneal dialysis, and home dialysis patients. This proposed measure would capture the same data described in ''ESRD Vaccination—Full-Season Influenza Vaccination'', but we would require that facilities report the data on or before May 15 following the performance period for that year. We believe this reporting deadline will ensure that facilities have sufficient time to collect and enter data for all qualifying patients following the influenza season, and aligns this

[5] Centers for Disease Control and Prevention (CDC). Estimates of Deaths Associated with Seasonal Influenza—United States, 1976–2007. *MMWR* (2010) 59:33. Available at: *http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5933a1.htm.*

[6] Centers for Disease Control and Prevention (CDC). Prevention and Control of Influenza with Vaccines: Recommendations of the Advisory Committee on Immunization Practices (ACIP). *MMWR*2010a;59(RR–8):1–62.

[7] Bond TC, Spaulding AC, Krisher J, et al. Mortality of dialysis patients according to influenza and pneumococcal vaccination status. Am J Kidney Dis. 2012;60:959–65; Gilbertson DT, Unruh M, McBean AM, et al. Influenza vaccine delivery and effectiveness in end-stage renal disease. Kidney Int. 2003;63:738–43.

[8] *http://www.healthypeople.gov/2020/topics-objectives/topic/immunization-and-infectious-diseases/objectives* (Healthy People 2020 IID–12.11 and IID–12.12).

[9] US Renal Data System, USRDS 2014 Annual Data Report: An overview of the epidemiology of kidney disease in the United States. National Institutes of Health, National Institute of Diabetes and Digestive and Kidney Diseases, Bethesda, MD, 2014.

reporting effort with that of the NHSN Healthcare Personnel Influenza Vaccination reporting measure finalized in the CY 2015 ESRD PPS final rule for PY 2018 (79 FR 66206 through 66208). Second, we are proposing to score facilities based on whether they successfully report the data, and not based on the measure results. Technical specifications for the Full-Season Influenza Vaccination reporting measure can be found at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/ESRDQIP/061_TechnicalSpecifications.html.*

We seek comments on this proposal.

3. Proposed Performance Period for the PY 2019 ESRD QIP

Section 1881(h)(4)(D) of the Act requires the Secretary to establish the performance period with respect to a payment year, and that the performance period occur prior to the beginning of such year. We are proposing to establish CY 2017 as the performance period for the PY 2019 ESRD QIP for all but the influenza vaccination measures because it is consistent with the performance period we have historically used for these measures and accounts for seasonal variations that might affect a facility's measure score. We are proposing that the performance period for both the NHSN Healthcare Personnel Influenza Vaccination reporting measure and the proposed Full-Season Influenza Vaccination reporting measure will be from October 1, 2016 through March 31, 2017, because this period spans the length of the 2016–2017 influenza season.

We seek comments on these proposals.

4. Proposed Performance Standards, Achievement Thresholds, and Benchmarks for the PY 2019 ESRD QIP

Section 1881(h)(4)(A) of the Act provides that ''the Secretary shall establish performance standards with respect to measures selected . . . for a performance period with respect to a year.'' Section 1881(h)(4)(B) of the Act further provides that the ''performance standards . . . shall include levels of achievement and improvement, as determined appropriate by the Secretary.'' We use the performance standards to establish the minimum score a facility must achieve to avoid a Medicare payment reduction. We use achievement thresholds and benchmarks to calculate scores on the clinical measures.

a. Proposed Performance Standards, Achievement Thresholds, and Benchmarks for the Clinical Measures in the PY 2019 ESRD QIP

For the same reasons stated in the CY 2013 ESRD PPS final rule (77 FR 67500 through 76502), we are proposing for PY 2019 to set the performance standards, achievement thresholds, and benchmarks for the clinical measures at the 50th, 15th, and 90th percentile, respectively, of national performance in CY 2015, because this will give us enough time to calculate and assign numerical values to the proposed performance standards for the PY 2019 program prior to the beginning of the performance period. We continue to believe these standards will provide an incentive for facilities to continuously improve their performance, while not reducing incentives to facilities that score at or above the national performance rate for the clinical measures.

We seek comments on these proposals.

b. Estimated Performance Standards, Achievement Thresholds, and Benchmarks for the Clinical Measures Proposed for the PY 2019 ESRD QIP

At this time, we do not have the necessary data to assign numerical values to the proposed performance standards for the clinical measures, because we do not yet have data from CY 2015 or the first portion of CY 2016. We will publish values for the clinical measures, using data from CY 2015 and the first portion of CY 2016, in the CY 2017 ESRD PPS final rule.

c. Proposed Performance Standards for the PY 2019 Reporting Measures

In the CY 2014 ESRD PPS Final Rule, we finalized performance standards for the Anemia Management and Mineral Metabolism reporting measures (78 FR 72213). In the CY 2015 ESRD PPS Final Rule, we finalized our proposal to modify the measure specifications for the Mineral Metabolism reporting measure to allow facilities to report either serum phosphorus data or plasma phosphorus data for the Mineral Metabolism reporting measure (79 FR 66191). We are not proposing any changes to these policies for the PY 2019 ESRD QIP.

In the CY 2015 ESRD PPS Final Rule, we finalized performance standards for the Screening for Clinical Depression and Follow-Up, Pain Assessment and Follow-Up, and NHSN Healthcare Provider Influenza Vaccination reporting measures (79 FR 66209). We are not proposing any changes to these policies.

For the Ultrafiltration Rate reporting measure, we propose to set the performance standard as successfully reporting an ultrafiltration rate for each qualifying patient in CROWNWeb on a monthly basis, for each month of the reporting period.

For the Full-Season Influenza Vaccination reporting measure, we propose to set the performance standard as successfully reporting one of the above-listed vaccination statuses for each qualifying patient in CROWNWeb on or before May 15th of the performance period.

We seek comments on these proposals.

5. Proposal for Scoring the PY 2019 ESRD QIP

a. Scoring Facility Performance on Clinical Measures Based on Achievement

In the CY 2014 ESRD PPS Final Rule, we finalized a policy for scoring performance on clinical measures based on achievement (78 FR 72215). Under this methodology, facilities receive points along an achievement range based on their performance during the performance period for each measure, which we define as a scale between the achievement threshold and the benchmark. In determining a facility's achievement score for each clinical measure under the PY 2019 ESRD QIP, we propose to continue using this methodology for all clinical measures except the ICH CAHPS clinical measure. The facility's achievement score would be calculated by comparing its performance on the measure during CY 2017 (the proposed performance period) to the achievement threshold and benchmark (the 15th and 90th percentiles of national performance on the measure in CY 2015).

We seek comment on this proposal.

b. Scoring Facility Performance on Clinical Measures Based on Improvement

In the CY 2014 ESRD PPS Final Rule, we finalized a policy for scoring performance on clinical measures based on improvement (78 FR 72215 through 72216). In determining a facility's improvement score for each measure under the PY 2019 ESRD QIP, we propose to continue using this methodology for all clinical measures except the ICH CAHPS clinical measure. Under this methodology, facilities receive points along an improvement range, defined as a scale running between the improvement threshold and the benchmark. We propose to define the improvement threshold as the

facility's performance on the measure during CY 2016. The facility's improvement score would be calculated by comparing its performance on the measure during CY 2017 (the proposed performance period) to the improvement threshold and benchmark.

We seek comment on this proposal.

c. Scoring the ICH CAHPS Clinical Measure

In the CY 2015 ESRD PPS final rule, we finalized a policy for scoring performance on the ICH CAHPS clinical measure based on both achievement and improvement (79 FR 66209 through 66210). Under this methodology, facilities will receive an achievement score and an improvement score for each of the three composite measures and three global ratings in the ICH CAHPS survey instrument. A facility's ICH CAHPS score will be based on the higher of the facility's achievement or improvement score for each of the composite measures and global ratings, and the resulting scores on each of the composite measures and global ratings will be averaged together to yield an overall score on the ICH CAHPS clinical measure. For PY 2019, the facility's achievement score would be calculated by comparing where its performance on each of the three composite measures and three global ratings during CY 2017 falls relative to the achievement threshold and benchmark for that measure and rating based on CY 2015 data. The facility's improvement score would be calculated by comparing its performance on each of the three composite measures and three global ratings during CY 2017 to its performance rates on these items during CY 2016.

We seek comments on this proposal.

d. Proposal for Calculating Facility Performance on Reporting Measures

In the CY 2013 ESRD PPS final rule, we finalized policies for scoring performance on the Anemia Management and Mineral Metabolism reporting measures in the ESRD QIP (77 FR 67506). We are not proposing any changes to these policies for the PY 2019 ESRD QIP.

In the CY 2015 ESRD PPS final rule, we finalized policies for scoring performance on the Clinical Depression Screening and Follow-Up, Pain Assessment and Follow-Up, and NHSN Healthcare Provider Influenza Vaccination reporting measures (79 FR 66210 through 66211). We are not proposing any changes to these policies.

With respect to the Ultrafiltration Rate reporting measure, we are proposing to score facilities with a CCN Open Date before July 1, 2017 using the same formula previously finalized for the Mineral Metabolism and Anemia Management reporting measures (77 FR 67506):

$$\left[\frac{(\#\text{ months successfully reporting data})}{(\#\text{ eligible months})} \times 12\right] - 2$$

As with the Anemia Management and Mineral Metabolism reporting measures, we would round the result of this formula (with half rounded up) to generate a measure score from 0–10.

With respect to the Full-Season Influenza Immunization reporting measure, we are proposing to score facilities with a CCN Open Date before January 1, 2017 based on the proportion of eligible patients for which the facility successfully submits one of the vaccination status indicators listed above by the May 15, 2017 deadline using the following formula:

$$\left[\frac{\left(\begin{array}{c}\text{No. patients for whom facility reports vacc.}\\ \text{status during the performance period}\end{array}\right)}{\left(\begin{array}{c}\text{No. of eligible patients during the performance}\\ \text{period}\end{array}\right)}\right]$$

We seek comments on these proposals.

6. Weighting the Clinical Measure Domain and Total Performance Score

i. Proposal for Weighting the Clinical Measure Domain for PY 2019

In the CY 2015 ESRD PPS final rule, we finalized policies regarding the criteria we would use to assign weights to measures in a facility's Clinical Measure Domain score (79 FR 66214 through 66216). Specifically, we stated that in deciding how to weight measures and measure topics within the Clinical Measure Domain, we would take into consideration: (1) The number of measures and measure topics in a proposed subdomain; (2) how much experience facilities have had with the measures; and (3) how well the measures align with CMS' highest priorities for quality improvement for patients with ESRD.

In the same rule, we finalized the Dialysis Adequacy measure topic and Vascular Access Type measure topic's weights for PY 2018 at 18 percent of a facility's Clinical Measure Domain score because facilities have substantially more experience with the Dialysis Adequacy measure topic as compared to the other measures in the Clinical Care subdomain (79 FR 66214). Beginning in PY 2019, we are proposing to remove the Dialysis Adequacy measure topic and replace it with the Dialysis Adequacy clinical measure. Because this proposed measure is a composite of the measures previously included in the Dialysis Adequacy measure topic, with the same Kt/V thresholds currently used for those measures, we believe that facilities are already familiar with the concepts underlying this proposed measure and that the measure should be weighted at 18 percent of a facility's Clinical Measure Domain score. We are

not proposing any further changes to the weighting for the remaining clinical measures and measure topics within the Clinical Measure Domain because the previously finalized weights are aligned with the criteria used to establish measure and measure topic weights. For these reasons, we propose to use the following weighting system in Table 18 below for calculating a facility's Clinical Measure Domain score beginning in PY 2019.

TABLE 18—PROPOSED CLINICAL MEASURE DOMAIN WEIGHTING FOR THE PY 2019 ESRD QIP

Measures/measure topics by subdomain	Measure weight in the Clinical Measure Domain score (%)
Safety Subdomain	20
NHSN Bloodstream Infection measure	20
Patient and Family Engagement/Care Coordination Subdomain	30
ICH CAHPS measure	20
SRR measure	10
Clinical Care Subdomain	50
STrR measure	7
Dialysis Adequacy measure	18
Vascular Access Type measure topic	18
Hypercalcemia measure	7

We seek comments on this proposal for weighting a facility's Clinical Measure Domain score.

ii. Weighting the Total Performance Score

We continue to believe that while the reporting measures are valuable, the clinical measures evaluate actual patient care and therefore justify a higher combined weight (78 FR 72217). We are therefore not proposing to change our policy, finalized in the CY 2015 ESRD PPS final rule (79 FR 66219), under which clinical measures will be weighted as finalized for the Clinical Domain score, and the Clinical Domain score will comprise 90 percent of a facility's TPS, with the reporting measures weighted equally to form the remaining 10 percent of a facility's TPS. We are also not proposing any changes to the policy that facilities must be eligible to receive a score on at least one reporting measure and at least one clinical measure to be eligible to receive a TPS, or the policy that a facility's TPS will be rounded to the nearest integer, with half of an integer being rounded up.

7. Proposed Minimum Data for Scoring Measures for the PY 2019 ESRD QIP

Our policy is to score facilities on clinical and reporting measures for which they have a minimum number of qualifying patients during the performance period. With the exception of the Standardized Readmission Ratio, Standardized Transfusion Ratio, and ICH CAHPS clinical measures, a facility must treat at least 11 qualifying cases during the performance period in order to be scored on a clinical or reporting measure. A facility must have at least 11 index discharges to be eligible to receive a score on the SRR clinical measure and 10 patient-years at risk to be eligible to receive a score on the STrR clinical measure. In order to receive a score on the ICH CAHPS clinical measure, a facility must have treated at least 30 survey-eligible patients during the eligibility period and receive 30 completed surveys during the performance period. We are not proposing to change these minimum data policies for the measures that we have proposed to continue including in the PY 2019 ESRD QIP measure set.

For the proposed Dialysis Adequacy clinical measure, we propose that facilities with at least 11 qualifying patients will receive a score on the measure. We believe that maintaining a case minimum of 11 for this measure adequately addresses both the privacy and reliability concerns previously discussed in the CY 2013 ESRD PPS final rule (77 FR 67510 through 67512), and aligns with the case minimum policy for the previously finalized clinical process measures.

For the proposed Ultrafiltration Rate and Full-Season Influenza reporting measures, we also propose that facilities with at least 11 qualifying patients will receive a score on the measure. We believe that setting the case minimum at 11 for these reporting measures strikes the appropriate balance between the need to maximize data collection and the need to not unduly burden or penalize small facilities. We further believe that setting the case minimum at 11 is appropriate because this aligns with case minimum policy for the vast majority of the reporting measures in the ESRD QIP.

Under our current policy, we begin counting the number of months for which a facility is open on the first day of the month after the facility's CCN Open Date. Only facilities with a CCN Open Date before July 1, 2017 would be eligible to be scored on the Anemia Management, Mineral Metabolism, Pain Assessment and Follow-Up, Clinical Depression Screening and Follow-Up reporting measures, and only facilities with a CCN Open Date before January 1, 2017 would be eligible to be scored on the NHSN Bloodstream Infection clinical measure, ICH CAHPS clinical measure, and NHSN Healthcare Personnel (HCP) Influenza Vaccination reporting measure. Consistent with our policy regarding the NHSN HCP Influenza Vaccination reporting measure, we propose that facilities with a CCN Open Date after January 1, 2017 would not be eligible to receive a score on the Full-Season Influenza Vaccination reporting measure because these facilities might have difficulty reporting the data by the proposed reporting deadline of May 15, 2017. We further propose that, consistent with our CCN Open Date policy for other reporting measures, facilities with a CCN Open Date after July 1, 2017, would not be eligible to receive a score on the Ultrafiltration Rate reporting measure because of the difficulties these facilities may face in meeting the requirements of this measure due to the short period of time left in the performance period.

We seek comments on these proposals.

Table 19 displays the proposed patient minimum requirements for each of the measures, as well as the proposed CCN Open Dates after which a facility would not be eligible to receive a score on a reporting measure.

TABLE 19—PROPOSED MINIMUM DATA RREQUIREMENTS FOR THE PY 2019 ESRD QIP

Measure	Minimum data requirements	CCN open date	Small facility adjuster
Dialysis Adequacy (Clinical)	11 qualifying patients	N/A	11–25 qualifying patients.
Vascular Access Type: Catheter (Clinical).	11 qualifying patients	N/A	11–25 qualifying patients.
Vascular Access Type: Fistula (Clinical).	11 qualifying patients	N/A	11–25 qualifying patients.
Hypercalcemia (Clinical)	11 qualifying patients	N/A	11–25 qualifying patients.
NHSN Bloodstream Infection (Clinical).	11 qualifying patients	Before January 1, 2017	11–25 qualifying patients.
SRR (Clinical)	11 index discharges	N/A	11–41 index discharges.
STrR (Clinical)	10 patient-years at risk	N/A	10—21 patient-years at risk.
ICH CAHPS (Clinical)	Facilities with 30 or more survey-eligible patients during the calendar year preceding the performance period must submit survey results. Facilities will not receive a score if they do not obtain a total of at least 30 completed surveys during the performance period.	Before January 1, 2017	N/A.
Anemia Management (Reporting)	11 qualifying patients	Before July 1, 2017	N/A.
Mineral Metabolism (Reporting)	11 qualifying patients	Before July 1, 2017	N/A.
Depression Screening and Follow-Up (Reporting).	11 qualifying patients	Before July 1, 2017	N/A.
Pain Assessment and Follow-Up (Reporting).	11 qualifying patients	Before July 1, 2017	N/A.
NHSN HCP Influenza Vaccination (Reporting).	N/A	Before January 1, 2017	N/A.
Ultrafiltration Rate (Reporting)	11 qualifying patients	Before July 1, 2017	N/A.
Full-Season Influenza Vaccination (Reporting).	11 qualifying patients	Before January 1, 2017	N/A.

8. Proposed Payment Reductions for the PY 2019 ESRD QIP

Section 1881(h)(3)(A)(ii) of the Act requires the Secretary to ensure that the application of the scoring methodology results in an appropriate distribution of payment reductions across facilities, such that facilities achieving the lowest TPSs receive the largest payment reductions. We propose that, for the PY 2019 ESRD QIP, a facility will not receive a payment reduction if it achieves a minimum TPS that is equal to or greater than the total of the points it would have received if:

- It performed at the performance standard for each clinical measure; and
- It received the number of points for each reporting measure that corresponds to the 50th percentile of facility performance on each of the PY 2017 reporting measures. We recognize that we are not proposing a policy regarding the inclusion of measures for which we are not able to establish a numerical value for the performance standard through the rulemaking process before the beginning of the performance period in the PY 2019 minimum TPS. We have not proposed such a policy because no measures in the proposed PY 2019 measure set meet this criterion. However, should we choose to adopt a clinical measure in future rulemaking without the baseline data required to calculate a performance standard before the beginning of the performance period, we will propose a criterion accounting for that measure in the minimum TPS for the applicable payment year at that time.

The PY 2017 program is the most recent year for which we will have calculated final measure scores before the beginning of the proposed performance period for PY 2019 (that is, CY 2017). Because we have not yet calculated final measure scores, we are unable to determine the 50th percentile of facility performance on the PY 2017 reporting measures. We will publish that value in the CY 2017 ESRD PPS final rule once we have calculated final measure scores for the PY 2017 program.

Section 1881(h)(3)(A)(ii) of the Act requires that facilities achieving the lowest TPSs receive the largest payment reductions. In the CY 2014 ESRD PPS final rule (78 FR 72223 through 72224), we finalized a payment reduction scale for PY 2016 and future payment years: for every 10 points a facility falls below the minimum TPS, the facility would receive an additional 0.5 percent reduction on its ESRD PPS payments for PY 2016 and future payment years, with a maximum reduction of 2.0 percent. We are not proposing any changes to this policy for the PY 2019 ESRD QIP.

Because we are not yet able to calculate the performance standards for each of the clinical measures, we are also not able to calculate a proposed minimum TPS at this time. We will publish the minimum TPS, based on data from CY 2015 and the first part of CY 2016, in the CY 2017 ESRD PPS final rule.

We seek comments on this proposal.

H. Future Achievement Threshold Policy Under Consideration

Under our current methodology, we set performance standards, achievement thresholds, and benchmarks for the clinical measures at the 50th, 15th, and 90th percentiles, respectively, of national performance on the measure during the baseline period (77 FR 67500 through 67502). As we continue to refine ESRD QIP's policies, we are evaluating different methods of ensuring that facilities strive for continuous improvement in their delivery of care to patients with ESRD. For future rulemaking, we are considering increasing the achievement threshold from the 15th percentile to the 25th percentile of national performance during the baseline period. We believe this increase in the achievement threshold will add additional incentives for facilities to improve performance, thereby improving patient outcomes and

quality of care. We have analyzed the impact of this policy change on facility payment reductions using the same data used to calculate the PY 2018 minimum TPS. The full results of this analysis can be found at *http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/ESRDQIP/061_TechnicalSpecifications.html.*

We invite comment on this policy that we are considering for adoption in the ESRD QIP in the future.

I. Monitoring Access to Dialysis Facilities

In the CY 2015 ESRD PPS final rule, we finalized our commitment to conduct a study to determine the impact of adopting the Standardized Readmission Ratio (SRR) and Standardized Transfusion Ratio clinical measures on access to care, and stated that we would make further details about the study and its methodology available to the public for review (79 FR 66189). We intend to publish the methodology for this study in the second half of the year, and encourage all interested parties to review this methodology and submit any comments using the process outlined on the Web page.

IV. Advancing Health Information Exchange

HHS has a number of initiatives designed to improve health and health care quality through the adoption of health information technology and nationwide health information exchange. As discussed in the August 2013 Statement ''Principles and Strategies for Accelerating Health Information Exchange'' (available at *http://www.healthit.gov/sites/default/files/acceleratinghieprinciples_strategy.pdf*), HHS believes that all individuals, their families, their healthcare and social service providers, and payers should have consistent and timely access to health information in a standardized format that can be securely exchanged between the patient, providers, and others involved in the individual's care. Health IT that facilitates the secure, efficient and effective sharing and use of health-related information when and where it is needed is an important tool for settings across the continuum of care, including ESRD facilities.

The Office of the National Coordinator for Health Information Technology (ONC) has released a document entitled ''Connecting Health and Care for the Nation: A Shared Nationwide Interoperability Roadmap Draft Version 1.0 (draft Roadmap) (available at *http://www.healthit.gov/sites/default/files/nationwide-interoperability-roadmap-draft-version-1.0.pdf*) which describes barriers to interoperability across the current health IT landscape, the desired future state that the industry believes will be necessary to enable a learning health system, and a suggested path for moving from the current state to the desired future state. In the near term, the draft Roadmap focuses on actions that will enable a majority of individuals and providers across the care continuum to send, receive, find and use a common set of electronic clinical information at the nationwide level by the end of 2017. Moreover, the vision described in the draft Roadmap significantly expands the types of electronic health information, information sources and information users well beyond clinical information derived from electronic health records (EHRs). This shared strategy is intended to reflect important actions that both public and private sector stakeholders can take to enable nationwide interoperability of electronic health information such as: (1) Establishing a coordinated governance framework and process for nationwide health IT interoperability; (2) improving technical standards and implementation guidance for sharing and using a common clinical data set; (3) enhancing incentives for sharing electronic health information according to common technical standards, starting with a common clinical data set; and (4) clarifying privacy and security requirements that enable interoperability.

In addition, ONC has released the draft version of the 2015 Interoperability Standards Advisory (available at *http://www.healthit.gov/standards-advisory*), which provides a list of the best available standards and implementation specifications to enable priority health information exchange functions. Providers, payers, and vendors are encouraged to take these ''best available standards'' into account as they implement interoperable health information exchange across the continuum of care.

We encourage stakeholders to utilize health information exchange and certified health IT to effectively and efficiently help providers improve internal care delivery practices, support management of care across the continuum, enable the reporting of electronically specified clinical quality measures, and improve efficiencies and reduce unnecessary costs. As adoption of certified health IT increases and interoperability standards continue to mature, HHS will seek to reinforce standards through relevant policies and programs.

V. Collection of Information Requirements

A. Legislative Requirement for Solicitation of Comments

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval.

In order to fairly evaluate whether an information collection requirement should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

B. Requirements in Regulation Text

In sections II.B.1.d.ii, II.B.1.d.iii, II.B.3, and II.B.4 of this proposed rule, we are proposing changes to regulatory text for the ESRD PPS in CY 2016. However, the changes that are being proposed do not impose any new information collection requirements.

C. Additional Information Collection Requirements

This proposed rule does not impose any new information collection requirements in the regulation text, as specified above. However, this proposed rule does make reference to several associated information collections that are not discussed in the regulation text contained in this document. The following is a discussion of these information collections.

1. ESRD QIP

a. Wage Estimates

In previous rulemaking, we used the mean hourly wage of a registered nurse as the basis of the wage estimates for all collection of information calculations in the ESRD QIP (for example, 77 FR 67521). However, we believe that reporting data for the ESRD QIP measures can be accomplished by other administrative staff within the dialysis facility. The Bureau of Labor Statistiscs (the Bureau) is ''the principal Federal agency responsible for measuring labor market activity, working conditions, and

price changes in the economy.'' [10] Acting as an independent agency, the Bureau provides objective information not only for the government, but also for the public. The Bureau's National Occupational Employment and Wage Estimate describes Medical Records and Health Information Technicians as those responsible for organizing and managing health information data.[11] Therefore, we believe it is reasonable assume these individuals would be tasked with submitting measure data to CROWNWeb rather than a Registered Nurse, whose duties are centered on providing and coordinating care for patients.[12] The mean hourly wage of a Medical Records and Health Information Technician is $18.68 per hour.[13] Under OMB Circular 76–A, in calculating direct labor, agencies should not only include salaries and wages, but also ''other entitlements'' such as fringe benefits.[14] This Circular provides that the civilian position full fringe benefit cost factor is 36.25 percent. Therefore, using these assumptions, we estimate an hourly labor cost of $25.45 as the basis of the wage estimates for all collection of information calculations in the ESRD QIP.

b. Changes in Time Required To Submit Data Based on Proposed Reporting Requirements

In previous rulemaking, we estimated that data entry associated with the ESRD QIP took approximately 5 minutes per data element to complete (for example, 77 FR 67521). However, a large number of facilities now submit data using the batch submission process, which allows facilities to submit data extracted from their internal Electronic Health Records (EHRs) directly to CROWNWeb. Because the batch submission process can be automated with very little human intervention, we believe the overall time required to submit measure data using CROWNWeb is substantially less than previously estimated. We are therefore revising our estimate to be 2.5 minutes per data element submitted, a change of −2.5 minutes, which takes into account the small percentage of data that is manually reported, as well as the human interventions required to modify batch submission files such that they meet CROWNWeb's internal data validation requirements.

c. Data Validation Requirements for the PY 2018 ESRD QIP

Section III.F.4 in this proposed rule outlines our data validation proposals for PY 2018. Specifically, we propose to randomly sample records from 300 facilities as part of our continuing pilot data-validation program. Each sampled facility would be required to produce approximately 10 records, and the sampled facilities will be reimbursed by our validation contractor for the costs associated with copying and mailing the requested records. The burden associated with these validation requirements is the time and effort necessary to submit the requested records to a CMS contractor. We estimate that it will take each facility approximately 2.5 hours to comply with this requirement. If 300 facilities are asked to submit records, we estimate that the total combined annual burden for these facilities will be 750 hours (300 facilities × 2.5 hours). Since we anticipate that Medical Records and Health Information Technicians or similar administrative staff would submit this data, we estimate that the aggregate cost of the CROWNWeb data validation would be $19,088 (750 hours × $25.45/hour) total or $64 ($19,088/300 facilities) per facility in the sample. The burden associated with these requirements is captured in an information collection request currently available for review and comment, OMB control number 0938–NEW.

Under the proposed continuation of the feasibility study for validating data reported to the NHSN Dialysis Event Module, we propose to randomly select nine facilities to provide CMS with a quarterly list of all positive blood cultures drawn from their patients during the quarter, including any positive blood cultures collected on the day of, or the day following, a facility patient's admission to a hospital. A CMS contractor will review the lists to determine if dialysis events for the patients in question were accurately reported to the NHSN Dialysis Event Module. If we determine that additional medical records are needed to validate dialysis events, facilities will be required to provide those records within 60 days of a request for this information. We estimate fewer than ten respondents in a 12-month period; therefore, in accordance with the implementing regulations of the PRA at 44 U.S.C. 3502(3)(A)(i), the burden associated with the aforementioned requirements is exempt.

d. Proposed Ultrafiltration Rate Reporting Measure

We proposed to include, beginning with the PY 2019 ESRD QIP, a reporting measure requiring facilities to report in CROWNWeb an ultrafiltration rate at least once per month for each qualifying patient. We estimate the burden associated with this measure to be the time and effort necessary for facilities to collect and submit the information required for the ultrafiltration rate reporting measure. We estimated that approximately 6,264 facilities will treat 773,737 ESRD patients nationwide in PY 2019. The ultrafiltration rate reporting measure has 12 elements per patient per year, and we estimate it will take facilities approximately 0.042 hours (2.5 minutes) to submit data for each qualifying patient each month. Therefore, the estimated total annual burden associated with reporting this measure in PY 2019 is approximately 389,963 hours (773,737 ESRD patients nationwide × 12 data elements/year × 0.042 hours per element), or 62 hours per facility. We anticipate that Medical Records and Health Information Technicians or similar administrative staff will be responsible for this reporting. We therefore believe the cost for all ESRD facilities to comply with the reporting requirements associated with the ultrafiltration rate reporting measure would be approximately $9,924,558 (389,963 × $25.45/hour), or $1,584 per facility. The burden associated with these requirements is captured in an information collection request currently available for review and comment, OMB control number 0938—NEW.

e. Proposed Full-Season Influenza Vaccination Reporting Measure

We proposed to include, beginning with the PY 2019 ESRD QIP, a measure requiring facilities to report patient influenza vaccination status annually using the CROWNWeb system. We estimate the burden associated with this measure to be the time and effort necessary for facilities to collect and submit the information required for this measure. We estimated that approximately 6,264 facilities will treat 773,737 ESRD patients nationwide in PY 2019. The Full-Season Influenza Vaccination reporting measure has just 1 element per patient per year, and we estimate it will take facilities approximately 0.042 hours, or 2.5 minutes, to submit this data for each patient on an annual basis. Therefore, the estimated total annual burden associated with reporting this measure in PY 2019 is approximately 32,497

[10] *http://www.bls.gov/bls/infohome.htm.*

[11] *http://www.bls/gov/ooh/healthcare/medical-records-and-health-information-technicians.htm.*

[12] *http://www.bls.gov/ooh/healthcare/registered-nurses.htm.*

[13] *http://www,bls.gov/ooh/healthcare/medical-records-and-health-information-technicians.html.*

[14] *http://www.whitehouse.gov/omb/circulars_a076_a76_incl_tech_correction.*

hours (737,773 ESRD patients nationwide × 1 element/year × 0.042 hours/element), or 5 hours per facility. Again, we anticipate that Medical Records and Health Information Technicians or similar administrative staff will be responsible for this reporting. In total, we stated that we believe the cost for all ESRD facilities to comply with the reporting requirements associated with the Full-Season Influenza Vaccination reporting measure would be approximately $827,049 (32,497 hours × $25.45/hour), or $132 per facility. The burden associated with these requirements is captured in an information collection request currently available for review and comment, OMB control number 0938—NEW.

VI. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

VII. Economic Analyses

A. Regulatory Impact Analysis

1. Introduction

We have examined the impacts of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999) and the Congressional Review Act (5 U.S.C. 804(2).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as economically significant); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This rule is not economically significant within the meaning of section 3(f)(1) of the Executive Order, since it does not meet the $100 million threshold. However, OMB has determined that the actions are significant within the meaning of section 3(f)(4) of the Executive Order. Therefore, OMB has reviewed these proposed regulations, and the Departments have provided the following assessment of their impact. We solicit comments on the regulatory impact analysis provided.

2. Statement of Need

This rule proposes a number of routine updates and several policy changes to the ESRD PPS in CY 2016. The proposed routine updates include the CY 2016 wage index values, the wage index budget-neutrality adjustment factor, and outlier payment threshold amounts. Other proposed policy changes include implementation of section 1881(b)(14)(F)(i)(I), as amended by section 217(b)(2) of PAMA, which requires a 1.25 percent decrease to the payment update as discussed in section II.B.2.a.iv of this rule, the delay in payment for oral-only drugs under the ESRD PPS until January 1, 2025 as required by section 204 of ABLE, the implementation of a geographic facility adjustment paid to rural facilities, and the updated payment multipliers based upon the regression analysis discussed in section II.B.1 of this proposed rule. Failure to publish this proposed rule would result in ESRD facilities not receiving appropriate payments in CY 2016.

This rule proposes to implement requirements for the ESRD QIP, including a proposal to adopt a measure set for the PY 2019 program, as directed by section 1881(h) of the Act. Failure to propose requirements for the PY 2019 ESRD QIP would prevent continuation of the ESRD QIP beyond PY 2018. In addition, proposing requirements for the PY 2019 ESRD QIP provides facilities with more time to review and fully understand new measures before their implementation in the ESRD QIP.

3. Overall Impact

We estimate that the proposed revisions to the ESRD PPS will result in an increase of approximately $20 million in payments to ESRD facilities in CY 2016, which includes the amount associated with updates to outlier threshold amounts, updates to the wage index, changes in the CBSA delineations, changes in the labor-related share, and changes involved with the refinement.

For PY 2018, we anticipate that the new burdens associated with the collection of information requirements will be approximately $19 thousand, totaling an overall impact of approximately $11.8 million as a result of the PY 2018 ESRD QIP.[15] For PY 2019, we estimate that the proposed requirements related to the ESRD QIP will cost approximately $10.7 million dollars, and the payment reductions will result in a total impact of approximately $3.8 million across all facilities, resulting in a total impact from the proposed ESRD QIP of approximately $14.6 million.

B. Detailed Economic Analysis

1. CY 2016 End-Stage Renal Disease Prospective Payment System

a. Effects on ESRD Facilities

To understand the impact of the changes affecting payments to different categories of ESRD facilities, it is necessary to compare estimated payments in CY 2015 to estimated payments in CY 2016. To estimate the impact among various types of ESRD facilities, it is imperative that the estimates of payments in CY 2015 and CY 2016 contain similar inputs. Therefore, we simulated payments only for those ESRD facilities for which we are able to calculate both current payments and new payments.

For this proposed rule, we used the December 2014 update of CY 2014 National Claims History file as a basis for Medicare dialysis treatments and payments under the ESRD PPS. We updated the 2014 claims to 2015 and 2016 using various updates. The

[15] We note that the aggregate impact of the PY 2018 ESRD QIP was included in the CY 2015 ESRD PPS final rule (79 FR 66256 through 66258). The previously finalized aggregate impact of $11.8 million reflects the PY 2018 estimated payment reductions and the collection of information requirements for the NHSN Healthcare Personnel Influenza Vaccination reporting measure.

updates to the ESRD PPS base rate are described in section II.B.2 of this proposed rule. Table 20 shows the impact of the estimated CY 2016 ESRD payments compared to estimated payments to ESRD facilities in CY 2015.

TABLE 20—IMPACT OF PROPOSED CHANGES IN PAYMENTS TO ESRD FACILITIES FOR CY 2016 PROPOSED RULE

Facility type	Number of facilities	Number of treatments (in millions)	Effect of 2016 changes in outlier policy (percent)	Effect of 2016 changes in wage indexes, CBSA (per-cent)designations and labor share (percent)	Effect of 2016 changes in payment rate update (percent)	Effect of 2016 pro-posed re-finement changes to payment rate (percent)	Effect of total 2016 proposed changes (refinement and routine updates to the payment rate) (percent)
	A	B	C	D	E	F	G
All Facilities	6,264	40.0	0.1	0.0	0.15	0.0	0.3
Type:							
Freestanding	5,812	37.7	0.1	0.0	0.15	0.0	0.2
Hospital based	452	2.3	0.1	0.1	0.16	0.1	0.5
Ownership Type:							
Large dialysis organization	4,380	28.5	0.1	−0.1	0.15	0.1	0.3
Regional chain	926	6.0	0.1	0.2	0.15	−0.3	0.2
Independent	584	3.6	0.1	0.1	0.15	−0.1	0.2
Hospital based [1]	374	1.9	0.1	0.0	0.16	0.4	0.7
Geographic Location:							
Rural	1,239	5.9	0.1	−1.2	0.15	1.0	0.0
Urban	5,025	34.1	0.1	0.2	0.15	−0.2	0.3
Census Region:							
East North Central	1,036	5.8	0.1	−0.3	0.15	0.2	0.1
East South Central	518	3.0	0.1	−1.2	0.15	0.7	−0.2
Middle Atlantic	680	4.9	0.1	0.9	0.15	−0.3	0.8
Mountain	359	2.0	0.1	−0.1	0.15	−0.1	0.1
New England	182	1.3	0.1	1.1	0.15	−0.6	0.7
Pacific [2]	760	5.6	0.1	1.4	0.15	−0.8	0.8
Puerto Rico and Virgin Islands	47	0.3	0.1	−4.0	0.15	−0.2	−3.9
South Atlantic	1,386	9.3	0.1	−0.4	0.15	0.3	0.2
West North Central	455	2.1	0.1	−0.6	0.15	0.4	0.0
West South Central	841	5.8	0.1	−0.7	0.15	0.2	−0.2
Facility Size:							
Less than 4,000 treatments [3]	1,305	3.5	0.1	−0.3	0.15	0.4	0.3
4,000 to 9,999 treatments	2,239	10.8	0.1	−0.3	0.15	0.1	0.1
10,000 or more treatments	2,514	25.3	0.1	0.2	0.15	−0.1	0.3
Unknown	206	0.3	0.1	0.1	0.15	−0.2	0.1
Percentage of Pediatric Patients:							
Less than 2%	6,156	39.6	0.1	0.0	0.15	0.0	0.3
Between 2% and 19%	42	0.4	0.1	−0.1	0.15	0.4	0.5
Between 20% and 49%	14	0.0	0.1	−0.2	0.15	0.4	0.4
More than 50%	52	0.0	0.1	0.0	0.15	0.5	0.7

[1] Includes hospital-based ESRD facilities not reported to have large dialysis organization or regional chain ownership.
[2] Includes Facilities located in Guam, American Samoa, and the Northern Mariana Islands.
[3] Of the 1,305 Facilities with less than 4,000 treatments, only 385 qualify for the low-volume adjustment. The low-volume adjustment is mandated by Congress, and is not applied to pediatric patients. The impact to these Low volume Facilities is a 7.0 percent increase in payments.
NOTE: Totals do not necessarily equal the sum of rounded parts, as percentages are multiplicative, not additive.

Column A of the impact table indicates the number of ESRD facilities for each impact category and column B indicates the number of dialysis treatments (in millions). The overall effect of the proposed changes to the outlier payment policy described in section II.B.2.c of this proposed rule is shown in column C. For CY 2016, the impact on all ESRD facilities as a result of the changes to the outlier payment policy will be a 0.1 percent increase in estimated payments. Nearly all ESRD facilities are anticipated to experience a positive effect in their estimated CY 2016 payments as a result of the proposed outlier policy changes.

Column D shows the effect of the proposed CY 2016 wage indices, and the final year of the transitions for the implementation of both the new CBSA delineations and the labor-related share. Facilities located in the census region of Puerto Rico and the Virgin Islands would receive a 4.0 percent decrease in estimated payments in CY 2016. Since most of the facilities in this category are located in Puerto Rico, the decrease is primarily due to the change in the labor-related share. The other categories of types of facilities in the impact table show changes in estimated payments ranging from a 1.2 percent decrease to a 1.4 percent increase due to these proposed updates.

Column E shows the effect of the ESRD PPS payment rate update of 0.15 percent, which reflects the proposed ESRDB market basket percentage increase factor for CY 2016 of 2.0 percent, the 1.25 percent reduction as required by the section 1881(b)(14)(F)(i)(I) of the Act, and the MFP adjustment of 0.6 percent.

Column F shows the effect of the ESRD PPS refinement as discussed in section II.B.1. While the overall estimated impact of the refinement is 0.0 percent, the impact by categories ranges from a 0.8 percent decrease to a 1.0 percent increase.

Column G reflects the overall impact (that is, the effects of the proposed outlier policy changes, the proposed wage index, the effect of the change in CBSA delineations, the effect of the change in the labor-related share, the effect of the payment rate update, and the effect of the refinement). We expect that overall ESRD facilities will experience a 0.3 percent increase in estimated payments in 2016. ESRD facilities in Puerto Rico and the Virgin Islands are expected to receive a 3.9 percent decrease in their estimated payments in CY 2016. This larger

decrease is primarily due to the negative impact of the change in the labor-related share. The other categories of types of facilities in the impact table show impacts ranging from a decrease of 0.2 percent to an increase of 0.8 percent in their 2016 estimated payments.

b. Effects on Other Providers

Under the ESRD PPS, Medicare pays ESRD facilities a single bundled payment for renal dialysis services, which may have been separately paid to other providers, (for example, laboratories, durable medical equipment suppliers, and pharmacies) by Medicare prior to the implementation of the ESRD PPS. Therefore, in CY 2016, we estimate that the proposed ESRD PPS will have zero impact on these other providers.

c. Effects on the Medicare Program

We estimate that Medicare spending (total Medicare program payments) for ESRD facilities in CY 2016 will be approximately $8.7 billion. This estimate takes into account a projected increase in fee-for-service Medicare dialysis beneficiary enrollment of 1.5 percent in CY 2016.

d. Effects on Medicare Beneficiaries

Under the ESRD PPS, beneficiaries are responsible for paying 20 percent of the ESRD PPS payment amount. As a result of the projected 0.3 percent overall increase in the proposed ESRD PPS payment amounts in CY 2016, we estimate that there will be an increase in beneficiary co-insurance payments of 0.3 percent in CY 2016, which translates to approximately $10 million.

e. Alternatives Considered

1. CY 2016 ESRD PPS

In section II.B.1.c.i of this proposed rule, we propose updated payment multipliers for five age groups resulting from our regression analysis. In section II.B.2.d.ii, we propose a regression budget-neutrality adjustment to account for the overall effects of the refinement. We are proposing a 4 percent reduction (that is, a factor of 0.959703) to the ESRD PPS base rate to account for the additional dollars paid to facilities through the payment adjustments and indicate that a significant portion of additional impact of the adjusters on the base rate arises from changes in the age adjustments. To mitigate some of the reduction, we considered reducing the number of age categories to three and providing a payment adjustment for only those patients in the youngest (18–44) and oldest (80+) age groups. We did not adopt this approach because while it would reduce the impact of the age adjustments on the base rate, it would also significantly reduce the explanatory power of the system and reduce payments to facilities with patients who are between the ages of 44 through 79, that is, approximately 75 percent of patients.

Also, in section II.B.1.d.ii of this proposed rule, we are proposing to modify the eligibility criteria for the low-volume payment adjustment by excluding facilities of common ownership that are located within 5 road miles from one another. We considered proposing a geographic proximity criterion of 10 road miles; however, this approach negatively impacted rural facilities which are important to ensure access of essential renal dialysis services.

2. End-Stage Renal Disease Quality Incentive Program

a. Effects of the PY 2019 ESRD QIP

The ESRD QIP provisions are intended to prevent possible reductions in the quality of ESRD dialysis facility services provided to beneficiaries as a result of payment changes under the ESRD PPS. The methodology that we are proposing to use to determine a facility's TPS for PY 2019 is described in section III.G.9 of this proposed rule. Any reductions in ESRD PPS payments as a result of a facility's performance under the PY 2019 ESRD QIP would affect the facility's reimbursement rates in CY 2019.

We estimate that, of the total number of dialysis facilities (including those not receiving a TPS), approximately 8 percent or 495 of the facilities would likely receive a payment reduction in PY 2019. Facilities that do not receive a TPS are not eligible for a payment reduction.

In conducting our impact assessment, we have assumed that there will be an initial count of 6,264 dialysis facilities paid under the ESRD PPS. Table 21 shows the overall estimated distribution of payment reductions resulting from the PY 2019 ESRD QIP.

TABLE 21—ESTIMATED DISTRIBUTION OF PY 2019 ESRD QIP PAYMENT REDUCTIONS

Percentage reduction	*Frequency*	*Percent*	*Cumulative frequency*	*Cumulative percent*
0	5509	91.76	5509	91.76
0.5	430	7.16	5939	98.92
1	41	0.68	5980	99.60
1.5	18	0.30	5998	99.90
2	6	0.10	6004	100.00

Note:This table excludes 260 facilities that we estimate will not receive a payment reduction because they will not report enough data to receive a Total Performance Score.

To estimate whether or not a facility would receive a payment reduction in PY 2019, we scored each facility on achievement and improvement on several measures we have previously finalized and for which there were available data from CROWNWeb and Medicare claims. Measures used for the simulation are shown in Table 22.

TABLE 22—DATA USED TO ESTIMATE PY 2019 ESRD QIP PAYMENT REDUCTIONS

Measure	Period of time used to calculate achievement thresholds, performance standards, benchmarks, and improvement thresholds	Performance Period
Vascular Access Type:		
% Fistula	Jan 2013—Dec 2013	Jan 2014—Dec 2014.
% Catheter	Jan 2013—Dec 2013	Jan 2014—Dec 2014.
Dialysis Adequacy	Jan 2013—June 2013	July 2013—Dec 2013.
Hypercalcemia	Jan 2013—Dec 2013	Jan 2014—Dec 2014.

TABLE 22—DATA USED TO ESTIMATE PY 2019 ESRD QIP PAYMENT REDUCTIONS—Continued

Measure	Period of time used to calculate achievement thresholds, performance standards, benchmarks, and improvement thresholds	Performance Period
SRR	Jan 2012– Dec 2012	Jan 2013—Dec 2013.
STrR	Jan 2012– Dec 2012	Jan 2013—Dec 2013.

Clinical measure topic areas with less than 11 cases for a facility were not included in that facility's Total Performance Score. Each facility's Total Performance Score was compared to the estimated minimum Total Performance Score and the payment reduction table found in section III.G.9 of this proposed rule. Facility reporting measure scores were estimated using available data from CY 2014. Facilities were required to have a score on at least one clinical and one reporting measure in order to receive a Total Performance Score.

To estimate the total payment reductions in PY 2019 for each facility resulting from this proposed rule, we multiplied the total Medicare payments to the facility during the one year period between January 2014 and December 2014 by the facility's estimated payment reduction percentage expected under the ESRD QIP, yielding a total payment reduction amount for each facility: (Total ESRD payment in January 2014 through December 2014 times the estimated payment reduction percentage). For PY 2014, the total payment reduction for the 495 facilities estimated to receive a reduction is approximately $3.85 million ($3,859,742). Further, we estimate that the total costs associated with the collection of information requirements for PY 2019 described in section III.C.1 of this proposed rule would be approximately $10.7 million for all ESRD facilities. As a result, we estimate that ESRD facilities will experience an aggregate impact of approximately $14.6 million ($10,751,607 + $3,859,742 = $14,611,249) in PY 2019, as a result of the PY 2019 ESRD QIP.

Table 23 below shows the estimated impact of the finalized ESRD QIP payment reductions to all ESRD facilities for PY 2019. The table estimates the distribution of ESRD facilities by facility size (both among facilities considered to be small entities and by number of treatments per facility), geography (both urban/rural and by region), and by facility type (hospital based/freestanding facilities). Given that the time periods used for these calculations will differ from those we are proposing to use for the PY 2019 ESRD QIP, the actual impact of the PY 2019 ESRD QIP may vary significantly from the values provided here.

TABLE 23—IMPACT OF PROPOSED QIP PAYMENT REDUCTIONS TO ESRD FACILITIES IN PY 2019

	Number of facilities	*Number of treatments 2013 (in millions)*	*Number of facilities with QIP score*	*Number of facilities expected to receive a payment reduction*	*Payment reduction (percent change in total ESRD payments)*
All Facilities	6,264	40.0	6,004	495	−0.04
Facility Type:					
Freestanding	5,812	37.7	5,614	464	−0.04
Hospital-based	452	2.3	390	31	−0.06
Ownership Type:					
Large Dialysis	4,380	28.5	4,259	356	−0.04
Regional Chain	926	6.0	888	55	−0.03
Independent	584	3.6	538	56	−0.07
Hospital-based (non-chain)	374	1.9	319	28	−0.07
Facility Size:					
Large Entities	5,306	34.5	5,147	411	−0.04
Small Entities [1]	958	5.5	857	84	−0.07
Rural Status:					
(1) Yes	1,332	6.5	1,257	66	−0.03
(2) No	4,932	33.5	4,747	429	−0.05
Census Region:					
Northeast	861	6.2	825	50	−0.03
Midwest	1,490	7.9	1,386	112	−0.05
South	2,744	18.1	2,655	243	−0.05
West	1,112	7.5	1,085	77	−0.04
US Territories [2]	57	0.4	53	13	−0.16
Census Division:					
East North Central	1,036	5.8	962	86	−0.05
East South Central	518	3.0	500	48	−0.06
Middle Atlantic	680	4.9	658	43	−0.03
Mountain	359	2.0	348	25	−0.04
New England	182	1.3	167	7	−0.02
Pacific	760	5.6	744	53	−0.04
South Atlantic	1,386	9.3	1,337	143	−0.06
West North Central	455	2.1	424	26	−0.03
West South Central	841	5.8	818	52	−0.03
US Territories [2]	47	0.3	46	12	−0.17
Facility Size (# of total treatments):					
Less than 4,000 treatments	1,305	3.5	1,185	109	−0.07
4,000–9,999 treatments	2,239	10.8	2,211	166	−0.04

TABLE 23—IMPACT OF PROPOSED QIP PAYMENT REDUCTIONS TO ESRD FACILITIES IN PY 2019—Continued

	Number of facilities	*Number of treatments 2013 (in millions)*	*Number of facilities with QIP score*	*Number of facilities expected to receive a payment reduction*	*Payment reduction (percent change in total ESRD payments)*
Over 10,000 treatments	2,514	25.3	2,491	203	−0.04
Unknown	206	0.3	117	17	−0.11

[1] Small Entities include hospital-based and satellite facilities and non-chain facilities based on DFC self-reported status.
[2] Includes Puerto Rico and Virgin Islands.
[3] Based on claims and CROWNWeb data through December 2014.

b. Alternatives Considered

In section III.G.2.c.ii of this proposed rule, we are proposing to adopt the Full-Season Influenza Vaccination reporting measure. Under this proposed measure, data on patient immunization status would be entered into CROWNWeb for each qualifying patient treated at the facility during the performance period. We considered proposing to collect patient immunization data using the CDC's Surveillance for Dialysis Patient Influenza Vaccination module within the NHSN; however, the proposed measure's data sources are administrative claims and ''electronic clinical data'' which the Measure Justification Form explains will be collected via CROWNWeb (MAP #XDEFM). Because the measure specifications reviewed by the Measures Application Partnership do not include NHSN as a data source for this measure, we have decided not to propose to use the NHSN system to collect patient-level influenza vaccination data for this measure at this time.

We ultimately decided to have facilities report data for this measure in CROWNWeb rather than using an alternative data source, for two main reasons. First, the data elements needed for this measure have already been developed in CROWNWeb and will appear in a new release soon. Second, facilities are already familiar with the use and functionality of CROWNWeb because they are using it to report data for other measures in the ESRD QIP, and we believe that familiarity with CROWNWeb will reduce the burden of reporting data for the Full Season Influenza reporting measure.

C. Accounting Statement

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars_a004_a-4*), in Table 24 below, we have prepared an accounting statement showing the classification of the transfers and costs associated with the various provisions of this proposed rule.

TABLE 24—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED TRANSFERS AND COSTS/SAVINGS

ESRD PPS for CY 2016	
Category	Transfers
Annualized Monetized Transfers	$20 million.
From Whom to Whom	Federal government to ESRD providers.
Category	Transfers
Increased Beneficiary Co-insurance Payments	$ 10 million.
From Whom to Whom	Beneficiaries to ESRD providers.
ESRD QIP for PY 2018 [16]	
Category	Transfers
Annualized Monetized Transfers	$ −11.6 million.
Category	Costs
Annualized Monetized ESRD Provider Costs	$19 thousand.
ESRD QIP for PY 2019	
Category	Transfers
Annualized Monetized Transfers	$ −3.8 million.
From Whom to Whom	Federal government to ESRD providers.
Category	Costs
Annualized Monetized ESRD Provider Costs	$10.7 million.

[16] We note that the aggregate impact of the PY 2018 ESRD QIP was included in the CY 2015 ESRD PPS final rule (79 FR 66256 through 66258). The values presented here capture those previously finalized impacts plus the collection of information requirements related for PY 2018 presented in this notice of proposed rulemaking.

VIII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (September 19, 1980, Pub. L. 96–354) (RFA) requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Approximately 15 percent of ESRD dialysis facilities are considered small entities according to the Small Business Administration's (SBA) size standards, which classifies small businesses as those dialysis facilities having total revenues of less than $38.5 million in any 1 year. Individuals and States are not included in the definitions of a small entity. For more information on SBA's size standards, see the Small Business Administration's Web site at *http://www.sba.gov/content/small-business-size-standards* (Kidney Dialysis Centers are listed as 621492 with a size standard of $38.5 million).

We do not believe ESRD facilities are operated by small government entities such as counties or towns with populations of 50,000 or less, and therefore, they are not enumerated or included in this estimated RFA analysis. Individuals and States are not included in the definition of a small entity.

For purposes of the RFA, we estimate that approximately 15 percent of ESRD facilities are small entities as that term is used in the RFA (which includes small businesses, nonprofit organizations, and small governmental jurisdictions). This amount is based on the number of ESRD facilities shown in the ownership category in Table 20. Using the definitions in this ownership category, we consider the 584 facilities that are independent and the 374 facilities that are shown as hospital-based to be small entities. The ESRD facilities that are owned and operated by LDOs and regional chains would have total revenues of more than $38.5 million in any year when the total revenues for all locations are combined for each business (individual LDO or regional chain), and are not, therefore, included as small entities.

For the ESRD PPS updates proposed in this rule, a hospital-based ESRD facility (as defined by ownership type) is estimated to receive a 0.7 percent increase in payments for CY 2016. An independent facility (as defined by ownership type) is also estimated to receive a 0.2 percent increase in payments for CY 2016.

We estimate that of the 495 ESRD facilities expected to receive a payment reduction in the PY 2019 ESRD QIP, 84 are ESRD small entity facilities. We present these findings in Table 21 (''Estimated Distribution of PY 2019 ESRD QIP Payment Reductions'') and Table 23 (''Impact of Proposed QIP Payment Reductions to ESRD Facilities for PY 2019'') above. We estimate that the payment reductions will average approximately $7,797 per facility across the 495 facilities receiving a payment reduction, and $7,509 for each small entity facility. Using our estimates of facility performance, we also estimated the impact of payment reductions on ESRD small entity facilities by comparing the total estimated payment reductions for 958 small entity facilities with the aggregate ESRD payments to all small entity facilities. We estimate that there are a total of 958 small entity facilities, and that the aggregate ESRD PPS payments to these facilities would decrease 0.07 percent in PY 2019.

Therefore, the Secretary has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities. We solicit comment on the RFA analysis provided.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. Any such regulatory impact analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. We do not believe this proposed rule will have a significant impact on operations of a substantial number of small rural hospitals because most dialysis facilities are freestanding. While there are 139 rural hospital-based dialysis facilities, we do not know how many of them are based at hospitals with fewer than 100 beds. However, overall, the 139 rural hospital-based dialysis facilities will experience an estimated 0.1 percent decrease in payments. As a result, this proposed rule is not estimated to have a significant impact on small rural hospitals. Therefore, the Secretary has determined that this proposed rule would not have a significant impact on the operations of a substantial number of small rural hospitals.

IX. Unfunded Mandates Reform Act Analysis

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2015, that is approximately $144 million. This proposed rule does not include any mandates that would impose spending costs on State, local, or Tribal governments in the aggregate, or by the private sector, of $141 million.

X. Federalism Analysis

Executive Order 13132 on Federalism (August 4, 1999) establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this proposed rule under the threshold criteria of Executive Order 13132, Federalism, and have determined that it will not have substantial direct effects on the rights, roles, and responsibilities of States, local or Tribal governments.

XI. Congressional Review Act

This proposed rule is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) and has been transmitted to the Congress and the Comptroller General for review.

In accordance with the provisions of Executive Order 12866, this proposed rule was reviewed by the Office of Management and Budget.

XII. Files Available to the Public via the Internet

The Addenda for the annual ESRD PPS proposed and final rulemakings will no longer appear in the **Federal Register**. Instead, the Addenda will be available only through the Internet and is posted on the CMS Web site at *http://www.cms.gov/ESRDPayment/PAY/list.asp* In addition to the Addenda, limited data set (LDS) files are available for purchase at *http://www.cms.gov/Research-Statistics-Data-and-Systems/Files-for-Order/LimitedDataSets/EndStageRenalDiseaseSystemFile.html.* Readers who experience any problems accessing the Addenda or LDS files, should contact Michelle Cruse at (410) 786–7540.

List of Subjects in 42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR chapter IV as follows:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END–STAGE RENAL DISEASE SERVICES; OPTIONAL PROSPECTIVELY DETERMINED PAYMENT RATES FOR SKILLED NURSING FACILITIES

■ 1. The authority citation for part 413 is revised to read as follows:

Authority: Secs. 1102, 1812(d), 1814(b), 1815, 1833(a), (i), and (n), 1861(v), 1871, 1881, 1883 and 1886 of the Social Security Act (42 U.S.C. 1302, 1395d(d), 1395f(b), 1395g, 1395l(a), (i), and (n), 1395x(v), 1395hh, 1395rr, 1395tt, and 1395ww); and sec. 124 of Pub.L. 106–113 (113 Stat. 1501A–332), sec. 3201 of Pub. L. 112–96 (126 Stat. 156), sec. 632 of Pub. L. 112–240 (126 Stat. 2354), sec. 217 of Pub. L. 113–93, and sec. 204 of Pub. L. 113–295.

■ 2. Section 413.174 is amended by revising paragraph (f)(6) to read as follows:

§ 413.174 Prospective rates for hospital based and independent ESRD facilities.

* * * * *

(f) * * *

(6) Effective January 1, 2025, payment to an ESRD facility for renal dialysis service drugs and biologicals with only an oral form furnished to ESRD patients is incorporated within the prospective payment system rates established by CMS in § 413.230 and separate payment will no longer be provided.

■ 3. Section 413.232 is amended by—

■ A. Revising paragraph (c)(2).

■ B. Removing paragraph (d).

■ C. Redesignating paragraphs (e), (f), (g) and (h) as paragraphs (d), (e), (f) and (g) respectively.

■ D. In newly redesignated paragraph (e), the reference ''paragraph (g)'' is removed and the reference ''paragraph (f)'' is added in its place.

■ E. In newly redesignated paragraph (g) introductory text, the reference ''paragraph (f)'' is removed and the reference ''paragraph (e)'' is added in its place.

■ F. In newly redesignated paragraph (g)(1), the reference ''paragraph (f)'' is removed and the reference ''paragraph (e)'' is added in its place.

The revision reads as follows:

§ 413.232 Low-volume adjustment.

* * * * *

(c) * * *

(2) 5 miles or less from the ESRD facility in question.

* * * * *

■ 4. Add § 413.233 to read as follows:

§ 413.233 Rural facility adjustment.

CMS adjusts the base rate for facilities in rural areas, as defined in § 413.231(b)(2).

■ 5. Add § 413.234 to read as follows:

§ 413.234. Drug designation process.

(a) *Definitions.* For purposes of this section, the following definitions apply:

ESRD PPS functional category. A distinct grouping of drugs or biologicals, as determined by CMS, whose end action effect is the treatment or management of a condition or conditions associated with ESRD.

New injectable or intravenous product. An injectable or intravenous product that is approved by the Food and Drug Administration under section 505 of the Federal Food, Drug, and Cosmetic Act or section 351 of the Public Health Service Act, commercially available, assigned a Healthcare Common Procedure Coding System code, and designated by CMS as a renal dialysis service under § 413.171.

Oral-only drug. A drug or biological with no injectable equivalent or other form of administration other than an oral form.

(b) Effective January 1, 2016, new injectable or intravenous products are included in the ESRD PPS bundled payment using the following drug designation process—

(1) If the new injectable or intravenous product is used to treat or manage a condition for which there is an ESRD PPS functional category, the new injectable or intravenous product is considered included in the ESRD PPS bundled payment and no separate payment is available.

(2) If the new injectable or intravenous product is used to treat or manage a condition for which there is not an ESRD PPS functional category, the new injectable or intravenous product is not considered included in the ESRD PPS bundled payment and the following steps occur:

(i) An existing ESRD PPS functional category is revised or a new ESRD PPS functional category is added for the condition that the new injectable or intravenous product is used to treat or manage;

(ii) The new injectable or intravenous product is paid for using the transitional drug add-on payment adjustment described in paragraph (c) of this section; and

(iii) The new injectable or intravenous product is added to the ESRD PPS bundled payment following payment of the transitional drug add-on payment adjustment.

(c) *Transitional drug add-on payment adjustment.* (1) A new injectable or intravenous product that is not considered included in the ESRD PPS base rate is paid for using a transitional drug add-on payment adjustment, which is based on ASP pricing methodology.

(2) The transitional drug add-on payment adjustment is paid until sufficient claims data for rate setting analysis for the new injectable or intravenous product is available, but not for less than two years.

(3) Following payment of the transitional drug add-on payment adjustment the ESRD PPS base rate will be modified, if appropriate, to account for the new injectable or intravenous product in the ESRD PPS bundled payment.

(d) An oral-only drug is no longer considered oral-only if an injectable or other form of administration of the oral-only drug is approved by the Food and Drug Administration.

■ 6. Section 413.237 is amended by revising paragraph (a)(1)(iv) to read as follows:

§ 413.237 Outliers

(a) * * *

(1) * * *

(iv) Renal dialysis services drugs that were or would have been, prior to January 1, 2011, covered under Medicare Part D, including ESRD-related oral-only drugs effective January 1, 2025.

* * * * *

Dated: June 23, 2015.

Andrew M. Slavitt,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: June 24, 2015.

Sylvia M. Burwell,

Secretary, Department of Health and Human Services.

[FR Doc. 2015–16074 Filed 6–26–15; 04:15 pm]

BILLING CODE 4120–01–P

FEDERAL REGISTER

Vol. 80 Wednesday,

No. 126 July 1, 2015

Part IV

Department of the Interior

Bureau of Indian Affairs

25 CFR Part 83

Federal Acknowledgment of American Indian Tribes; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 83

[156A2100DD/AAKC001030/A0A501010.999900 253G]

RIN 1076–AF18

Federal Acknowledgment of American Indian Tribes

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: This rule revises regulations governing the process and criteria by which the Secretary acknowledges an Indian tribe. The revisions seek to make the process and criteria more transparent, promote consistent implementation, and increase timeliness and efficiency, while maintaining the integrity and substantive rigor of the process. For decades, the current process has been criticized as ''broken'' and in need of reform. Specifically, the process has been criticized as too slow (a petition can take decades to be decided), expensive, burdensome, inefficient, intrusive, less than transparent and unpredictable. This rule reforms the process by, among other things, institutionalizing a phased review that allows for faster decisions; reducing the documentary burden while maintaining the existing rigor of the process; allowing for a hearing on a negative proposed finding to promote transparency and integrity; enhancing notice to tribes and local governments and enhancing transparency by posting all publicly available petition documents on the Department's Web site; establishing the Assistant Secretary's final determination as final for the Department to promote efficiency; and codifying and improving upon past Departmental implementation of standards, where appropriate, to ensure consistency, transparency, predictability and fairness.

DATES: This rule is effective July 31, 2015.

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I. Executive Summary of Rule

This rule updates Part 83 to improve the processing of petitions for Federal acknowledgment of Indian tribes, with an aim of making the process more transparent, promoting fairness and consistent implementation, and increasing timeliness and efficiency, while maintaining the integrity and substantive rigor of the process. Primary revisions to the process would:

- Increase timeliness and efficiency by providing for a two-phased review of petitions that establishes certain criteria as threshold criteria, potentially resulting in the issuance of proposed findings and final determinations earlier in the process and thereby expediting negative decisions (*e.g.,* if a petitioner's membership does not consist of individuals who descend from a historical Indian tribe);
- Increase timeliness and efficiency while maintaining the substantive rigor and integrity of the process by providing a uniform start date of 1900 for criteria

(a) Identification, (b) Community and (c) Political Influence/Authority;

• Promote fairness and consistent implementation by providing that if a prior decision finding evidence or methodology was sufficient to satisfy any particular criterion, the Department will find that evidence or methodology sufficient to satisfy the criterion for a present petitioner;

• Promote transparency by providing that the Office of Federal Acknowledgment (OFA), rather than the Assistant Secretary, will issue the proposed finding (PF);

• Promote fairness, objectivity, transparency and consistent implementation by offering petitioners who receive a negative PF the opportunity for a hearing, in which third parties may intervene, to address their objections to the PF before an administrative law judge (ALJ) who will then provide a recommended decision to the Assistant Secretary;

• Promote transparency by requiring all publicly available documents relating to a petition be posted on the Department's Web site and providing broader notice to local governments;

• Promote fairness, transparency and efficiency by providing that the Assistant Secretary will review the PF and the record, including an ALJ's recommended decision, and issue a final determination that is final for the Department, such that any challenges to the final determination would be pursued in United States District Court rather than in an administrative forum; and

• Promote efficiency by eliminating the process before the Interior Board of Indian Appeals (IBIA) providing for limited reconsideration of final determinations.

This rule clarifies the criteria by codifying past Departmental practice in implementing the criteria. An overriding purpose for codification is to address assertions of arbitrariness and ensure consistency. If methodology or evidence was sufficient to satisfy a particular criterion in a decision for a previous petitioner, such evidence or methodology is sufficient to satisfy the particular criterion for a current petitioner. This clarification ensures that a criterion is not applied in a manner that raises the bar for each subsequent petitioner. Evidence or methodology that was sufficient to satisfy a criterion at any point since 1978 remains sufficient to satisfy the criterion today.

The rule does not substantively change the Part 83 criteria, except in two instances.

• One instance is that the final rule retains the current criterion (a), requiring identification of the petitioner as an Indian entity, but does not limit the evidence in support of this criterion to observations by those external to the petitioner. In other words, the final rule allows the Department to accept any and all evidence, such as the petitioner's own contemporaneous records, as evidence that the petitioner has been an Indian entity since 1900.

• The other instance in which the criteria is changed is in the review of the number of marriages in support of criterion (b) (community)—past Departmental practice has been to count the number of marriages within a petitioner; this rule instead provides that the Department count the number of petitioner members who are married to others in the petitioning group.

The final rule differs from the proposed rule in a number of important respects. First, the final rule does not adopt the proposed evaluation start date for criteria (b) (Community) and (c) (Political Authority) of 1934. *See* the response to comments below. Rather, the final rule starts this evaluation at 1900. The Department does not classify the start date change, from 1789 or the time of first sustained contact to 1900, as a substantive change to the existing criteria because: (1) 1900 is squarely during a particularly difficult Federal policy era for tribes—there were strong forces encouraging allotment of Indian lands and assimilation of Indian people and the federal government discouraged tribes from maintaining community and political authority during that time period; (2) depending on the history of an area, first sustained contact for some petitioners was as late as the mid-1800s; (3) the regulations currently provide for a 1900 start date for criterion (a) and utilization of that start date for over 20 years has demonstrated that the date maintains the rigor of the criteria; (4) records are generally more available beginning in 1900, making the lack thereof more compelling too; and (5) a consistent start date will apply the same documentary burden to every petitioner uniformly across the country. Further, based on its experience in nearly 40 years of implementing the regulations, every group that has proven its existence from 1900 forward has successfully proven its existence prior to that time as well, making 1900 to the present a reliable proxy for all of history but at less expense. Further, in 1994 the Department implemented 1900 as a start date for evaluation of criterion (a) to reduce the documentary burden of this criterion while retaining the requirement for substantially continuous identification as an Indian entity. In other words, the time since 1900 has been shown to be an effective and reliable demonstration for historical times for criterion (a). Starting the evaluation of the community and political authority criteria will promote uniformity for criteria (a), (b) and (c). Relying upon 1900 as the starting year to satisfy the community and political authority criteria will reduce the documentary burden on petitioners and the administrative burden on the Department, and avoid potential problems with locating historical records, all while maintaining the integrity and rigor of the process.

Second, the final rule defines ''historical'' as prior to 1900. Using pre-1900 for the end date of ''historical'' and 1900 for the start date for analysis of community and political influence/authority allows for a rigorous and seamless examination of each petitioner, requiring evidence of descent from a historical Indian tribe that existed prior to 1900 and requiring an evaluation of identification, community, and political influence/authority for more than a century from 1900 to the present. The final rule also retains the current requirement that a criterion be met ''without substantial interruption.'' The final rule does not incorporate the proposed definition of this phrase, instead allowing for the Department's continued interpretation consistent with any past positive finding on a criterion made as part of, or incorporated in, a final agency decision. Consistent with the Department's previous final decisions, documentary gaps longer than 10 years may be justified in certain historical situations and context.

Third, the final rule maintains the current standard of proof as ''reasonable likelihood'' without the proposed incorporation of judicial explanations of the phrase.

Fourth, the final rule does not incorporate the proposal for limited re-petitioning, as explained in the response to comments below.

To encourage conciseness, which improves transparency and facilitates public understanding of our decisions, the revisions provide that the Department will strive to abide by page limits for the proposed finding and final determination. To ensure transparency, the revisions require the Department to make available on the Internet the narrative of the petition, other parts of the petition, comments or materials submitted by third parties to OFA relating to the documented petition, and any letter, proposed finding, recommended decision, and final determination issued by the Department

that the Department is publicly releasing in accordance with Federal law. This rule also comprehensively revises part 83 to comply with plain language standards, using a question-and-answer format.

II. History and Development of the Rule

For many years, the process for acknowledgment of American Indian and Alaska Native tribes has been criticized as broken. Since the establishment of the Part 83 process, multiple Congressional hearings have been held to address its failings. Some members of Congress, such as Chairman John Barrasso of the Senate Committee on Indian Affairs, have stated that the process simply takes too long. S. Hrg. 112–684 (July 12, 2012). Previous Chairs of the Senate Committee on Indian Affairs, such as Byron Dorgan, have raised similar critiques. S. Hrg. 110–189 (September 19, 2007). Congressional leaders in the House have raised other concerns. For example, Congressman Tom Cole has said that the process is ''complex,'' ''controversial,'' and ''frankly, has not worked well.'' H. Hrg. No. 110–47 (October 3, 2007). Chairman Don Young has said that ''reforms to expedite the process and to upgrade the fairness, consistency, and transparency are warranted.'' H. Hrg. No. 110–47 (October 3, 2007). Others have supported the Department's efforts to reform Part 83. For example, Senator Tim Kaine stated he is ''encouraged by BIA's efforts to improve its federal recognition process'' and ''support[s] the Department's efforts to expedite the federal recognition process, add transparency, and provide multiple opportunities for petitioners to engage the Department during the decision-making process.'' September 30, 2014, letter from Senator Tim Kaine to Assistant Secretary—Indian Affairs Kevin K. Washburn.

Members of Congress are joined by others in criticism of the current regulation. A 2001 GAO Report entitled ''Improvements Needed in Tribal Recognition Process'' (Nov. 2001), is an example. The political nature of this work has also drawn scrutiny from the Department's Office of Inspector General (''Allegations Involving Irregularities in the Tribal Recognition Process,'' Report No. 01–I–00329, Feb. 2002).

Despite wide agreement by the public that this process is broken, solutions are not obvious because members of the public have differing perspectives on the exact nature of the problems. Some reforms are as controversial as the broken process. Individual decisions are highly contested. Of the 51 petitions resolved since this process began, only 17 petitions have been approved for acknowledgment and 34 have been denied. Far more tribes have been recognized by Congress during this time period, and Congress unquestionably has the power, in the first instance, to speak for the United States on recognition of groups as Indian tribes.

Some think that the acknowledgment process is strongly related to gaming. The facts do not bear this out. Many of the petitioning groups came forward a long time ago. As the late Senator Daniel K. Inouye observed, if gaming were the driving force, ''we would have to attribute to many of the petitioning tribal groups a clairvoyance that they knew that one day in the distant future there was going to be a Supreme Court decision and thereafter the Congress was going to enact a law authorizing and regulating the conduct of gaming. . . .'' S. Hrg 109–91 at 3. Of the 17 tribes that have been recognized since this process began 37 years ago, only 11 have obtained land in trust, a process regulated by an additional, separate set of regulations (25 CFR part 151), and only 9 of these currently engage in Indian gaming. Of course, Congress has enacted a detailed law establishing whether trust land is eligible for gaming. It is set forth in the Indian Gaming Regulatory Act of 1988 (IGRA) and the Department has promulgated separate regulations implementing IGRA (25 CFR part 292). For those 9 tribes that successfully navigated acknowledgment and obtained land in trust, it took, on average, nearly 10 years after acknowledgment to engage in Indian gaming.

The Department sought wide input in reforming Part 83 and used extraordinary process. It formed an internal workgroup in 2009 to reform the process through rulemaking. At a hearing before the House Subcommittee on Indian and Alaska Native Affairs in March of 2013, the Department explained the process it would follow in pursuing reform and set forth goals. After publicly identifying goals of reform of the regulations, the Department distributed a ''Discussion Draft'' of revisions to Part 83 in June 2013. In July and August 2013, the Department hosted five consultation sessions with federally recognized Indian tribes and five public meetings at various locations across the country. The Department received approximately 350 written comment submissions on the Discussion Draft, which were made available on its Web site with the transcripts of each consultation and public meeting. After considering all written comments as well as comments received at consultation sessions and public meetings, the Department developed and published a proposed rule. *See* 79 FR 30766 (May 29, 2014).

III. Comments on the Proposed Rule and the Department's Responses

The proposed rule was published on May 29, 2014. *See* 79 FR 30766. In response to requests, the Department then extended the initial comment deadline of August 1, 2014, to September 30, 2014. *See* 79 FR 44149. Throughout July 2014, the Department held public meetings and separate consultation sessions with federally recognized Indian tribes at regional locations across the country. In response to requests for additional meetings and consultations, the Department added two teleconference consultation sessions for federally recognized Indian tribes and two teleconference sessions for the public, which were held in August 2014. During the public comment period, the Department received over 330 written comment submissions plus several form letters, one of which included hundreds of signatories.

Federally recognized tribes from across the country weighed in on the proposed rule. Tribes such as the Crow Nation, the Stockbridge-Munsee Band of Mohican Indians, the Seminole Tribe of Florida, the San Juan Southern Paiute Tribe, the Mashantucket Pequot Tribal Nation, and the Mashpee Wampanoag Tribe expressed support for the proposed rule. Other tribes such as the Eastern Band of Cherokee, the Confederated Tribes of the Grand Ronde Community of Oregon, the Muckleshoot Indian Tribe, and the Temecula Band of Luiseno Mission Indians expressed opposition to and concerns with certain proposed changes.

State and local governments also commented on the proposed rule. States such as Connecticut and numerous counties and local governments, such as Sonoma County in California, strongly opposed the proposed rule. In contrast, Governor Bullock of Montana strongly supported the proposed rule.

The Department reviewed each of the comments received and has made several changes to the proposed rule in response to these comments. The following is a summary of comments received and the Department's responses.

A. Criteria

1. Criteria, Generally

The criteria in the proposed and final rule are set out at § 83.11. Many

commenters stated that the proposed rule would ''weaken'' the criteria. These commenters stated that the criteria would be weakened by: Allowing for a presumption of continuous existence from 1789/first sustained contact to 1934; weakening listed items of evidence and adding new, potentially invalid forms of evidence; increasing allowable gaps in evidence; and deleting the requirement for external identifications. Further, these commenters asserted that the changes would: Exceed the Department's authority; be inconsistent with longstanding precedent; redefine tribes as racial, rather than political, entities; allow appropriation of tribes' identities; violate the trust responsibility; and fail to meet the stated goals for efficiency or transparency.

Commenters also specifically argued for and against reliance on different types of evidence, including: The California Indian judgment rolls; oral history; and recognition by courts under criteria derived from *Montoya* v. *United States,* 180 U.S. 261 (1900). Some requested the addition of language that evaluation of the criteria will be based on the totality of the circumstances and evidence and/or consideration of specific circumstances. Some commented that while the basic criteria have not changed, the criteria are continually being reinterpreted in a way that makes them more onerous. Other commenters described the impacts to localities and others of weakening the criteria and argued that the ''broken'' parts of the acknowledgment process could be fixed through better staffing and clearer guidelines, rather than changing the criteria.

Response: In light of comments expressing concern that the proposed rule would weaken the criteria, the final rule minimizes changes to the criteria, as described below. Instead, and in light of comments about the increasingly burdensome application of the criteria, it works to ensure consistent application across time. Given that the criteria have remained substantively unchanged since 1978, the amount and type of evidence that was sufficient to satisfy a particular criterion in 1980 remains sufficient today. Our review of the Department's prior decisions confirms that, as a matter of both logic and fairness, evidence that has supported positive findings as to particular criteria in the past should support similar findings for present petitioners. Any other petitioning group that meets the same rigorous criteria should be recognized. Petitioning groups ought not face criteria that are interpreted more narrowly.

The proposed rule would have provided that the Department will apply the criteria ''consistently with threshold standards utilized to acknowledge other tribes under this part.'' The final rule at § 83.10(a)(4) adopts a modified version of this provision, to better ensure consistency with precedent, which expressly provides that if there is a prior decision finding that evidence or methodology was sufficient to satisfy any particular criterion in a previous petition, the Department will find that evidence or methodology sufficient to satisfy the criterion for a present petitioner. In other words, a petitioner today satisfies the standards of evidence or baseline requirements of a criterion if that type or amount of evidence was sufficient in a previous decision. These prior decisions on criteria provide examples of how a criterion may be met. Even decisions finding a criterion was met in a final determination that was, on the whole, negative, provide examples of how a criterion can be met. Decisions finding a criterion was met in positive final determinations are especially compelling, however (*see* decisions such as those issued for the Grand Traverse Band of Ottawa and Chippewa Indians, the Jamestown S'Klallam Tribe, the Tunica-Biloxi Indian Tribe, the Death Valley Timbi-sha Shoshone Tribe, the Poarch Band of Creeks, the San Juan Southern Paiute Tribe of Arizona, Mohegan Indian Tribe, the Jena Band of Choctaw Indians, etc.). For example, evidence and methodology found sufficient by the Department to satisfy criterion (e) for tribes such as the Poarch Band of Creeks or Death Valley Timbi-sha Shoshone Tribe is sufficient under these final regulations for any subsequent petitioner. To be sure, some successful petitioners have provided more evidence to satisfy a particular criterion than other successful petitioners. However, the fact that a successful petitioner may have vastly exceeded a baseline threshold of a particular criterion does not raise the bar for subsequent petitioners. Section 83.10(a)(4) ensures that the basic criteria are not reinterpreted to apply any more onerously than they have been applied to a previous petitioner that has satisfied that criterion.

Obviously, if there is significant actual countervailing evidence with regard to a petition that was not present in a previous positive determination on a criterion, the Department may consider whether the prior positive decision provides an appropriate precedent. Thus, for example, evidence or methodology that seems similar to that applied in a prior positive determination on a criterion may be evaluated differently in light of substantial countervailing evidence showing significantly different historical facts and circumstances. However, such affirmative significant countervailing evidence does not necessarily preclude a positive determination. It remains the Department's responsibility to consider such evidence and provide an explanation of the significant countervailing evidence when deciding whether a criterion has been satisfied. Absent significant affirmative countervailing evidence, if the evidence or methodology was deemed sufficient in a previous positive decision on a criterion, it will be deemed sufficient for all current and future petitioners for that criterion.

The final rule generally does not change how different types of evidence are evaluated or weighed, but does add certain categories of evidence. In one instance (criterion (a)), a new category of evidence is allowed to address issues of fairness. In other instances, categories of evidence are added to clarify the Department's past practice in accepting such evidence (*e.g.,* Indian educational institutions may be evidence of the Community criterion; land set aside by a State for the petitioner or collective ancestors of the petitioner that was actively used by the community may be evidence of Community or Political Influence/Authority criteria; and historian and anthropologist records as evidence of the Descent criterion). These do not reflect substantive changes in the criteria and includes evidentiary categories that might have been considered previously; this change is simply meant to be explicit about the value and relevance of certain evidence. The final rule does not incorporate language regarding the totality of the circumstances and evidence because the rule already provides the parameters within which the Department will evaluate the criteria. *See* § 83.10(b) (providing that the Department will apply the criteria in context with the history, regional differences, culture, and social organization of the petitioner, etc.). The proposed rule would have provided that the Department will apply the criteria ''consistently with threshold standards utilized to acknowledge other tribes under this part.'' The final rule adopts a modified version of this provision, to better ensure consistency with precedent, which states that if there is a prior decision finding evidence or methodology to be sufficient to satisfy any particular criterion previously, the Department

shall find it sufficient to satisfy the criterion for a present petitioner.

2. Criterion (a)

a. Proposed Elimination of Current ''Criterion (a)'' and Requirement for External Observer as an Independent Criterion

The existing criterion (a) required that external observers identify the petitioner as an Indian entity; the proposed rule would have eliminated this requirement for evidence of external observations. Many who commented supported the proposed elimination of this requirement as an independent criterion because outside assessments of Indian tribes may be based on folk beliefs about ''Indianness.'' Moreover, it has been said to be unfair to rely on external identification because tribal groups were sometimes forced into hiding to avoid persecution by outside groups. Commenters noted that external identifications have been inaccurate in the past, as shown by the fact that outsiders have denied or mischaracterized the Indian entity of many currently federally recognized tribes. Some commenters pointed out that, because no petitioner has been denied solely on this criterion, it is of limited value and yet has consumed considerable petitioner and Department time and resources. Several other commenters opposed eliminating this criterion, stating that any petitioner that truly qualifies as a tribe should be able to prove external identifications, and that tribal existence should not be based completely on self-assertion and self-identification or on historical material the petitioner developed through its own resources.

Response: The Department agrees with commenters' concerns regarding the unfairness of having an independent requirement for external identifications. The Department also considered other commenters' concerns with eliminating the criterion, which stated that some external evidence is appropriate to avoid a situation where a group relies merely on its own self-assertion that it is, and has been, an Indian tribe. The final rule retains the current criterion (a), requiring identifications on a substantially continuous basis since 1900, with an adjustment to accept identifications by the petitioner in the same manner as we would accept identifications by external sources.

While there may be factors affecting how outsiders view an Indian entity, allowing evidence from the Indian entity itself for a particular time period to demonstrate that the entity identified itself as an Indian entity addresses this concern. With regard to concerns that a petitioner may have mostly, or even only, self-identifications rather than external identifications, the Department does not find these concerns compelling. An entity that descends from a historical tribe and exists continuously as a community with political influence/authority is still a tribe, regardless of whether records of external observers identify the tribe as an Indian entity. But the tribe's continued view of itself as an Indian entity is essential. To the extent the commenters are concerned that a petitioner could recreate past self-identifications, the final criterion (a) requires contemporaneous self-identifications, just as external identifications must be contemporaneous.

The Department believes that it is appropriate to retain the 1900 starting date for requiring evidence of identifications on a substantially continuous basis for the reasons stated in the 1994 rulemaking. *See* 59 FR 9280, 9286 (February 25, 1994). While the requirements of this criterion consume both petitioner and Departmental time, we have determined the final rule strikes a balance, taking into account the comments advocating substantial changes to or elimination of criterion (a) and those comments that advocated no change.

b. Proposed Criterion (a), Requiring Narrative of Pre-1900 Existence

Many commenters requested clarification of the proposed criterion (a) at proposed § 83.11(a), specifically asking for clarification on what evidence would be sufficient; whether the phrase ''generally identified'' indicates external identifications are still required; whether ''a point in time'' means any point in time chosen by petitioner, or chosen by the Department; whether 1900 is a general benchmark or definitive date; and what standard the Department will use to judge this criterion.

Some commenters opposed the proposed criterion (a), stating that it does not meet the requirement for showing continuous political existence during historical times, that the ''slightest connection'' to a historical tribe prior to 1900 and existence of a contemporary tribal organization would be sufficient under this criterion, and that it does not sufficiently guard against a petitioner claiming a recognized tribe's identity and history. These commenters also stated the criterion lends itself to politics-based rather than merits-based decisions. Commenters also objected to requiring a showing of existence at only one point prior to 1900. These commenters found the deletion of the requirement for external identification criteria in favor of a brief narrative showing that the group existed as a tribe at some point ''alarming.''

Response: As discussed above, the Department has decided to retain the current criterion (a), with some adjustments, in lieu of the proposed criterion (a). *See* final § 83.11(a). The comments we received on the proposed criterion (a) expressed concern that the proposed criterion was not specific enough, but we received no suggestions for specifications that would address all commenters' concerns. In attempting to identify revisions that would sufficiently address all commenters' concerns with the proposed criterion (a), the Department determined that the current criterion (a) should be retained with a revision to allow for the petitioner's own records to serve as evidence.

3. Criterion (e)—Descent

a. Requirement for 80 Percent Descent

We received comments both in support of and in opposition to the proposed requirement at proposed § 83.11(e) that petitioners show that at least 80 percent of their membership descends from a historical tribe. Those in support stated that using a quantitative measure is appropriate here because petitioners have lists of their members. Some stated that using 80 percent is appropriate for determining Indian ancestry in general, but not for showing a connection to a specific historical tribe because records that identify historical tribes do not contain censuses of the members. Some commenters, including some federally recognized tribes, strongly opposed any percentage less than 100 percent, and opposed using 80 percent because it could effectively allow for a petitioner with a membership of 20 percent non-Indians. A few commenters stated that the percentage requirement should be less than 80 percent to account for lack of records.

Response: The final criterion (e) remains substantively unchanged from the current criterion (e). While the final rule does not include a percentage, this criterion will continue to be applied consistently with previous decisions. Evidence and methodology sufficient in positive decisions on criterion (e), such as Tunica-Biloxi Indian Tribe, Poarch Band of Creeks, and Death Valley Timbi-sha Shoshone Tribe, will continue to be sufficient to satisfy

criterion (e) under these final regulations. The Department aims to maintain consistency in applying the baseline utilized to satisfy the criteria. The 80 percent threshold was not intended to be a change in policy; it merely attempted to codify this existing Departmental practice. Yet a number of commenters expressed concern both for and against codifying this number, so the rule does not incorporate the 80 percent threshold. Instead, the criterion is satisfied if the petitioner provides evidence and utilizes methodology consistent with any previous positive determination under this criterion.

b. Descent as a Race-Based Criterion

Some commenters stated that criterion (e) should be deleted because it is race-based, while tribal membership is a political classification.

Response: The Department recognizes descent from a political entity (tribe or tribes) as a basis from which evaluations of identification, community, and political influence/authority under criteria (a), (b), and (c) may reveal continuation of that political entity. Evidence sufficient to satisfy (e) is utilized as an approximation of tribal membership before 1900.

c. Defining ''Historical'' To Be Before 1900

Commenters opposed, and others supported, defining ''historical'' to be before 1900. Some requested clarification for the beginning date of the ''historical'' period. Some commenters also requested clarification of ''historical tribe'' to require that the tribe functioned autonomously, and to ensure that a petitioner does not claim the same historical tribe as that claimed by a federally recognized tribe.

Response: The final rule defines ''historical'' to be before 1900, maintaining the same approach as the proposed rule but clarifying that the year 1900 is not included in the ''historical'' period. The final rule does not identify the beginning date for the ''historical'' period, but it necessarily must be some date prior to 1900. The final rule does not identify the beginning date for the historical period to be 1789 or the period of earliest sustained non-Indian settlement and/or governmental presence in the local area, whichever is later, because these beginning dates would not achieve any reduction in the documentary or administrative burden. The term ''autonomous'' has been reinserted in the definitions and political influence/authority criterion to require autonomous functioning since 1900, which is satisfied if evidence is provided consistent with any previous positive finding of this criterion.

d. Evidence in Support of Descent

We received several comments either requesting clarification of the phrase ''most recent evidence'' in proposed criterion (e) or opposing the requirement to rely on the ''most recent evidence'' as limiting the Department's ability to examine or rely on earlier, and more probative, evidence. Commenters also stated concerns with the language stating that rolls prepared by the Secretary or at the direction of Congress ''satisfy'' the criterion. Specifically, these commenters stated that that the proposed rule would not allow the Department to evaluate the reliability of rolls prepared by the Secretary or at the direction of Congress, and pointed out that in some cases, such rolls may be inaccurate or fail to identify tribal affiliation. Commenters also had suggestions for other categories of evidence or requested use of ''best genealogical evidence.'' We received comments both in support of and opposition to using historian and anthropologist conclusions as evidence of descent. Commenters stated their concerns that affidavits are not reliable for ancestry, unless they are contemporaneous records.

Response: The final rule provides for evaluating the most recent evidence prior to 1900. Documents that are erroneous or fraudulent are not evidence and thus will not satisfy this criterion. The final rule also places great weight on applicable tribal Federal rolls prepared at the direction of Congress or by the Department. Based on the Department's expertise, any inaccuracies of such tribal rolls are de minimis. Many federally recognized tribes rely on tribal Federal rolls as base membership rolls and the Department's approach here regarding such rolls for this process is consistent with this tribal practice. While no human endeavor is perfect, tribal rolls created by the Department were often prepared in person by a Departmental representative or team to promote accuracy. The final rule clarifies that the roll must have been prepared for a tribe. In contrast, rolls of the Indians of California for claims payments would not satisfy § 83.11(e)(1) because those rolls were not prepared for specific tribes, but rather descendants from an Indian who lived in the State on June 1, 1852. If Departmental tribal censuses or rolls are not available, the Department will then look to other documents, as needed. For example, the rolls of the Indians of California may be provided as evidence to be evaluated under § 83.11(e)(2). This approach codifies past practice. For example, in acknowledging the Death Valley Timbi-Sha Shoshone Band, the Department relied on Departmental rolls and censuses:

> The Timbi-Sha Shoshone Band provided a total of three rolls and censuses, the current membership list dated March 1978, and 1933 and 1936 censuses prepared by the Bureau of Indian Affairs. . . . Rolls prepared from 1916 through 1940 by the Bishop and Carson agency staffs were also researched, as was the roll prepared pursuant to the Act of September 21, 1968, for the distribution of judgment funds awarded to the Indians of California. All data from these rolls and censuses confirm that virtually all of the members of the group have or can conclusively establish Shoshone Indian ancestry. We conclude, therefore, that the membership of the Death Valley Timbi-Sha Shoshone Band of Indians consists of individuals who have established descendancy from historical Shoshone bands in the Death Valley area which combined and functioned as a single autonomous entity, and that the band has met the criterion in 25 CFR 54.7(e).

Proposed Finding at 6–7. Rather than requiring ''best genealogical evidence,'' which may impose an additional burden on the petitioner, the Department will continue its long standing practice of evaluating evidence under the standards established in this regulation.

Criterion (e) also maintains the use of records created by historians and anthropologists identifying the tribe in historical times or historians' and anthropologists' conclusions drawn from historical records. This approach is consistent with past practice. For example, in Tunica-Biloxi the Department relied on the following historical records to satisfy (e):

> The work of anthropologists in the late 1800's and early 1900's and a list prepared by a representative of the Bureau in the 1930's were used in conjunction with other recorded documents, the 1900 Federal Population census, and testimony from a 1915 civil court suit to establish Indian ancestry in the historical tribes.

Tunica-Biloxi Proposed Finding at 4.

> Five sources were available which identified current tribal members, their relations, and/or ancestors as Indian: Ruth M. Underhill's ''Report on a visit to Indian groups in Louisiana, Oct. 15–25, 1938''(6); James Owen Dorsey's list of ''Biloxis in Raipides Parish, La.'' of 1892 and 1893; the 1900 Federal Population Census; pre-1900 church records submitted as genealogical documentation; and, testimony taken in the Sesostris Youchican v. Texas and Pacific Railway Company court case in 1915.

Tunica Biloxi Genealogical Report at 3. We have also clarified the existing practice that affidavits must be based on first-hand knowledge.

e. Review of Descent

Many commenters suggested tying review of criterion (e) together with the proposed criterion (a), which required a narrative of existence prior to 1900, to provide context for the historical tribe.

Response: Because the final rule retains an amended version of the current criterion (a), rather than the proposed criterion (a), these comments are no longer applicable.

4. 1934 Starting Date for Evaluating Criteria (b) (Community) and (c) (Political Influence/Authority)

The Department may have received more comments on the proposed starting date for evaluating criterion (b) (community) and criterion (c) (political influence/authority), at proposed § 83.11(b) and (c), than any other part of the rule. Several supported the proposed starting date of 1934, including renowned legal scholars, the Seminole Tribe of Florida, tribes that have successfully completed the process, and Senator Tim Kaine. Those opposed to this starting date, such as the Connecticut Congressional delegation and Governor, local governments, and tribes such as the Eastern Band of Cherokee and Muckleshoot Indian Tribe, generally stated that it cannot be assumed that tribes existed continuously from first sustained non-Indian contact or 1789, whichever is later, to 1934. These commenters stated that beginning evaluation in 1934 would significantly weaken the criteria, allow recently formed groups to obtain acknowledgment, and be inconsistent with precedent. They also disagreed with the Department's basis for using 1934, stating that there are several turning points in Indian policy other than passage of the Indian Reorganization Act (IRA) and that the IRA had no effect on a tribe's existence. Several commenters suggested moving the 1934 date to 1900 to be consistent with the definition of ''historical.'' A few commenters advocated for earlier or later dates.

Response: The Department considered the full range of comments from those advocating for no change to those advocating for a date later than 1934. Of course, as a practical matter, it bears noting that under the current regulations 1789 does not uniformly apply to all petitioners. Depending on the location of the petitioner, first sustained contact for some petitioners may be the mid-1800's. Of course, if the Petitioner demonstrates previous unambiguous Federal acknowledgment, the review period for (b) and (c) can be well after 1934. In considering the comments received, a number of dates were suggested for consideration. For example, there are several turning points in Indian policy other than the passage of the IRA. The Department also considered using 1871 (the end of the treaty-making era), 1880 (Special Census of Indians), or 1887 (passage of the General Allotment Act and beginning of the allotment era), as possible starting dates. We summarize below our response to various start dates proposed by commenters during the rulemaking process.

1934

The Department received a number of comments supporting the use of 1934 as set forth in the proposed rule. Legal scholars, a number of federally recognized tribes, and others provided particularly strong comments in support of the Department's use of 1934. In the nearly 40 years that the Department has utilized the Part 83 process, no petitioner has satisfied the seven mandatory criteria after 1934, but failed the criteria prior to 1934. The start date of 1934 is compelling also because groups who satisfy these criteria from 1934 maintained community and political authority for decades and across generations with little external incentive, given that the Part 83 process did not come into existence until 1978. Indeed, in 1998, the House Committee on Resources reported out favorably H.R. 1154, which would have utilized 1934 as a starting date under the criteria. While the bill did not garner the two-thirds votes required to suspend the rules and pass H.R. 1154, bi-partisan leadership on tribal issues voted in support of suspending the rules and passing the bill, including Representatives Young, Pombo, Kildee, and Rahall.

While opposition to a start date of 1934 is based on a perception that a 1934 start date would significantly weaken these two criteria, we note that 1934 is the year the Indian Reorganization Act was passed, which was a turning point in the Federal government's relationship with Indian tribes. However, in determining the appropriate date for (b) and (c), the Department concludes that, to maintain public faith in the Part 83 process, 1934 is not appropriate. Wide opposition to the 1934 date suggests that some people would question the rigor and integrity of the Department's conclusions if the Department required less than a century's review of these two particular criteria.

1900

The Department received a number of comments relating to 1900 as a start date. Some of those that commented advocating for no change did note that earlier time periods were important for review and that if a change were to be made, the Department should begin its review at least since 1900. For example, the Muckleshoot Indian Tribe expressed concern with not evaluating the time period between 1900 and 1925. Similarly, on this point, the Suquamish Tribe stated that ''[t]he position advanced by the Department and implicitly agreed to by Congress is that an applicant must establish proof of a continuous political existence since at least 1900.'' The Rural County Representatives of California, an organization of thirty-four rural counties in California comprising nearly half of the land mass of the state, commented that ''at the very least, the standard should be set at 1900 which is consistent with other thresholds in the rule and requiring evidence that the tribe, at a minimum, pre-dates the Indian Reorganization Act.'' Similarly, the Town of Kent advocated for no change but asserted that ''at a minimum they should be amended to require the petitioning group to demonstrate that it has comprised a distinct community and exercised political authority from historical times to the present. With the definitional change of ''historic'' from ''first sustained contact'' to ''1900'' (see proposed Section 83.1), the burden upon petitioning groups will have already been substantially mitigated and with far less risk that groups who did not maintain tribal existence prior to 1934 will be entitled to recognition as Indian tribes.''

In response to these comments as well as based on the Department's experience in administering the Part 83 regulations, the final rule adopts the date of 1900 as the starting point for criteria (b) and (c). As discussed earlier in this preamble, there are number of factors that support the use of 1900. As explained in the 1994 rulemaking that established a 1900 starting point for criterion (a), use of this date avoids some of the problems with historical records in earlier periods while retaining the requirement for substantially continuous community and political influence/authority. The past 20 years has demonstrated that use of 1900 for criterion (a) has maintained the substantive rigor of the process and using 1900 for (b) and (c) will provide uniformity for these three criteria and to all petitioners regardless of where they are located.

1900 is also squarely during the allotment and assimilation period of federal policy that was particularly difficult for tribal governments. Indeed, leading up to 1900 the United States continued to engage in military conflict with tribes in tragedies such as the Wounded Knee Massacre of 1890 and the 1898 Battle of Sugar Point. Simply put, there was little benefit and some risk to openly functioning as a tribal community and government in 1900. Under this final rule, petitioners will need to provide evidence of community and political authority beginning in 1900. If evidence is not available beginning in 1900, a petitioner may submit evidence that pre-dates 1900.

The Department further notes that Congressional bills, from time to time, have utilized a starting date for evaluation of criteria (b) and (c) to begin in 1900. For example, in 2004 under the leadership of Senate Indian Affairs Committee Chairman Ben Nighthorse Campbell, the Senate Committee on Indian Affairs reported S. 297 favorably out of the Committee. S. 297 provided for a start date of 1900.

1887

While the Department received very few suggestions for 1887, many of the comments asserted that the Department should utilize a starting date when there was widespread discrimination for being a tribe or Indian. The Eastern Band of Cherokee expressed strong opposition to any change from 1789 or time of first non-Indian contact to the present, stating:

> It makes no sense to use the date of passage of the IRA as the starting point for showing continuous tribal existence. Rather, a year pre-dating the enactment of the policy of allotment (1887) and assimilation aimed at destroying tribal governments would be more appropriate.

Eastern Band of Cherokee Nation Comments at 5. Utilization of 1900 as a start date is responsive to this comment. 1900 is within a period of time when federal policy in favor of allotment and assimilation was explicitly aimed at destroying tribal governments.

First Sustained Contact or 1789

The Department considered the comments advocating for no change from a starting date of first sustained non-Indian contact or 1789, but determined that the efficiency gains from shortening the evaluation period, and factors gleaned from the Department's vast expertise and experience in determining whether to acknowledge tribes both prior to and under the Part 83 regulations, merit adjustment of the review period for these two criteria.

Based on public input and expressions of concern, the Department has focused at this time on consistency with other parts of Part 83, reducing the documentary burden, and improving document availability for the new starting date and, as such, the final rule relies on 1900 as a starting point for criteria (b) (community) and (c) (political influence/authority). *See* final § 83.11(b) and (c). It is the Department's intention to preserve the rigor and integrity of the process and the public's trust in the legitimacy of tribes that have successfully navigated the rigorous standards in Part 83. Using 1900 as a starting date will accomplish the goals of consistency and efficiency while preserving substantive rigor by requiring well over a 100-year period of documentation.

5. State Reservations and U.S.-Held Land in Criteria (b) and (c)

The proposed rule stated that a petitioner would satisfy criterion (b) (community) and criterion (c) (political influence/authority) if it maintained a State reservation since 1934 or if the United States held land for the petitioner at any time since 1934. *See* proposed § 83.11(b)(3) and (c)(3). Commenters in support of this provision stated that it is consistent with Felix Cohen's thinking in the mid-1930's that a reservation or Federal land holding is a formalization of collective rights in Indian land and results in cultural continuation of the tribe. Commenters opposed this provision for several reasons. Among them were that the existence of a reservation or Federal-held land is not a proxy for community and political influence/authority. States may establish reservations for reasons unrelated to the tribe's community or political influence/authority (*e.g.,* tourism, parks) and, at most, the fact that land was put aside for the group could be evidence of the group's existence at that point in time only, but is not evidence of the group's continued existence without additional evidence, as the petitioner may not have been active in maintaining the reservation. These commenters further stated that, even where members live on the reserved or set-aside land, that fact does not provide evidence of an organizational structure. Commenters were concerned that under the proposed provisions, descendants of a tribe for which a reservation was established, but which ceased operating as a tribe, could be acknowledged, or that several different petitioners may claim the same reservation. Commenters also asserted that reliance on States' determinations is improper, that Cohen looked to collective rights as reflective of a Federal relationship after already determining that a tribe exists, and that the provision is discriminatory to Connecticut.

A few commenters suggested limiting this provision to when the State agrees the reservation does, in fact, demonstrate community and political authority, or the petitioner demonstrates it has maintained on the reservation rates or patterns of social interaction that exist broadly among members of the entity and shared or cooperative labor or other economic activity among members.

Commenters also requested numerous clarifications, including but not limited to, whether ''collective ancestors'' requires holding land for a group rather than individuals, whether the petitioner must have had authority over the land, and whether public domain and individual allotments are included.

Other commenters requested various items of evidence be added as a third category that would satisfy criteria (b) and (c), including individual allotments, establishment of Indian schools, and participation in treaty negotiations or land and water claims litigation before the Indian Claims Commission.

Response: The final rule does not adopt the approach in the proposed rule that a State reservation held continuously since 1934 or Federal land held for a group at any point after 1934 satisfies (b) and (c). However, tribes with State reservations will most likely have additional evidence of political influence/authority, as well as community. We note that under the regulations, evidence that the group has been treated by the Federal Government as having collective rights in tribal lands (*i.e.,* the United States held land for the benefit of the group) or in funds demonstrates previous Federal acknowledgment. This evidence has been added to the list of evidence supporting previous Federal acknowledgment in final § 83.12(a). However, under no circumstance may a petitioner claim a current federally recognized tribe's reservation as land that the United States set aside for the petitioner. Similarly, for purposes of this section, land set aside by the United States refers to those lands set aside by the Department of the Interior for a group. Any such lands set aside by another federal agency will need to continue to be evaluated on a case-by-case basis to determine whether such set aside demonstrates previous Federal acknowledgment.

The Department has decided that State reservations, unlike federally-held land that demonstrates previous Federal acknowledgment, may generate evidence of community and political influence/authority, but are not determinative for these two criteria. As the late Chairman Inouye explained,

> [s]hould the fact that a State has recognized a tribe for over 200 years be a factor for consideration in the acknowledgment process? I would say definitely yes. How could it be otherwise? Don't most, if not all, of our States want the Federal Government to recognize the official actions of a State Government, when most of our States want the Federal Government to defer to the sovereign decisions and actions of those States over the course of their history? I think the answer to that question would be decidedly in the affirmative.

S. Hrg. 109–91 (2005). There may be a multitude of circumstances in which a State establishes a reservation. Nevertheless, a State reservation may generate documents or evidence used to satisfy the categories of evidence identified in criteria (b) (community) or (c) (political influence/authority). *See* final § 83.11(b)(1)(ix) and (c)(1)(vii).

6. Criterion (b) (Community)

a. Using 30 Percent as a Baseline

The current criterion (b) requires a ''predominant portion of the petitioning group'' to comprise a community. The proposed rule would provide that the petitioner must constitute a community (deleting the phrase ''predominant portion''), and would provide that the petitioner demonstrates the criterion by showing two or more forms of evidence that at least 30 percent of its members constituted a community. *See* proposed § 83.11(b). Several commenters opposed this change, saying that it lowers the requirement for showing a distinct community and defies logic that a group could be a community when 70 percent do not interact. These commenters stated that relying on the voting requirements under the IRA as a basis for choosing the 30 percent figure is misplaced because the IRA was not a measurement of social interaction, and voting occurred after the Department already determined the group was a tribe; these commenters also noted that adoption of the IRA required a majority vote. Some commenters pointed out that no definitive percentage is appropriate because it would require identification of all the members at various times, which may not be possible.

A few commenters supported the proposed change and agreed with the Department's rationale. A few suggested lowering the percentage further to account for historical realities. One suggested eliminating the criterion entirely.

Response: The final rule requires the petitioner to constitute a distinct community, and provides that the petitioner may demonstrate this criterion by showing evidence that a ''significant and meaningful portion'' of its members constituted a community. *See* final § 83.11(b)(1). While the proposed rule included a specific percentage in an attempt to set an objective standard, in reality, the number of members who must constitute a community depends on the historical circumstances faced by the petitioner. In practice, there is a range in which the Department has identified whether the petitioner's members are a distinct community. As described above, those previous determinations serve as precedent. The rule continues to provide that a petitioner demonstrates both distinct community and political influence/authority if the petitioner provides evidence that 50 percent or more of its members satisfy the factors in § 83.11(b)(2).

b. Allowing Sampling for Criterion (b)

Some commenters opposed specifying statistically significant sampling as a method of demonstrating community because it is only one of many methods, could be easily manipulated, and has never before been used for criterion (b). One commenter stated that they appreciate the clarification that the Department may utilize this method in evaluating criterion (b). One commenter recommended multi-sampling for use on populations with over 10,000 members on their current rolls.

Response: There may be circumstances in which sampling is appropriate. For this reason, the final rule retains the proposed allowance for sampling. The final rule adds that the sampling must be ''reliable'' to address concerns that sampling could be easily manipulated; ''reliable'' is intended to reflect that the sample must abide by professional sampling methodologies. *See* final § 83.11(b).

c. Deletion of ''Significant'' in Criterion (b)

A few commenters said the evidentiary requirements for paragraph (b)(1) are weakened because the proposed rule deleted the word ''significant'' which qualified some of the items of evidence listed (*e.g.,* social relationships, marriages, informal social interactions). One commenter supported the removal of the ''significant'' qualifier and further recommended removing the qualifier ''strong'' from § 83.11(b)(1)(v), discussing patterns of discrimination or other social distinctions by non-members. This commenter also commented on the percentages for definitively showing marriage, distinct cultural patterns, etc., and suggested it be made clear that these percentages do not imply that something close to those percentages is needed to establish community absent such a definitive showing.

Response: The Department has determined that it is appropriate to qualify the evidence with the term ''significant'' in these circumstances because the evidence needs to be probative of the criterion. Further, an alternative option, a definitive percentage, would be inappropriate without a baseline membership list for each period in time (which may not be available). Because the introductory paragraph requires a showing that a ''significant and meaningful'' portion of the petitioner's members constituted a distinct community, insertion of the term ''significant'' for each item of evidence listed is not necessary. *See* final § 83.11(b).

d. Marriages/Endogamy as Evidence of Community

Several commenters requested clarification of the provisions allowing for marriages to be considered evidence of community, specifically requesting that the Department count marriages by individual petitioner member rather than by marriage (*e.g.,* if a petitioner has 100 members and 60 marry within the petitioner, that should count as 60 marriages, rather than 30). A few commenters stated that marriages should not be considered.

Response: The Department has, in past practice, counted marriages by marriage, but commenters support the alternative approach—counting by individual petitioner member. Given that scholarship supports either approach, the Department has determined in its final rule to change its approach to specify counting by individual petitioner member, rather than by marriage. The final rule also includes the term ''patterns,'' in addition to the existing term ''rates,'' in reference to marriages and informal social interactions, to capture that the Department's past practice of looking at either rates or patterns as indications of community. *See* final § 83.11(b)(1).

e. Indian Schools as Evidence of Community

Several commenters stated their support of the proposal to include as evidence of community that children of petitioner's members from a geographic area were placed in Indian boarding

schools or other Indian educational institutions. *See* proposed § 83.11(b)(1)(ix). Several commenters opposed this proposal on the basis that: (1) Relying on Indian educational institutions conflicts with past Departmental determinations; (2) attendance of children from a ''geographic area'' is not evidence of a community corresponding to a specific tribe because many children were placed in schools based on blood quantum rather than tribal affiliation and non-Indian children often attended Indian schools. One commenter noted that this provision is essentially a third-party identification of whether someone is a tribal member and, as such, should be deleted.

Some commenters requested clarifications that the rule must require that agency records refer to the community in describing actions to place children in schools or that the school had been established exclusively for education of Indian children from petitioner's community. A few comments advocated allowing as evidence of community any records that show that children from a specifically identified Indian community were sent to public schools with Federal funds. One commenter requested that this item of evidence alone suffice for the purpose of determining criterion (e) (descent).

Response: In response to commenters' concerns that placement in an Indian boarding school or other Indian educational institution may not necessarily reflect a distinct community, the final rule clarifies that the Department relies upon this evidence to the extent that other supporting documentation, pieced together with the school evidence, shows the existence of a community. *See* final § 83.11(b)(1)(ix). This codifies how the Department currently examines school evidence. In the past, the Department has issued decisions relying upon boarding school records as evidence of community because there was corroborating evidence to support that the school records were indicative of a community, while in others, the Department found that boarding school records were not sufficient because there was no corroborating evidence to indicate a community. The Department has concluded that boarding school records can be highly relevant when corroborated by other evidence.

f. Language as Evidence of Community

Several commenters stated that greater evidentiary weight should be given to communities that have maintained their indigenous language in a continuous fashion in proving Indian identity and continuous community.

Response: The Department agrees that language is an important indication of community and is often a binding force in a community. The regulations continue to list ''language'' as evidence of community, and continue to provide that if at least 50 percent of the petitioner's members maintain distinct cultural patterns such as language, the petitioner satisfies criterion (b) (community). No change to the rule is needed in response to this comment. *See* final § 83.11(b)(1)(vii), (2)(iii).

g. Nomenclature as Evidence of Community

Several commenters requested clarification that historical references used to identify the petitioner should not weigh negatively against Indian identity if they racially misidentify, disparage, and/or deprecate the petitioner. Several commenters endorsed the proposed provision recognizing that names or identifications by outside entities may change over time.

Response: The Department does not weigh references negatively against Indian identity if they racially misidentify, disparage, or deprecate the petitioner; rather, the Department may rely upon these references to prove a distinct community. This reflects the way the Department has reviewed historical references identifying petitioners in past decisions.

h. Other Evidence of Community

Under proposed § 83.11(b)(2)(iv), community may be shown by evidence of distinct community social institutions encompassing at least 50 percent of the members. The phrase ''at least 50 percent'' was substituted for the word ''most'' in the current version. Commenters opposed replacing ''most'' with ''at least 50 percent'' as no longer strong enough to demonstrate community by itself without further evidence. Others opposed relying on members residing in a ''geographical area'' as evidence under proposed § 83.11(b)(2)(i) because some currently recognized tribes that are landless could not meet this requirement and such evidence does not account for active armed service members. Some opposed the criterion in general as archaic in light of the assimilation of American Indians since 1830. Some commenters stated that flexibility should be allowed for California tribes, who were identified collectively as ''Mission Indians'' rather than a specific tribe. A few commenters also requested clarifications of ''social relationship,'' and whether enrollment evidence is required for each year. A commenter stated that review of this criterion should account for the history of racial prejudices, which often caused people to self-identify in various ways.

Response: The replacement of ''most of'' with ''at least 50 percent'' is not a significant change to the social institution evidence. The percentage is included for petitioners' guidance as a more definitive threshold than ''most of.'' No change is required in response to comments opposing reliance on members residing in a ''geographical area'' because this evidence is merely one of several items of evidence petitioners may offer; those who do not reside in a geographical area are not penalized. The provision in § 83.10 that the Department will review each petition in context with the history, regional differences, culture, and social organization of the petitioner, addresses the remaining comments on criterion (b).

7. Criterion (c)(Political Influence/Authority)

a. Bilateral Political Relationship

A few commenters requested clarification in the rule that no bilateral political relationship is now required and/or that language from the proposed rule preamble (at 79 FR 30769, stating that political influence or authority does not mean that petitioner's members must have actively participated in the political process or mechanism), be inserted into the rule. Several commenters stated that the requirement for bilateral political relationships should be retained in practice and made explicit in the rule because it has always been a fundamental part of the Department's evaluation of criterion (c), is required by Federal court decisions, and prevents a finding of political influence/authority if petitioners have self-appointed leaders without followers.

Response: The comments revealed different understandings of the meaning of the term ''bilateral political relationship.'' The Department has required, as part of a showing of political influence/authority, that there be some activity between tribal leaders and membership regarding issues that the petitioner's membership considers important. The Department has not required a formal political organization or that a certain percentage of members vote. Indeed, the percentage of citizens who vote in Federal, State, tribal and local elections can be quite small. Accordingly, comments to change the regulations and require ''bilateral

political relationship'' in (c) are not adopted. The petitioner may satisfy (c) with evidence of activity between tribal leaders and membership regarding issues that the petitioner's membership considers important. A petitioner will satisfy (c) in this final rule if it provides similar evidence or methodology as was deemed sufficient by the Department in a previous decision on this criterion. Nor is it necessary to reinsert this phrase into criterion (f) (at § 83.11(f)) because this criterion already requires, where membership is composed principally of members of a federally recognized tribe, that the petitioner function as a separate politically autonomous community under criteria (b) and (c).

b. ''Show a Continuous Line of Entity Leaders and a Means of Selection or Acquiescence by a Majority of the Entity's Members''

The proposed criterion (c) adds to the list of evidence (of which petitioner must provide two or more items), that the petitioner has a ''continuous line of entity leaders and a means of selection or acquiescence by a majority of the entity's members.'' *See* proposed § 83.7(c)(1)(viii). A few commenters opposed this proposed language stating that this requirement is less stringent than the requirement for having leaders and followers interact politically on issues of mutual importance. Commenters were also concerned that if ''continuous'' is interpreted to allow for a 20-year gap in this context, a significant time gap would be allowed for this item of evidence. A few commenters that supported this item of evidence stated that it should reflect that a majority of adult members need to select or acquiesce, as children have no role in the selection.

Response: The Department has determined that no change to this item of evidence is necessary in response to comments, because this item demonstrates political influence/authority only in combination with another item of evidence. The final rule does replace ''majority'' with ''significant number'' because the entity may allow for fewer than a majority of members to select leaders. *See* the discussion in *''Substantially Continuous Basis, Without Substantial Interruption,''* below, regarding allowable evidentiary gaps. The final rule does not specify that ''adult'' members need to select or acquiesce because petitioners may allow for youth participation in some circumstances.

c. Evidence

Some commenters requested adding references to attorney contracts, claims filings and other court cases as evidence of political influence or authority.

Response: The items of evidence listed in criterion (c)(1) are examples, and are not exhaustive. *See* final § 83.11(c)(1)(i)–(viii). Actions by a petitioner's leaders with regard to attorney contracts, claims filings, and other court cases may provide evidence of political influence/authority. The final rule also clarifies that a formal ''government-to-government'' relationship is not required between the federally recognized tribe and petitioner, as long as a ''significant'' relationship is present. *See* final § 83.11(c)(1)(vi).

8. ''Substantially Continuous Basis, Without Substantial Interruption''

The proposed rule would have defined ''substantial interruption'' to mean a gap of 20 years or less, unless a 20-year or longer gap is reasonable given the history and petitioner's circumstances. *See* proposed § 83.10(b)(5). Some commenters pointed out the typographical error, that this should have defined ''without substantial interruption.'' Several commenters supported the proposal because it would add clarity and, when there is evidence before and after such gaps, would add fairness. Two commenters said 20 years is too short, because it is less than one generation and may not account for the affirmative measures taken to eradicate tribes.

Several commenters said 20 years is too long, stating that it is ''patently unreasonable'' to allow 20-year or longer gaps in evidence when the proposed baseline requires only 80 years (evaluating from 1934 forward), as opposed to the 200+ years under the current regulations. Some interpreted the provision to allow acknowledgment of groups who could prove the criteria only in 1954, 1974, 1994, and 2014. These commenters stated that this is a major reduction in the standard, and provides no clarity because it allows for gaps less than or more than 20 years. These commenters also disputed the Department's assertion that this reflects past practice because the current approach rejects a specific time period for an allowable gap.

Some commenters requested more specification as to what level and time period of evidence is necessary before and after the gap (bookends) and a more definitive gap limit, given that the proposed rule allows longer than 20-year gaps in some circumstances. Others requested that the Department examine gaps in the context of the totality of the circumstances on a case-by-case basis. Finally, others such as Connecticut Attorney General George Jepsen commented that evidentiary gaps should continue to be evaluated on a case-by-case basis.

Response: The Department has decided not to change the definition set forth in the previous rule. The previous rule allows some evidentiary gaps because evidentiary material may not be available for certain periods of time, even though a petitioner has continuously existed. Instead, the final rule expressly provides that evidence or methodology that was sufficient to satisfy any particular criterion previously will be sufficient to satisfy the criterion for a present petitioner. Likewise, any gaps in evidence that were allowable to satisfy any particular criterion previously will be allowable to satisfy the criterion for a present petitioner. A petitioner under these rules will satisfy a criterion if that type or amount of evidence was sufficient for a positive decision on that criterion (*see, e.g.,* determination in decisions such as the Grand Traverse Band of Ottawa and Chippewa Indians, the Jamestown S'Klallam Tribe, the Tunica-Biloxi Indian Tribe, the Death Valley Timbi-sha Shoshone Tribe, the Poarch Band of Creeks, the San Juan Southern Paiute Tribe of Arizona, the Jena Band of Choctaws, and the Mohegan Tribe of Indians of Connecticut). Many previous Federal acknowledgment decisions had gaps of evidence and a one-size-fits-all approach will not reflect the unique histories of petitioners and the regions in which they reside. The Department recognizes that there are circumstances in which gaps considerably longer than 10 years may be appropriate. For example, some petitioners may have gaps in documentation of political activity and community in the 1940's and 1950's that are explainable by World War II and the Korean War.

9. Criterion (f) (Unique Membership)

a. Criterion (f), in General

Criterion (f) (at § 83.11(f)) requires that the petitioner's membership be composed principally of persons who are not members of any federally recognized Indian tribe. A few commenters opposed this criterion, stating that it is an imposition into tribal sovereignty by prohibiting dual tribal membership. Commenters noted that tribal memberships may change, and that such changes do not indicate that a tribe ceases to exist (even if ''key members'' of the petitioner leave to join

a federally recognized tribe to obtain services). A commenter suggested renaming this criterion as something other than ''membership'' because it is confusable with criterion (d). Other commenters suggested clarifying whether members must withdraw from the federally recognized tribe, clarifying how this criterion discourages splintering, and clarifying ''principally'' with a percentage.

Response: The Department has not changed Criterion (f)'s substantive requirements from the previous rule. The previous rule does not prohibit dual tribal membership; it requires only that a petitioner's membership not be ''composed principally'' of persons who have dual membership. The Department recognizes that tribal memberships may change, and that such changes do not indicate that a tribe ceases to exist. This criterion is intended to prohibit factions or portions of federally recognized tribes from seeking Federal acknowledgment as a separate tribe, unless they have been a politically autonomous community since 1900 (criteria (b) and (c)). The final rule does not define a percentage for ''composed principally'' because the appropriate percentage may vary depending upon the role the individuals play within the petitioner and recognized tribe. Even if a petitioner is composed principally of members of a federally recognized tribe, the petitioner may meet this criterion—as long as it satisfies criteria (b) and (c) and its members have provided written confirmation of their membership in the petitioner. There is no requirement to withdraw from membership in the federally recognized tribe. The final rule titles this criterion ''unique membership'' in response to the comment that the title ''membership'' causes confusion.

b. Deletion of Previous Rule's Provision Prohibiting Members From Maintaining a ''Bilateral Political Relationship'' With the Federally Recognized Tribe

The previous rule at § 83.11(f) requires that, if petitioner's membership is principally composed of members of a federally recognized tribe, the petitioner must show that ''its members do not maintain a bilateral political relationship with the acknowledged tribe,'' in addition to showing the petitioner is politically autonomous and providing written confirmation of membership in petitioner. The proposed rule deleted the requirement to show that members do not maintain a bilateral political relationship with an acknowledged tribe. Some commenters opposed this change, stating that it could allow the acknowledgment process to become a vehicle to allow for acknowledgment of factions of federally recognized tribes. These commenters requested that the Department correct the rule if criterion (f) is not intended to allow portions of a recognized tribe to separate.

Response: Criterion (f) requires that the petitioner be a separate politically autonomous community since 1900. In the past, the Department has acknowledged a tribe even though its members had census numbers with a federally recognized tribe. Notice of Final Determination That the San Juan Southern Paiute Tribe Exists as an Indian Tribe, 54 FR 51502, 51504 (December 15, 1989) (finding that San Juan Paiute members were not members in the Navajo Nation despite having Navajo census numbers). Indeed, the Department may acknowledge a tribe even though its members has dual citizenship in a federally recognized tribe and maintains a bilateral political relationship with that tribe if the petitioner operates as a separate politically autonomous community on a substantially continuous basis. The disqualification for having a bilateral political relationship in (f) is unnecessary because criterion (f) already requires that the petitioner function as a politically autonomous entity. For this reason, the final rule implements the proposed deletion of bilateral political relationship from criterion (f). *See* final § 83.11(f).

c. Exception for Members of Petitioners Who Filed Prior to 2010

For a petitioner who filed a letter of intent or a documented petition prior to 2010, the proposed rule would not consider as members of a federally recognized tribe, petitioner's members who became members of a federally recognized tribe after filing of the petition. Several commenters supported this proposed new exception. However, nearly all of those who commented on the 2010 cut-off date requested clarification of why the date was chosen or advocated for eliminating the date limitation. *See* proposed § 83.11(f)(2).

Several commenters opposed the exception, stating that it creates the possibility that portions of a recognized tribe could separate and become acknowledged. Some stated that a case-by-case examination is more appropriate than a blanket exception. Others requested specifying that a petitioner's members should sign statements saying they would belong exclusively to the petitioner should the petitioner obtain acknowledgment.

Response: The Department recognizes that there are situations in which petitioners' members have become members of federally recognized tribes to obtain needed services pending the Department's review of a petition. The proposed rule attempted to address this situation by establishing a blanket exception. After reviewing the comments and past petitions, the Department has determined that this exception is not necessary because, if so many of a petitioner's members join a federally recognized tribe that the petitioner is then ''composed principally'' of members of the federally recognized tribe (*i.e.,* the petitioner is ''composed principally'' of members with dual membership), then the petitioner may nevertheless be acknowledged if it meets criterion (f) as just discussed. The proposed additional exception for petitioners who filed prior to 2010 is unnecessary because the existing exception adequately addresses those situations where a petitioner's members join a federally recognized tribe to obtain services. For this reason, the final rule deletes the proposed exception for petitioners who filed prior to 2010, but retains the intent of the proposed exception by permitting petitioners whose members have joined federally recognized tribes to obtain services while their petition is in the queue to still be eligible for acknowledgment. *See* final § 83.11(f).

10. Criterion (g) (Termination)

A few commenters expressed support for the proposed change to criterion (g) (at § 83.11(g)), which would put the burden on the Department to show that a petitioner was terminated or the subject of legislation forbidding the Federal relationship. Commenters stated this is ''obviously an important improvement'' and ''common sense.'' A few commenters objected to the proposed amendment because it reduces the burden on petitioners and is ''not appropriate.'' One commenter stated that there should be a process for groups to respond to the Federal Government's position on termination and for interested parties to weigh in.

Response: In past practice, the Department's legal team reviewed whether the petitioner is subject to legislation that has terminated or forbidden the Federal relationship, regardless of the documentation the petitioner provided in support of this criterion. Additionally, terminating or forbidding the relationship is a Federal action. For these reasons, the Department has determined that it is appropriate to clarify explicitly that the burden is on the Department to show that a petitioner was terminated or forbidden. *See* final § 83.11(g).

Petitioners and interested parties may weigh in on the Federal Government's position on this criterion in response to the PF.

11. Splinter Groups

The proposed rule did not revise provisions addressing ''splinter groups,'' which is a subset of membership that ''separates from the main group.'' *See* proposed § 83.4(a)(2). Many commenters stated that clarification is necessary regarding treatment of splinter groups in light of the proposed allowance for re-petitioning and proposed revisions to criteria. (For example, one commenter speculated that splinter groups each could be recognized without actually demonstrating criteria (b) (community) or (c) (political influence/authority) simply by pointing to a State reservation.) Among the clarifications requested were what qualifies as a ''splinter group,'' and whether and to what extent splinter groups may be acknowledged. Commenters appeared to use the term ''splinter group'' to mean one or more of the following: Groups who splinter from current petitioners; groups who splinter from previously denied petitioners; groups who splinter from currently federally recognized tribes (as evidenced by eligibility for membership or claiming the same historical tribe); groups who splinter from (*i.e.,* are just a portion of) a historical tribe claimed by another petitioner or federally recognized tribe; and groups who splinter from tribes named in Termination Acts. Commenters argued that various types of these groups should or should not be acknowledged. For example, with regard to groups who splinter from current petitioners, several commenters requested incorporating the procedures in the 2008 Directive for dealing with splintering petitioners, noting that continued leadership disputes hamper the evaluation process, and dueling petitions from entities that trace themselves in some fashion to a common tribal entity have long caused problems, leading to delayed and costly petition reviews, intense conflicts, and litigation. Commenters also requested a prohibition against the Department forcing petitioners into one group.

With regard to groups who splinter from previously denied petitioners, several commenters were concerned that petitioners may be acknowledged even if they are splinters of previously denied petitioners or petitioners who claim they are the ''main group'' and the previously denied petitioner was the splinter.

Federally recognized tribes, in particular, expressed concern that groups who claim the same historical tribe could appropriate the federally recognized tribe's history and that the shortened time period for showing community and political influence/authority would facilitate their acknowledgment. A few commenters requested prohibiting splinters from historical tribes and State-recognized tribes to prevent subsets of a historical tribe from being acknowledged (rival groups may claim to be descendants of the historical tribe).

Response: The final rule does not change the way the Department has handled ''splinter groups.'' The Department will continue to address ''splinter groups'' with the same rigor it has applied under the existing rules. With regard to splinters of petitioners, the final rule continues to allow for the approach of the 2008 Departmental guidance to address conflicting claims to leadership within a petitioning group that interfere with OFA's ability to conduct business with the group. Specifically, the Department may request additional information from the petitioner to clarify the situation and OFA may suspend its review of the petition. *See* 73 FR 30146 (May 23, 2008). OFA's suspension would be based on the leadership dispute qualifying as an ''administrative problem'' with the petition under § 83.31.

With regard to other types of ''splinter groups,'' final 83.4 incorporates a cross-reference to criterion (f), which prohibits any petitioner from being composed principally of members of a federally recognized tribe unless the petitioner can provide evidence that it was an autonomous political community since 1900. The Department will continue the approach it has previously utilized. *Final Determination of Federal Acknowledgment for the Jena Band of Choctaw Indians,* 60 FR 28480 (May 31, 1995) (finding the Jena Band of Choctaw Indians to be a separate and distinct Indian group, first identified by Federal Census in 1880, who descended from the Choctaws who left the historical Mississippi Choctaws).

B. Re-Petitioning

Numerous commenters stated their support for allowing re-petitioning, stating that it is necessary for equal protection, appropriate because implementation of the rules has become more stringent over the years, and may be legally permissible. *See* proposed § 83.4(b).

Numerous commenters were opposed to allowing re-petitioning, stating that allowing re-petitioning:

- Violates Federal law (separation of powers, collateral estoppel, res judicata), is arbitrary and capricious, and exceeds the Department's authority;
- Is unnecessary if the regulatory revisions truly are not affecting criteria or changing the standard of proof;
- Is inefficient and administratively burdensome;
- Undermines finality and certainty, disrupting settled expectations;
- Is unfair to stakeholders, especially those who have already litigated against the unsuccessful original petition;
- Is unfair to other petitioners and tribes who may have legitimate petitions;
- Is unfair particularly to Connecticut;
- Could result in acknowledgment of previously denied petitioners;
- Is unnecessary because petitioners can challenge in court instead; and
- Is unreasonable, especially with such a low standard for allowing re-petitioning.

A few commenters were neutral on re-petitioning because ultimately the same individuals who reviewed the original petition would be reviewing the re-petition and re-petitioning will require a petitioner to obtain resources (hire historians, genealogists, *e.g.*) to go through the petitioning process again. Some suggested that any Departmental employee who was associated with the original negative finding should be precluded from participating in the review of the re-petition. A few requested clarifications on the standard for allowing re-petitioning and on the order in which petitions, once re-petitioning is granted, would be reviewed.

Many commenters, including those who submitted form letters, opposed the proposed condition that re-petitioning would be allowed only with the consent of the opponents to the original petition, which some characterized as the ''third party veto.'' These commenters stated that this condition, among other things:

- Is unfair (favoring third-party interest over correction of injustice), will deprive a petitioner of even making the case for re-petitioning, and will prevent getting to the truth of whether the tribe should be acknowledged;
- Treats petitioners unequally;
- Allows for political intervention in what should be a fact-driven process;
- Is an illegal delegation of authority under the Appointment Clause and is legally unprecedented;
- Is illegal for other reasons (under the Fifth Amendment Due Process Clause, Supremacy Clause, Commerce Clause) or is arbitrary and capricious;

• Is based on an invalid justification (established equities) that fails to consider petitioners' interests; and/or

• Is politically motivated by Connecticut's influence.

Some commenters suggested removing the third-party consent condition and instead allowing interested parties to participate in the hearing on whether re-petitioning is appropriate. Others suggested third parties be limited to participating in the petitioning process, if the re-petitioning request is granted. Some commenters stated that no third-party participation is appropriate in a re-petitioning request because third parties' objections are based on factors other than whether the petitioner meets the criteria for acknowledgment.

Those in support of the third-party consent condition stated that they would prefer not to allow re-petitioning at all, but if re-petitioning is allowed, then the third-party veto is necessary to protect established equities and should be expanded to require consent of all interested parties, regardless of whether they participated in a prior proceeding involving the original petition.

A few commenters suggested different approaches to re-petitioning, allowing re-petitioning in only certain circumstances, such as if:

• A substantial number of years passes and there is significant new evidence;

• There is a showing of some modification of evidence;

• The ALJ consults with nearby federally recognized tribes before making a decision, to give those who were not notified previously a chance to be involved;

• The petitioner exhausted their administrative and appellate remedies; or

• Third parties involved in a prior proceeding are granted special standing.

Response: The proposed rule would have provided for a limited opportunity for re-petitioning. After reviewing the comments both in support of and in opposition to allowing for any opportunity for re-petitioning, limiting re-petitioning by providing for third-party input, and other suggested approaches for re-petitioning, the Department has determined that allowing re-petitioning is not appropriate. The final rule promotes consistency, expressly providing that evidence or methodology that was sufficient to satisfy any particular criterion in a previous positive decision on that criterion will be sufficient to satisfy the criterion for a present petitioner. The Department has petitions pending that have never been reviewed. Allowing for re-petitioning by denied petitioners would be unfair to petitioners who have not yet had a review, and would hinder the goals of increasing efficiency and timeliness by imposing the additional workload associated with re-petitions on the Department, and OFA in particular. The Part 83 process is not currently an avenue for re-petitioning.

C. Standard of Proof

Proposed § 83.10(a) would attempt to clarify that the ''reasonable likelihood'' standard of proof means that there must be more than a mere possibility but does not require ''more likely than not.'' The clarifying language is based, in part, upon the definition of ''reasonable likelihood'' applied by the Supreme Court in determining whether there is a reasonable likelihood that a jury has misapplied a jury instruction for capital offense sentencing. *See* proposed § 83.10(a)(1). Several commenters expressed support for the proposed clarification to increase predictability and consistency in application. Some stated they specifically support clarification that the standard does not require ''more likely than not'' to counteract what, they assert, is a Departmental trend to require more and more evidence over time. Several commenters opposed how the proposed rule defined ''reasonable likelihood,'' stating that it would substantially lower the standard of proof, would allow acknowledgment of groups who ''more likely than not'' do *not* meet criteria, and would take away the Department's ability to balance evidence by requiring acknowledgment if there is ''more than a mere possibility.'' Commenters also stated that the Supreme Court's interpretation of ''reasonable likelihood'' in the case cited in the proposed rule is inapplicable and inappropriate for application to the acknowledgment process because the cited case involved jury instructions in a criminal (death penalty) case—where, as one commenter stated, society would rather acquit the guilty than wrongly convict the innocent. Commenters also stated that interpreting ''reasonable likelihood'' in this way exceeds the Department's authority, is inconsistent with the Administrative Procedure Act and *Steadman* v. *SEC,* 450 U.S. 91 (1981), raises significant due process issues, and is unprecedented (no other Federal agency uses this standard in making eligibility determinations).

Several commenters provided alternative suggestions, including applying a preponderance of the evidence/''more likely than not'' standard. One suggested providing that a criterion is met ''if the evidence is sufficient for a reasonable mind to conclude that the criterion is met viewing the evidence in the light most favorable to the petitioner, in the specific cultural, social, political, and historical context of the tribe and in the light of adverse consequences caused by Federal policy or actions.'' Some commenters stated that subjective judgment is involved, even with a clear definition of ''reasonable likelihood.'' Some requested reinserting the June 2013 discussion draft's language that the evidence will be viewed in the light most favorable to the petitioner.

Response: In light of commenters' concerns that the proposed rule changed the standard of proof, the final rule retains the current standard of proof and discards the proposed interpreting language. The final rule expressly provides that evidence or methodology that was sufficient to satisfy any particular criterion in a previous positive decision on that criterion will be sufficient to satisfy the criterion for a present petitioner. In other words, a petitioner today satisfies the standards of evidence or baseline requirements of a criterion if that type or quantum of evidence was sufficient for a past positive decision on that criterion. The Department will continue to interpret ''reasonable likelihood of the validity of the facts'' as described in the 1994 preamble (at 59 FR 9280 (February 25, 1994)) and will not apply a more stringent interpretation of that standard. *See* final § 83.10(a). *See also, e.g.,* Summary Under the Criteria and Evidence for Final Determination for Federal Acknowledgment of the Cowlitz Indian Tribe, February 14, 2000, p. 101 (stating that the general standard is a ''reasonable likelihood'' and ''not that there must be conclusive proof'').

D. Third-Party Participation in the Acknowledgment Process

Many commenters addressed the level of third-party participation in the petitioning process. Those commenters arguing that third parties should have more opportunity for participation stated that the proposed rule would severely limit third-party involvement by restricting the right to notice, allowing no opportunity to rebut petitioner's responses, eliminating the opportunity to seek an on-the-record meeting or IBIA reconsideration, restricting to certain parties the right to have an impact on a positive PF, and making monitoring the petition more difficult by establishing more phases of review. One commenter stated that the proposed rule establishes an iterative process for the petitioner to engage OFA

at every stage—creating a tutelage-like process between the petitioner and the agency. Federally recognized tribes asserted that they, in particular, should have more opportunity for input under the *DOI Policy on Consultation with Indian Tribes* and because they are more aware of tribal histories. Commenters provided a number of suggestions for allowing more opportunity for third-party input.

Other commenters stated that more limits on third-party participation should be imposed because third parties improperly weigh in on acknowledgment petitions based on land-into-trust issues, taxation, discrimination, gaming fears, financial and political pressures, and other factors that do not address whether the petitioner meets the criteria. These commenters state that the process should be between a petitioner and the Department only and that, otherwise, third parties with substantial resources and power can challenge evidence and question interpretation of the criteria to disrupt petitions. Commenters provided suggestions for prohibiting or limiting third party participation, including imposing a requirement for comments and evidence to be directly relevant to whether the petitioner meets the criteria.

Specific provisions that were the focus of comments on third party participation follow.

1. Who Receives Notice of the Receipt of the Petition

The proposed rule provides that the Department will publish receipt of a documented petition in the **Federal Register** and on the OFA Web site, but will also notify in writing the governor and attorney general of the State in which petitioner is located, any federally recognized tribe within the State or within a 25-mile radius, or any other recognized tribe and petitioner that appears to have a historical or present relationship with the petitioner or may otherwise have a potential interest. *See* proposed § 83.22(b)(2).

With regard to restricting notice to tribes within a certain radius, some commenters supported this limitation, stating that it would reduce the influence of parties hundreds of miles away who may be antagonists. Commenters opposed to this limitation stated that it is arbitrary because petitioners beyond the 25-mile radius could claim the same heritage as a federally recognized tribe, that it inappropriately suggests a gaming standard, and that generally a tribe's presence extends beyond its headquarters. Some commenters suggested notifying any federally recognized tribe: To which the petitioner claims to have ties or shared heritage; with trust land in the same State as petitioner; within a radius of aboriginal territory rather than headquarters; or within 100 miles. The proposal also provided that when a positive PF is issued, only certain parties may object, including tribes within 25 miles. *See* proposed § 83.37.

Several commenters stated that local governments should receive written notice of the petition because the local governments have interests beyond those of the State (*e.g.,* public health and safety service impacts) and otherwise may not be aware of the petition. Some commenters suggested that notice of the petition and proposed finding should be provided to all residents, businesses, landowners, and others within a 25-mile radius. Another commenter suggested notice to State government agencies responsible for Indian affairs. A few commenters stated that sending notice to the State and others is inappropriate because tribes do not receive notice of every State action.

Response: After reviewing the comments, the Department determined the proposed addition of notice to tribes within a certain radius or within the State to be unnecessary, because the rule already provides for constructive notice to all through publication in the **Federal Register** and direct notice to any tribe that appears to have a historical or present relationship with the petitioner or that may otherwise be considered to have a potential interest in the acknowledgment determination. The final rule provides additional notice to county-level (or equivalent) governments, in response to comments by Stand Up for California and others; continues to require notice to the State governor and attorney general and affected tribes and petitioners; and allows for notice to everyone else through publication in the **Federal Register** and on the OFA Web site. *See* final § 83.22. Through much greater use of Web site publication, the new rule increases transparency throughout the administrative process of consideration.

2. Deletion of Interested Party Status

Many commenters opposed the proposed deletion of the ''interested party'' definition from § 83.1 and asserted that certain parties should have the ability to participate fully in the acknowledgment process. These commenters stated that local governments, landowners, and other parties affected by the acknowledgment decision must have broader rights of participation to ensure due process, fairness, integrity, and transparency. Some federally recognized tribal commenters stated that the Department's Indian trust responsibility requires their full participation in the acknowledgment process. Other commenters suggested reinserting the definition of ''interested party'' but establishing a formal process for determining who qualifies as an ''interested party'' or restricting interested parties to those with direct material interests. Commenters had other suggestions about disclosing the identity of interested parties and clarifying what happens to those who already have been granted interested party status in pending petitions. Comments on the term ''informed party'' defined in § 83.1 requested some process for determining whether a party is informed of the petitioner's history (as opposed to a party who wants to be informed of the petition's progress).

Response: The final rule allows anyone who is interested in the petition to submit comments and evidence and receive notice, without labelling such individuals or entities. The final rule allows for broader notice, regardless of whether a particular party would qualify as an ''interested'' or ''informed'' party under the prior rules. The Department wishes to obtain relevant, reliable evidence from any source. Accordingly, the terms ''interested party'' and ''informed party'' are no longer necessary for the purposes of defining the persons who will be notified of actions on a specific petition, and therefore the terms have been deleted. *See* final § 83.1.

3. Comment Periods

Several commenters stated that limiting the period for commenting after receipt of a petition to 90 days from Web site posting and reducing the time period for comment on PFs unjustly limits third party participation.

Response: These comments are addressed in *Process—Timelines,* below.

E. Process—Approach

1. Letter of Intent

The proposed rule would delete the optional step in the current § 83.4 of providing a letter of intent to submit a petition. Some commenters expressed support for deletion because many who provide letters of intent never submit petitions. Some commenters opposed eliminating this step because the letters track groups claiming tribal status, put others on notice that groups intend to seek Federal acknowledgment (and allow the others to start their own

research), provide information for Departmental budget and staffing planning, benefit petitioners by allowing them to qualify for grants, etc., impose only a minimal burden, and are consistent with other Federal practices. Some commenters suggested alternatives to deleting this step, for example, imposing an expiration date so that a letter of intent is effective for a limited time (*e.g.,* three years).

Response: The final rule deletes the letter of intent step because, as some commenters noted, many who submit letters of intent never follow through to submit petitions. The Department reviewed the commenters' concerns with deleting this step and determined that the improvements in clarity (the process will now clearly begin with the filing of a documented petition) and efficiency (fewer Departmental resources required) outweigh the potential negatives of eliminating this step. Prior to the effective date of this rule, the Department will send a letter to each entity who has submitted only a letter of intent, and encourage submission of a documented petition and inform them that if they do not, they will not be considered petitioners. Each entity that has submitted only a letter of intent is not a petitioner in the process unless and until it submits a documented petition.

2. Phased Review

Under proposed § 83.26, OFA would conduct a phased review of the criteria. Most who commented on the proposed phased review supported it, noting that satisfaction of the descent criterion (e) is a threshold issue and that, because evaluation of criteria (b) (community) and (c) (political influence/authority) is more time consuming, phased review should make the process more efficient. One petitioner suggested reviewing criterion (d) (governing document) with criterion (e) to ensure submission of a governing document and membership list.

A few commenters opposed eliminating the process for allowing expedited rejections of petitions in the current § 83.10(e) based on any one of the descent, membership, or termination criteria; others preferred the 2013 discussion draft approach of having expedited positive and negative findings.

Response: The final rule streamlines the phased review and expedites the entire process by providing for a review first of criteria (d) (governing document), (e) (descent), (f) (unique membership), (g) (termination), and any claim to previous Federal acknowledgment; and second of criteria (a) (identification), (b) (community), and (c) (political influence/authority). *See* final § 83.26. These two phases combine evaluations of the criteria that are most likely to be evaluated together even in the absence of defined phases. The result is likely to produce any negative decisions in a quicker manner, thereby resolving petitions sooner, reducing time delays, increasing efficiency, and preserving resources.

3. Technical Assistance

The proposed rule would require OFA to conduct a technical assistance (TA) review for each of the two review phases, *see* proposed § 83.26(a)(1) and (b)(1). A few commenters requested that interested parties be permitted to request and participate in TA reviews. A few commenters stated that allowing multiple TA reviews creates a fragmented process and omits the pre-review TA that often identifies problems in advance of OFA consideration.

Response: Under the Department's long-standing practice, OFA provides the petitioner with TA review because the petitioner is seeking Federal acknowledgment. However, to promote transparency, the final rule provides for the Department to make each TA review letter publicly available by posting it on the Web site as soon as it is issued, to allow review by anyone who is interested. *See* final § 83.22(c). The final rule limits the number of TA reviews to two, at the most: One for each phase. Each TA review will be limited to the criteria that are to be reviewed during that stage (*i.e.,* Criteria (d) (Governing Document), (e) (Descent), (f) (Unique Membership) and (g) (Termination) in Phase I and the remaining criteria in Phase II). Because some petitioners may fail to proceed to the second phase, splitting the TA review into two phases will help promote efficiency. In addition, petitioners may seek informal assistance and guidance from OFA prior to submitting a petition.

4. Providing Petitioner With Opportunities To Respond

Several commenters supported the proposed provision allowing a petitioner to respond to comments prior to issuance of a PF (proposed § 83.24), ensuring the Department has all relevant information. A few suggested allowing a reasonable extension beyond 60 days, if requested. Also, some commenters expressed support for the proposed requirements that OFA provide the petitioner with any material used in the PF or FD and that the AS–IA remand a favorable PF to OFA if new evidence might support a negative PF (proposed § 83.42(b)). One commenter stated that these changes are necessary to ensure due process and address the problems that, in its experience as a petitioner, plagued its petition following a favorable PF.

Response: The final rule includes the proposed approach allowing a petitioner to respond to comments prior to the issuance of a PF and ensuring OFA provides the petitioner with any material used in the PF, to the extent allowable under Federal law. The requirement in proposed § 83.42(b) for remand to OFA if new evidence may support reversal of a positive PF has been deleted because it could have added significant delays to the process. Instead, the final rule provides, at § 83.41, that the Assistant Secretary will review the positive PF in light of the comments on the PF and the petitioner's response.

5. Suspensions (Proposed § 83.31) and Withdrawals (Proposed § 83.30)

Several commenters requested a time limit on suspension of review of a petition for technical or administrative problems to ensure the suspension lasts no longer than a year and to allow the petitioner to resume at any time. A few commenters also requested allowing petitioners to request suspension of their petitions where acts of God impede them from moving forward.

Some commenters stated that the proposal to allow petitioners to withdraw their petitions after active consideration begins would allow petitioners to avoid negative findings, affecting the integrity of the acknowledgment process. They also note that it is inefficient to allow withdrawals because the Department will expend resources without reaching a final decision. A few commenters suggested allowing for withdrawal after active consideration only with the consent of AS–IA.

Other commenters said that the proposal to allow withdrawal after the beginning of active consideration is only fair, to allow petitioner to gather additional evidence if needed. Several commenters objected to the proposal that petitions that are withdrawn and then re-filed will be placed at the end of the register of documented petitions when re-filed; these commenters stated that petitioners who withdraw should not lose their place in line if the withdrawal is for less than a year.

Response: The final rule takes the approach that when the petitioner is preparing information to submit in response to technical assistance, no timeline applies. This negates the need for the petitioner to request a suspension from the Department; rather,

the petitioner may take whatever time it needs. Upon submission of petitioner's response, the timelines imposed on the Department for that phase will begin to run. Where the Department faces technical or administrative difficulties that prevent review, the final rule allows for the Department to suspend its own review. *See* final § 83.31. No suspension is necessary to allow time for the petitioner's responses to technical assistance, because the final rule does not impose timelines on these actions. With regard to withdrawal, the final rule allows for withdrawal but with the consequence that the petition will be placed at the end of the numbered register upon re-submission. There is no need to provide that a petitioner does not lose their place in line if the withdrawal is less than a certain timeframe, because the petitioner always has the option of taking as long as they like to respond to technical assistance, in lieu of withdrawal.

6. Decision-Maker

Several commenters opposed the proposed approach of having OFA issue the PF (proposed § 83.32) and AS–IA issue the FD (proposed § 83.42), rather than the current approach where AS–IA issues both the PF and FD with OFA's input. These commenters stated that separating OFA experts' analysis from AS–IA's evaluation would allow AS–IA to deviate from evidence and findings without standards and make a political decision. Commenters also stated that the proposed approach promotes the idea that there is an adversarial relationship between OFA and AS–IA. These commenters believe OFA should provide neutral, expert analysis to AS–IA in each instance and AS–IA should issue both the PF and FD to provide greater checks and balances and more accurate findings by allowing for another level of fact checking and editing. At least one commenter supported the proposed approach, saying that OFA's findings should be advisory only.

Response: The Department does not agree that having OFA issue the PF separates OFA experts from AS–IA, allows for arbitrary deviation, or promotes an adversarial relationship. OFA exists within and reports to the Office of the AS–IA and works at AS–IA's direction. Moreover, having OFA issue the PF underscores the crucial role that OFA plays in the process. The final rule retains the proposed approach of having OFA issue the PF as a documented recommendation for AS–IA to consider when preparing the FD. AS–IA's preparation of the FD will be based on the complete record, including the PF issued by OFA, comments and responses on the PF, and any hearing record and ALJ recommended decision. The Assistant Secretary may continue to seek the input of OFA, as technical staff throughout this process.

7. Automatic Final Determination

For improved efficiency, several commenters supported proposed § 83.37(a), which would require automatic issuance of a positive FD when there is no significant opposition to a positive PF from the State or local government or any federally recognized Indian tribe within the State or within a 25-mile radius of petitioner's headquarters. One commenter stated that a positive FD should be issued within 30 days after issuance of the positive PF rather than waiting 90 days for comments under proposed § 83.35(a). Those who opposed this requirement stated that all positive PFs should be treated the same, regardless of who submits comments, and that limiting commenters to certain interested parties violates the APA requirement that the whole record be considered, leaving those other interested parties without any procedural rights to protect their interests.

Response: In response to commenters' concerns regarding limiting commenters to certain parties, the final rule treats all commenters the same, regardless of who submits comments, but clarifies that the objection to the positive PF must be supported by evidence as to whether the petitioner meets the criteria. *See* final § 83.36. Allowing for automatic issuance of a positive FD if there is no objection with evidence germane to the criteria, conserves resources, and promotes efficiency in the process.

8. Prioritizing Reviews

A number of commenters requested clarification of the priority of various categories of petitions (those pending during the regulatory process, suspended petitions, previously denied petitions), and advocated that various categories be given top priority in the order of review. One commenter suggested creating tiers for review based on which petitions are easiest to process.

Response: The final rule's revised process, which separates review into two phases, is intended to improve efficiency by focusing review first on a limited number of criteria to eliminate petitioners who do not meet those basic criteria, before embarking on the more time- and resource-intensive review of the other criteria. *See* final § 83.26.

9. Proceeding Under the New or Old Version of the Regulations

Several commenters stated their support for allowing a petitioner who has a currently pending, complete documented petition on active status to choose whether to proceed under the new or current regulations. These commenters requested clarification on how to proceed under the new regulations and requested that they be placed in highest priority if they already submitted a letter of intent or other documentation under the current regulations.

Response: The final rule, at § 83.7, establishes that the final rule will apply, except that a petitioner with a currently pending, complete documented petition may choose to proceed under the current regulations if it notifies the Department by the stated deadline. The Department will notify each such petitioner of the option to proceed under the current regulations. A petitioner must respond by the deadline if it chooses to do so; otherwise, the petitioner will be subject to the new regulations. *See* § 83.7. OFA will maintain a list of petitions that are awaiting Departmental action at any given time and address those petitions in the order in which they were submitted.

10. Precedent and Other Comments

A few commenters requested specific language be added to the preamble regarding precedent (ranging from ensuring that OFA precedent continues to be followed, to ensuring that prior negative decisions of OFA will not be used to interpret the new regulations) and other statements as to applicability. Commenters commented on various other aspects of the process, OFA's qualifications and oversight, making available example formats for the petition, and whether the Department owes a trust responsibility to petitioners.

Response: Because the final rule does not make significant changes to the criteria, the Department's precedent stands. To address concerns that the Department is implementing the criteria in an increasingly stringent manner, the final rule adds a section in § 83.10 to ensure that the Department is applying the criteria consistently. The final rule states that if there is a prior final positive decision finding evidence or methodology to be sufficient to satisfy any particular criterion previously, the Department will find it sufficient to satisfy the criterion for a present petitioner. In other words, a petitioner satisfies the standards of evidence or

baseline requirements of a criterion if that type or amount of evidence was sufficient for a positive decision on that criterion in prior final decisions (*see., e.g.,* the Grand Traverse Band of Ottawa and Chippewa Indians, the Jamestown S'Klallam Tribe, the Tunica-Biloxi Indian Tribe, the Death Valley Timbi-sha Shoshone Tribe, the Poarch Band of Creeks, the San Juan Southern Paiute Tribe of Arizona, the Jena Band of Choctaws). The Department has considered the other miscellaneous comments and determined that they do not warrant any revisions to the regulation.

F. Petitioning Process Timelines

1. Timelines—Overall

We received several comments on how long the process currently takes, noting that, even with the proposed deadlines, the proposed process would continue to be lengthy, due to multiple instances of providing technical assistance, submission of new evidence, and the requirement that petitioners see and respond to any evidence before a PF is issued. These commenters stated that these parts of the process are unrealistic, unworkable, and inefficient. A few commenters suggested having more accountability for timeliness through a deadline for all prospective petitioners to submit their petitions, a deadline for the Department to issue decisions on all petitions, or parameters for how long a petition stays on the ''ready'' list.

Several commenters supported the proposed timelines and requested they be strictly upheld, either allowing for a way to compel agency action or the issuance of automatic findings in support of petitioner. One commenter suggested adding timelines to the technical assistance process and one suggested the entire process be subject to a 6-month deadline.

Response: The Department has retained the proposed timelines in nearly all instances to ensure efficiency. The final rule reduces the proposed opportunities for technical assistance to two (not including any informal guidance a petitioner may obtain prior to submitting a documented petition)—one for each of the two review phases. This change is intended to promote efficiency because the expectation is that each technical assistance review will be more targeted to certain criteria, and therefore likely shorter, and some petitioners may receive only the first phase of technical assistance, where Phase I results in a negative final determination. Ensuring that petitioners see and respond to any evidence before a PF is issued may, in fact, add time to the process; however, the Department believes this is an instance where the need for transparency, fairness, and rigor outweighs the need for promptness. The final rule does not impose parameters for how long a petition stays on the ''ready'' list because the length of stay is subject to the availability of OFA staff at any given time. To emphasize that the Department plans to strictly uphold its timelines, the final rule deletes each individual provision allowing for a specific time extension and replaces them with a new section providing that the Department may extend a deadline only upon consent of the petitioner or for good cause. *See* § 83.8.

2. Timelines—Notice of Receipt of Documented Petition

Proposed § 83.22(b)(1)(iv) establishes a deadline of 90 days from the date a documented petition is posted on OFA's Web site for submission of comments. Several commenters stated that comments should be accepted without any definitive time limit until active consideration of the documented petition begins. These commenters argued that petitioners have as long as possible to prepare research and limiting others' input to a 90-day window appears to be designed to preclude meaningful public comment. A few commenters requested expanding the 90-day comment period to 120 or 150 days.

Response: In response to comments, the final rule extends the comment period to 120 days. The final rule retains a defined comment period because it is necessary to have a cut-off point in order to allow the petitioner time to respond to comments. We note that commenters also have the time to further prepare comments and gather evidence for submission during the comment period on the proposed finding.

3. Timelines—Petitioner Response to Comments Prior to PF

Proposed § 83.24 would allow a petitioner at least 60 days to respond to comments before OFA begins review. A few commenters suggested allowing a reasonable extension beyond 60 days, if requested by petitioner.

Response: The final rule allows the petitioner 90 days rather than 60 days to respond to comments (§ 83.24) and adds a provision in § 83.8 that generally allows for extensions of time for good cause.

4. Timelines—Issuance of a PF

A few commenters noted that it will be difficult for OFA to issue a PF within 6 months, as required by proposed § 83.32, for petitioners with large memberships. One commenter suggested adding flexibility to allow OFA and the petitioner to agree upon a deadline. This commenter pointed out that proposed § 83.26(a)(1)(i)(B) allows the petitioner to submit additional information, but proposed § 83.32 still requires issuance of PF within 6 months of beginning review.

Response: The final rule clarifies that the time periods for issuance of PFs and FDs are suspended when the Department is waiting for a technical assistance response from the petitioner. *See* §§ 83.32(b), 83.42(b). In other words, the clock on these timelines runs only when the Department is obligated to act.

5. Timelines—Comment Period on PF

The previous rule provides a 180-day period for comment on the PF, with the possibility of a 180-day extension. The proposed rule would reduce these time periods, allowing for a 90-day comment period (proposed § 83.35), with the possibility of a 60-day extension (proposed § 83.36). Most who commented on the proposed comment period stated their opposition to reducing the period from 180 days to 90 days. These commenters stated that this is a significant reduction, will place a substantial burden on petitioners and interested parties, and fails to account for petitions with large amounts of evidence requiring substantial time to review and possibly time to conduct independent research and submit evidence. Some commenters stated that this provision also appears designed to preclude third-party participation. A few commenters stated that the time should be further reduced to limit third-party involvement.

Most commenters advocated for retaining the 180-day timeframe; one requested at least 120 days. Commenters also stated that, even with the 60-day extension, depending on the nature of the findings and petitioner's resources, it may require longer than the initial 90-day period plus the additional 60 days to submit comments. These commenters advocated for a 90-day extension, an extension for any period AS–IA chooses, or an automatic 60-day extension at the petitioner's request and allowance of additional extensions for good cause shown, such as needing more time to generate probative evidence.

Response: The final rule establishes a 120-day timeframe to comment on the PF. *See* final § 83.35. This deadline is shorter than the existing 180-day timeframe, but longer than the proposed

90-day timeframe, in order to promote efficiency in the process while still allowing sufficient time for input. The final rule also allows the timeframe to be extended for good cause. *See* final § 83.8.

6. Timelines—Period for Petitioner's Response to Comments on a Positive PF

Several commenters requested additional time for the petitioner to respond to comments on a positive PF (proposed § 83.37 would allow 60 days and an unspecified extension), advocating for a total of 120 days because petitioners may not have the resources to respond more quickly.

Response: The final rule retains the 60-day deadline to respond in order to promote efficiency in the process while still allowing sufficient time for input. The final rule also allows the timeframe to be extended for good cause. *See* final § 83.8.

7. Timelines—Petitioner Response to Comments and/or Election of Hearing

Proposed § 83.38 would allow the petitioner 60 days to respond to comments and/or elect a hearing on a negative PF, and would allow AS–IA to extend the comment period if warranted. Commenters stated that 60 days is too short (*see* comments under ''Hearings''). They also suggested requiring filing of just a notice of appeal initially, then allowing for submission of lists of material facts, exhibits, and witnesses later rather than requiring their submittal with the election of hearing.

Response: The final rule retains the 60-day deadline in order to promote efficiency in the process; however, the final rule provides the response timeframe and the timeframe for electing a hearing will run sequentially, rather than concurrently, to allow time to prepare the election of hearing listing the issues of law and material fact, witnesses, and exhibits. *See* final §§ 83.36(b), 83.38. The final rule also allows the timeframe to be extended for good cause. *See* final § 83.8.

8. Timelines—Issuance of FD

Proposed § 83.42 would require the Assistant Secretary to issue a FD within 90 days. This is an increase from the current 60-day period for issuance of a FD. A small number of commenters opposed the extended time for AS–IA review as counter to the goal for efficiency.

Response: While the 90-day period is an increase from the current 60 days, the Department believes this increase is justified given that the preparation of the final determination will be the first occasion for the AS–IA to review the administrative record and formulate a determination. *See* final § 83.42.

G. Hearings

1. Deleting the IBIA Reconsideration Process, and Adding a Hearing on the PF

The proposed rule eliminates the process for limited reconsideration of the AS–IA's determination by the IBIA and adds an option for a petitioner to elect a hearing on a negative PF before an independent judge in the Office of Hearings and Appeals (OHA). Many commenters expressed their strong support for the proposed option, saying this process adds transparency, fairness, and neutrality. These commenters also supported the proposed elimination of the IBIA reconsideration process, stating that the hearing process would be more fair and efficient.

Others expressed their strong opposition to the proposed hearing process, stating that it makes the petitioning process more adversarial, more burdensome, and less transparent. These commenters also stated that the hearing and review of re-petition requests inappropriately burden an administrative court with analysis of non-legal issues. Several commenters also opposed elimination of the IBIA reconsideration process, disputing the accuracy of the rational for the elimination: that there are no other instances where IBIA reviews an AS–IA decision). Those commenters also argued that the IBIA process is more efficient than appeals to Federal court and is necessary to correct administrative errors before costly litigation and to guard against politically motivated Departmental decisions. These commenters note that IBIA has particular expertise with respect to Federal-tribal relations that a judge from elsewhere in OHA lacks. Some commenters claimed that replacing the IBIA process with the option for a hearing will result in more adversarial dealings and litigation. A few commenters suggested allowing the Secretary to direct reconsideration to IBIA on her own motion or upon request.

Response: The final rule implements the proposal to delete the limited IBIA reconsideration process and to allow for a hearing on a negative PF. This procedure will require the parties to pinpoint specific findings that they dispute and provide evidence from the record, from testimony based on the record, or cite to precedent in support of their positions in a setting that is well-suited to objective consideration of discrete issues in a transparent manner. Rather than making the process more adversarial, a hearing will help crystalize the issues in preparation for consideration by the AS–IA. Since it occurs before an objective forum without any preconceived notion of an outcome, it will further insulate the process from criticisms of perceived bias.

2. Opportunity for Third Parties To Request a Hearing and Intervene in Hearings

Many commenters objected to the proposed rule allowing hearings only at the election of a petitioner on a negative PF. *See* § 83.38(a). These commenters asserted that any party should be entitled to request a hearing on a PF to ensure that all parties are treated equally. They asserted that third parties with evidence relevant to a positive PF are left only with the option of submitting comments and pursuing an appeal before Federal district court under the APA's deferential ''arbitrary and capricious'' standard of review. Some commenters also stated that the proposed approach effectively precludes interested parties from appealing, because the proposed rule would not allow a hearing on a positive PF and interested parties may not be able to establish standing in Federal district court. Tribal commenters stated that the Department owes a trust responsibility to allow tribes the opportunity for a hearing where they have a present or historical relationship to petitioner and the petition involves the identity or heritage of the federally recognized tribe.

Commenters also stated that standards for intervention should be broader than traditional standards, to allow intervention by States, local governments, federally recognized tribes, and any entity with a legal, factual, or property interest. These commenters stated that there should be no limit on the issues an intervenor can raise and intervenors should have the right to introduce evidence and testimony.

Response: The Part 83 petitioning process is similar to other administrative processes uniquely affecting an applicant's status in that the applicant may administratively challenge a negative determination, but third parties may not administratively challenge a positive determination. The question being examined in Part 83 is whether a petitioner meets the criteria to be federally acknowledged as an Indian tribe. Part 83 does not allow for consideration of speculative consequences because such

consequences are not yet ripe for consideration and administrative and judicial review is available for those separate decisions. For example, if the newly acknowledged tribe seeks to have land taken into trust and that application is approved, state or local governments may challenge that action under the land-into-trust process (25 CFR part 151), an entirely separate and distinct decision from the Part 83 process. Submissions are more appropriately addressed there. The Part 83 process provides third parties with the opportunity to submit comments and evidence. Comments that are germane to the criteria will be carefully considered.

Also, the Office of the Secretary (OS) companion final rule at 43 CFR part 4, subpart K, adopts the proposed approach of allowing for intervention as of right in the hearing process for anyone with an interest that may be adversely affected by the FD. *See* 43 CFR 4.1021(d). No good reason has been identified for deviating from this traditional standard of intervention. The final rule allows anyone who intervenes as of right to participate as a full party, subject to the restriction that the intervenor may not raise issues of law or material fact beyond those raised in the election of hearing. 43 CFR 4.1021(f)(3). This restriction is necessary to keep the hearing focused on the issues related to the negative PF.

3. Hearing Process Timelines

In the OS companion proposed rule, timelines were proposed for various activities during the hearing process as well as an overall 180-day time limit to complete the hearing process and issue a recommended decision. *See* proposed 43 CFR part 4, subpart K. Some commenters supported establishing definitive timelines. One commented that the proposed timelines were too long because the timelines are similar to those in the IBIA process, which is considered lengthy. Most commented that the timelines are unrealistically short given all that must occur during the overall 180-day timeline—prehearing conference, interventions, discovery, written direct testimony, oral cross-examination, post-hearing briefs, and issuance of a recommended decision. These commenters stated that full adjudications could take a year and opposed the overall 180-day deadline as interfering with the judge's deliberation. Others opposed the timelines as not accounting for petitioner's limited resources, and thereby compromising their ability to fully participate. Another commenter suggested an automatic 90-day extension of the 180-day time limit for the entire hearing process upon request of the petitioner, and additional extensions upon good cause shown, such as needing more time to prepare and generate probative evidence.

Some commenters stated that the 60-day timeframe for electing a hearing is too short to provide the required lists of issues of material fact, exhibits, and witnesses. These commenters suggested requiring a filing of ''intent to challenge'' within 60 days, then leaving it to the ALJ to establish the schedule for pre-hearing submittal of the lists. Others suggested expanding it to 180 days.

Commenters also specifically opposed the proposed timeline for filing motions to intervene (15 days after issuance of the referral notice under § 83.39(a)) as a violation of due process, because the short timeframe would be ''wholly unreasonable'' for reviewing the administrative record and providing notice of all witnesses, issues, and exhibits. Commenters suggested a minimum timeline of 30, 45, or 60 days, or a deadline to identify only the movant's affected interest and position on the issues, and then allowing the judge to set timelines for identifying witnesses and exhibits.

Response: These comments relate to the OS companion final rule addressing hearing procedures at 43 CFR part 4, subpart K. To maintain an efficient process, that final rule adopts the proposed 180-day time period for completion of the hearing process. *See* final 43 CFR 4.1051(a). Because the hearing record is limited to documents that have already been presented, except in under extraordinary circumstances, *see* final 43 CFR 4.1046(a), the time needed to ''generate probative evidence'' should be minimal (*see* the discussion below on scope of record). To address comments that the proposed timeline for intervention is unreasonably short, the final 43 CFR 4.1021(a), doubles the proposed timeline to file a motion to intervene to 30 days.

4. Scope of Record

In the proposed rule, we invited comment on whether the hearing record before OHA should include all the evidence in OFA's administrative record for the petition or be limited to testimony and exhibits specifically identified by the parties. Most who commented on this question stated that the ALJ should rely on the entire administrative record before OFA (including the petition and all documents that were provided, or relied upon, for the PF, and comments and responses on the PF).

A few commenters stated that the ALJ should engage in traditional fact-finding, limiting the hearing record to the testimony and exhibits presented by the parties, to narrow the issues in the record and put the burden on the parties to bring the salient facts to the decision-maker's attention. Commenters provided arguments both for and against allowing the parties to provide evidence beyond what was in the OFA administrative record during and after the hearing—some saying it offers the opportunity to clarify the OFA administrative record and others saying it reduces transparency to expand the OFA administrative record after OFA has already issued a PF.

Response: A primary purpose of the hearing process is to inform the AS–IA's final determination by focusing in on the key issues and evidence and producing a recommended decision on those issues from an independent tribunal. To that end, under the OS companion final rule, the hearing record will not automatically include the entire administrative record reviewed by OFA, but only those portions which are considered sufficiently important to be offered by the parties as exhibits and admitted into evidence by the ALJ. While the AS–IA may consider not only the hearing record, but also OFA's entire administrative record, we believe that an independent review of the key issues and evidence will be invaluable to the AS–IA.

Part of the hearing process is to ensure that the Department abides by the baseline precedent of previous final decisions. Petitioners may rely on previous final decisions to establish that their evidence is sufficient to meet a criterion, where evidence in a previous final decision was sufficient to meet a criterion. The companion final rule also includes documentation in the OFA administrative record, including comments and responses on the PF, and testimony clarifying or explaining the information in that documentation. *See* 43 CFR 4.1046. That rule also limits who may testify to expert witnesses and OFA staff who participated in preparation of the negative proposed finding. *See* 43 CFR 4.1042. The ALJ may admit other evidence or allow other persons to testify only under extraordinary circumstances.

These limits will afford the parties the opportunity to clarify the record, without expanding the record beyond what was before OFA when it issued the PF and comments and responses submitted following issuance of the PF. The limits will encourage the petitioner and all others to be diligent in gathering and presenting to OFA all their relevant

evidence and discourage strategic withholding of evidence, which will further ensure that OFA's PF is based on the most complete record possible, allowing the ALJ to focus on discrete issues in dispute if a hearing is requested.

5. Presiding Judge Over Hearings

In the OS companion proposed rule, any of several different employees of OHA could be assigned to preside as the judge over the hearing process: an ALJ appointed under 5 U.S.C. 3105, an IBIA judge, or an attorney designated by the OHA Director. *See* proposed 43 CFR 4.1001, definition of ''judge.'' We invited comments on who is an appropriate OHA judge to preside. Most commenters who expressed an opinion on this question stated that an ALJ is necessary to ensure sufficient qualifications, independence, impartiality, and objectivity. One commenter recommended an attorney because of the commenter's belief that the attorney would be able to issue decisions more quickly. One stated that an IBIA judge would be most qualified due to experience with acknowledgment issues. Several commenters stated that the judge should have some background or training in Indian law and tribal histories and cultures.

Response: The final rule establishes that the judge presiding over hearings will be an ALJ. *See* final § 83.39. There is no evidence that an attorney could issue decisions more quickly than an ALJ. An IBIA judge does not necessarily have more background in acknowledgment issues or tribal histories and cultures, and ALJs are skilled at presiding over hearings and managing procedural matters to facilitate justice. Also, their independence is protected and impartiality fostered by laws which, among other things, exempt them from performance ratings, evaluation, and bonuses (*see* 5 U.S.C. 4301(2)(D), 5 CFR 930.206); vest the Office of Personnel Management rather than the Department with authority over the ALJ's compensation and tenure (*see* 5 U.S.C. 5372, 5 CFR 930.201–930.11); and provide that most disciplinary actions against ALJs may be taken only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for a hearing (*see* 5 U.S.C. 7521).

6. Conduct of the Hearing

Several commenters asserted that OFA should be required to participate in the hearing and be subject to cross-examination to increase transparency in the process. A few commenters requested clarification of whether only ''senior departmental employees'' or all of OFA were subject to discovery. A few commenters stated that OFA should not need to restate its PF at hearing to controvert petitioner's claims because the PF should be sufficient on its own. Other commenters observed that the proposed requirement to submit direct testimony in writing will allow for faster hearings.

Response: The OS companion final rule clarifies that OFA employees who participated in preparing the negative PFs may be called as witnesses. *See* final 43 CFR 4.1042. While the PF may be sufficient on its own in some cases, in others, it may be appropriate for OFA to call its staff to testify to elucidate parts of the PF or the OFA administrative record, subject to cross-examination, and/or to allow the petitioner or other parties to probe OFA's rationale through direct examination of OFA staff. The OS companion final rule affords the ALJ discretion to consider requests regarding hearing locations, prehearing telephonic conferences, any discovery that the ALJ believes to be appropriate, and written testimony submittals.

7. Miscellaneous Hearing Process Comments

A few commenters stated that the summary recommended decision process in proposed 43 CFR 4.1023 is not an appropriate procedure to overturn a PF. Other commenters made suggestions for facilitating petitioner participation in the hearing process, stating that hearings should be held in a location near the petitioner, that telephonic conferences should be allowed, and that filing and service of documents by priority mail or email should be allowed as an alternative to the OS companion proposed rule's requirements that overnight mail or delivery services be used for both filing and service. *See* proposed 43 CFR 4.1012(b) and 4.1013(c). These suggestions are based in part upon the commenters' stated concern that a petitioner's participation may be impeded by a lack of resources. Commenters also observed that some petitioners may be in remote locations without access to overnight mail or delivery services.

Response: Proposed 43 CFR 4.1023 would allow any party to file a motion for a summary recommended decision if the material facts are undisputed and a summary decision is appropriate as a matter of law. The OS companion final rule retains this provision. If the ALJ issued a summary recommended decision contrary to the PF (*e.g.,* if the summary recommended decision were in favor of the petitioner who had received a negative PF), it would not overturn the PF; rather, the AS–IA would consider that recommended decision when preparing a FD.

A standard hearing procedure is for the ALJ to consider the convenience of all parties, their representatives, and witnesses in setting a place for hearing, but not to unduly favor the preferences of one party over another. A provision mandating that the hearing be held in a location near the petitioner would deviate from this fair standard in all cases without sufficient justification. Indeed, in some cases, the petitioner itself may not favor a hearing location near to it, such as where its witnesses are not located near the petitioner. The selection of a hearing location is best left to the discretion of the ALJ. To guide the exercise of that discretion, a provision has been added to the OS companion final rule incorporating the fair standard that the ALJ will consider the convenience of all parties, their representatives, and witnesses in setting a place for hearing. *See* 43 CFR 4.1040(a)(2).

Regarding telephonic conferences, both the OS proposed and final rules include a provision that conferences will ordinarily be held by telephone. *See* proposed 43 CFR 4.1022(c) and final 43 CFR 4.1022(d).

The suggestion to allow for filing and service of documents by priority mail has not been adopted in the OS final rule. Requiring filing and service by overnight delivery promotes compliance with time limits for specific actions as well as with the overall time limit for the hearing process of 180 days. The use and cost of overnight delivery can be avoided by filing and serving a document by fax and regular mail if the document is 20 pages or less. *See* 43 CFR 4.1012(b)(iii). Given the limits on discovery and admissible evidence, we do not anticipate a large volume of exchanges of documents exceeding 20 pages. Nevertheless, to address the rare situation where mandating strict compliance with the prescribed filing and service methods would be unfair, the OS final rule adds language to both 43 CFR 4.1012(b) and 4.1013(c) giving the ALJ discretion to allow deviation from those methods.

Nor has the OS final rule adopted the suggestion to allow filing and service by email. A hard copy of each filing is needed to complete the hearing record that ultimately becomes part of the OFA administrative record. Service by email is problematic because not all parties may have email access.

H. Previous Federal Acknowledgment

Several commenters suggested rearranging the review process so that previous Federal acknowledgment is considered at the beginning, making it procedurally easier for previously federally recognized tribes to obtain acknowledgment. Several commenters stated that the rule should be clarified so that previously acknowledged tribes need not meet criteria (b) (Community) and (c) (Political Influence or Authority) in proposed § 83.11 prior to either 1934 or the date of previous acknowledgment, whichever is later. Otherwise, previous Federal acknowledgment would be more stringent than fulfilling all criteria at proposed § 83.11.

Several commenters provided suggestions for the definition of ''previous Federal acknowledgment'' at proposed § 83.1—some stating that it should mean Federal government officials with authority had clearly acknowledged the government-to-government relationship with the petitioner, others stating that it should be defined more broadly to include tribes under Federal jurisdiction or to capture other historical dealings where the Federal Government did not respect the tribes' sovereignty. Several commenters stated that the key proposed language, ''an entity that qualified as an Indian tribe for the purposes of Federal law,'' is more vague than the current ''tribal political entity.'' Commenters also stated that ''for the purposes of Federal law'' should be deleted because it is broader than necessary.

Some commenters noted that the proposal to evaluate criteria (b) and (c) from 1934 to the present may reduce the advantage of previous Federal acknowledgment, because the types of actions listed in proposed § 83.12(a) as evidence of previous Federal acknowledgment are not likely to be probative post-1934. For example, there were no treaty negotiations between 1934 and the present, and any petitioner that was recognized by an Act of Congress or Executive Order since 1934 is likely already a recognized tribe.

Some commenters requested clarification of the burden of showing previous Federal acknowledgment, stating that the ''reasonable likelihood'' standard of proof should apply, or that this standard conflicts with the requirement for ''unambiguous evidence'' in proposed § 83.12(a). One commenter stated that the proposed rule weakens the criteria for previous Federal acknowledgment because it no longer requires ''substantial'' evidence of unambiguous previous Federal acknowledgment.

One commenter stated that proposed § 83.12 eliminates the current requirement at § 83.8(d)(1) that the petitioner demonstrate it is the same group as was previously acknowledged tribe.

A few commenters asserted that the rule should state that claims statutes allowing descendants of tribes to bring claims do not constitute previous Federal acknowledgment. Others advocated for including various additional items in the proposed § 83.12(a) list of evidence of previous Federal acknowledgment (*e.g.,* recognition by Federal court, allotments, payments by Indian Court of Claims, unratified treaties, documented attempts to obtain land for the petitioner). Several commenters advocated for redefining previous Federal acknowledgment to include any tribe that can show it was under Federal jurisdiction, particularly for tribes who were never terminated but for whom the Federal Government may have failed to take action.

Some commenters supported the proposed previous Federal acknowledgment provisions at § 83.12 as more clear, particularly provisions clarifying that a showing of continuous community is not necessary.

Response: The final rule adopts the commenters' suggestion for moving evaluation of previous Federal acknowledgment to the first phase of OFA review and clarifying that, once previous Federal acknowledgment is shown, the petitioner need only meet the criteria in § 83.11 since 1900 or the date of previous Federal acknowledgment, whichever is later. *See* final § 83.12(b). Otherwise, the intention of the final rule is not to make any changes to the previous Federal acknowledgment provisions but to clarify them.

For example, the final rule deletes the proposed new phrase ''government-to-government'' in proposed § 83.12(a). That proposed section provided that previous Federal acknowledgment may be proven ''by providing unambiguous evidence that the United States Government recognized the petitioner as an Indian tribe for purposes of Federal law with which it carried on a government-to-government relationship at some prior date. . . .'' The ''government-to-government'' phrase has been deleted because it is not in the current provisions and may indicate a more formal relationship than is currently required for previous Federal acknowledgment. Further, just as with each criterion, evidence or methodology that was sufficient to satisfy previous Federal acknowledgment previously remains sufficient to satisfy previous Federal acknowledgment today. This clarification ensures that this section is not applied in a manner that raises the bar for each subsequent petitioner claiming previous Federal acknowledgment. In response to comments, the phrase ''for the purposes of Federal law'' is also deleted as overly broad.

While moving the evaluation date to 1900 may limit the usefulness of the previous Federal acknowledgment provisions, there remains a possibility that a petitioner may show previous Federal acknowledgment post-1900. The final rule does not substantively change the burden for showing previous Federal acknowledgment—deletion of the term ''substantial'' in ''substantial evidence of unambiguous Federal acknowledgment'' does not change the evaluation—unambiguity is still required. The rule requires a showing that the petitioner is the same tribe that was previously acknowledged. Previous Federal acknowledgment requires that the petitioner, not another group, was previously acknowledged. The final rule adds that the entity may have evolved out of the previously recognized tribe (*see* § 83.12(a)); this addition incorporates a provision in the current § 83.8(d)(1) that was inadvertently omitted in the proposed rule. *See* § 83.12(a). The final rule does not substantively change the list of examples of evidence of previous Federal acknowledgment in response to requests for additions (or deletions). Land held by the United States for a group satisfies the existing category of evidence that the group has been treated by the Federal Government as having collective rights in tribal lands.

The final rule simplifies the showing required after a petitioner proves previous Federal acknowledgment, to require the petitioner to meet criterion (b) (community) at present, as currently required, and require the petitioner to meet criteria (a) and (c) since 1900 or date of previous Federal acknowledgment, whichever is later. *See* § 83.12(b). The final rule deletes the proposed provision allowing a petitioner that has established previous Federal acknowledgment to meet the criteria for acknowledgment through ''demonstration of substantially continuous historical identification by authoritative, knowledgeable external sources of leaders and/or a governing body that exercises political influence or authority, together with demonstration of one form of evidence listed in § 83.11(c),'' because the

existing criteria are satisfactory to provide adequate justification for acknowledgment.

I. Automatic Disclosure of Documents

Several commenters stated that the proposed regulations increase transparency by requiring, throughout the process, prompt and automatic disclosure of documents to the petitioner, without a FOIA request and posting documents to the Internet.

Others requested that additional documents, such as all TA letters, be posted on the Internet based on the allegation that publishing only the narrative denies the public the opportunity to critically examine the evidence, and is thus a denial of due process. One suggested posting all OFA communications and a review of each petition's status on OFA's Web site.

Some opposed making documents available on the Web site because of their concern about others appropriating their information and viewing confidential information such as sacred sites. One pointed out that posting will require additional OFA time.

One commenter stated that lobbyists should present themselves to OFA and be listed on a Web site.

Response: The final rule takes a significant step forward in promoting transparency by providing that the OFA will publish on its Web site the narrative portion of the petition and, to the extent allowable under Federal law, other portions of the documented petition, in addition to other items of information including but not limited to: The name, location, and mailing address of the petitioner and other information to identify the entity; the date of receipt of the petition; a notice of the opportunity to submit comments and evidence; and a notice of the opportunity to be kept informed of general actions regarding a specific petitioner. Transparency is crucial to maintaining trust in the Federal acknowledgment process. The Department will endeavor to make all information on each petition available on the OFA Web site to the extent it is releasable under Federal law, and to the extent it is feasible to do so (*e.g.,* extraordinarily large files may instead be provided upon request). Nevertheless, the Department generally will not post genealogical information on living persons, in response to concerns about confidentiality and privacy. The final rule also allows petitioners to identify additional confidential information to be withheld by directing the petitioner to provide an unredacted version and a separate version redacting any confidential information. *See* § 83.21(b). The Department will withhold any information that is protectable under Federal law, but may release any redacted information that is not protectable under Federal law. In response to the comment regarding listing lobbyists on the Web site, the final rule adds that OFA's list of contacts for each petitioner, which may include attorneys and other representatives of the petitioner, along with a list of anyone else who requested to be kept informed of the petition will be posted on the Web site. *See* § 83.22(c). The Department encourages petitioners and others to provide their submissions electronically.

J. Elimination of Enrollment Limitations

A few commenters objected to the deletion of current § 83.12(b), which requires BIA review of tribal enrollment of acknowledged tribes to ensure that major changes have not occurred prior to taking administrative action in favor of the tribe. These commenters state that this review serves an important function by ensuring a tribe remains the tribe it was for the basis of acknowledgment, and that eliminating this section without explanation violates the APA.

Response: The Department eliminated this section because Part 83 is focused on the process and criteria for Federal acknowledgment and this section would impose limitations on newly acknowledged tribes. The Department affords newly acknowledged tribes the same deference to determine its own membership as it affords other federally recognized tribes.

K. Purpose (Proposed § 83.2)

Several commenters opposed the provision in § 83.2 stating that Part 83 establishes whether the petitioner is an Indian tribe ''for the purposes of Federal law'' because some non-listed tribes are considered Indian tribes for certain benefits under other Federal statutes. Other commenters opposed the provision in § 83.2 stating that Part 83 establishes whether a petitioner is an Indian tribe and ''therefore entitled to a government-to-government relationship with the United States.'' One commenter pointed to the Federally Recognized Indian Tribe List Act of 1994, and noted that it says nothing about acknowledging tribes for the purposes of Federal law or that the Secretary maintains a government-to-government relationship with listed tribes. This commenter disagreed with the implication that even if a tribe is not recognized for purposes of Federal law, it might still exist.

Response: The final rule replaces the phrase ''for the purposes of Federal law'' with language that more closely tracks the Federally Recognized Indian Tribe List Act of 1994. *See* 25 U.S.C. 479a–1.

L. Definitions

1. ''Historical''

Several commenters opposed the proposed definition of ''historical'' to mean 1900 or earlier. These commenters were concerned that the definition implied that tracing prior to 1900 would not be required, allowing acknowledgment of petitioners who did not exist as tribes before 1900 and ignoring over a century of relevant history. Some pointed to alternative dates, such as 1830 when the Indian Removal Act was passed, or the date the State was admitted to the United States. Others stated that the definition should require tracing back to the date of first sustained European contact.

Several commenters supported the proposed definition of ''historical.'' These commenters stated that relying on 1900 greatly reduces the evidentiary burden on petitioners and the Department, prevents further penalization of tribes for disruptive historical circumstances resulting from expansion of the United States, and because records before 1900 may have been lost, destroyed, or expunged. A few commenters requested that the definition of ''historical'' be explicitly restated in each criterion.

A few commenters requested flexibility, to ensure the 1900 date serves as a benchmark rather than a definitive cut-off date. These commenters pointed out that a petitioner may have had reliable evidence in 1901, and that such evidence should be sufficient if the petitioner provides an explanation as to why it is unable to produce earlier evidence. Others stated that ''first sustained contact'' is subject to disagreement among experts, so exact, federally accepted sources of when first sustained contact occurred should be used.

Response: The final rule defines ''historical'' as being before 1900. The rule still requires tracing to a historical (*i.e.,* pre-1900) tribe as set forth in criterion (e) of 83.11. As explained above, the Department considered other dates for the start of our evaluation period, but determined that the fact that more documents are generally available after 1900 justifies a more intensive documentary review from that date on. The 1900 date is a definitive start date, but the Department will examine all

evidence in light of the history, regional differences, culture, and social organization of the petitioner. *See* 83.10(b)(7).

2. ''Indigenous''

Several commenters requested reinsertion of the term ''indigenous'' (to come from within the continental U.S. at the time of first sustained contact, rather than migrating into the U.S. during historical times), stating that Indians must have been in the U.S., at least in part, throughout history, and that it is inappropriate to delete the term in light of the United Nations Declaration on the Rights of Indigenous Peoples.

Response: In response to these comments, the final rule reinserts the current definition of ''indigenous'' and the reference to ''indigenous'' in § 83.3.

3. ''Tribe''

Several commenters supported the proposed definition of ''tribe'' as any Indian tribe, band, nation, pueblo, village or community. One requested clarification of a ''community'' versus a ''tribe,'' given that ''community'' is used in the proposed definition. A commenter suggested definitions for new terms: ''Federal Indian tribe'' and ''Non-Federal Indian tribe.'' A commenter stated that the definition of ''tribe'' should clarify that if the tribe is not recognized, the Federal Government does not consider it to be a tribe. One commenter requested adding Native Hawaiians to the definition. A few commenters opposed the statement in § 83.2 that the regulations determine whether a petitioner is an Indian tribe ''for the purposes of Federal law'' and is therefore entitled to a ''government-to-government relationship.''

Response: The final rule maintains the proposed definition of ''tribe.'' Clarification of ''community'' versus ''tribe'' is unnecessary because the word ''community'' in the definition of ''tribe'' is merely nomenclature (as opposed to the concept of community required by criterion (b)). The final rule also separately defines ''federally recognized tribe.'' The final rule does not change the current approach to Native Hawaiians; rather, it continues to exclude Native Hawaiians from the definition of ''tribe,'' because the acknowledgment process has never applied to them.

The final rule also simplifies the language in § 83.2 to instead reflect the language of the Federally Recognized Indian Tribe List Act of 1994; that simplification deletes the phrases suggested for deletion.

4. Other Definitions

Some commenters suggested additional definitions in conjunction with their more substantive comments, such as for ''federal jurisdiction'' and ''government-to-government.'' Some commenters suggested various edits to proposed definitions—for example, a commenter stated that the definition of ''tribal rolls'' should recognize that many tribes did not have formal rolls. A commenter suggested using the term ''determination'' rather than ''recognition'' or ''acknowledgment.''

Response: The final rule does not incorporate any of the new suggested definitions or edits to proposed definitions because they are not necessary for understanding the content of the rule. For example, the definition of ''tribal rolls'' already recognizes that tribes may not have a formal roll and provides an alternative definition in the absence of such a roll. The final rule does, however, change the term from ''tribal roll'' to ''roll'' to better match the terminology used throughout the rule.

The final rule ensures that ''acknowledgment'' is used to refer to the process by which the United States acknowledges a tribe; once a tribe is acknowledged, it is considered a ''recognized'' tribe.

IV. Legislative Authority

Congress granted the Assistant Secretary-Indian Affairs (then, the Commissioner of Indian Affairs) authority to ''have management of all Indian affairs and of all matters arising out of Indian relations.'' 25 U.S.C. 2 and 9, and 43 U.S.C. 1457. This authority includes the authority to administratively acknowledge Indian tribes. *See, e.g., Miami Nation of Indians of Indiana, Inc.* v. *United States Dep't of the Interior,* 255 F.3d 342,, 346 (7th Cir. 2001); *James* v. *United States Dep't of Health & Human Servs.,* 824 F. 2d 1132, 1137 (D.C. Cir. 1987). The Congressional findings that supported the Federally Recognized Indian Tribe List Act of 1994 expressly acknowledged that Indian tribes could be recognized ''by the administrative procedures set forth in part 83 of the Code of Federal Regulations denominated 'Procedures for Establishing that an American Indian Group Exists as an Indian Tribe,' '' and described the relationship that the United States has with federally recognized tribes. *See* Public Law 103–454 Sec. 103(2), (3), (8) (Nov. 2, 1994).

V. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866 and 13563)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

B. Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

C. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. The rule's requirements will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Nor will this rule have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises because the rule is limited to Federal acknowledgment of Indian tribes.

D. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or

unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

Under the criteria in Executive Order 12630, this rule does not affect individual property rights protected by the Fifth Amendment nor does it involves a compensable ''taking.'' A takings implication assessment is therefore not required.

F. Federalism (E.O. 13132)

Under the criteria in Executive Order 13132, this rule has no 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.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule has been reviewed to eliminate errors and ambiguity and written to minimize litigation; and is written in clear language and contains clear legal standards.

H. Consultation With Indian Tribes (E.O. 13175)

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments,'' Executive Order 13175 (59 FR 22951, November 6, 2000), and 512 DM 2, we have evaluated the potential effects on federally recognized Indian tribes and Indian trust assets. The Department distributed a ''Discussion Draft'' of this rule to federally recognized Indian tribes in June 2013, and hosted five consultation sessions with federally recognized Indian tribes throughout the country in July and August 2013. Several federally recognized Indian tribes submitted written comments; some strongly supportive of revising the regulations and others strongly opposed to revisions. Following publication of the proposed rule, the Department then hosted five additional in-person consultations and two teleconferences in July and August 2014. We considered each tribe's comments and concerns and have addressed them, where possible, in the final rule.

I. Paperwork Reduction Act

OMB Control Number: 1076–0104.

Title: Federal Acknowledgment as an Indian Tribe, 25 CFR part 83.

Brief Description of Collection: This information collection requires entities seeking Federal recognition as an Indian tribe to collect and provide information in a documented petition evidencing that the entities meet the criteria set out in the rule.

Type of Review: Revision of currently approved collection.

Respondents: Entities petitioning for Federal acknowledgment.

Number of Respondents: 10 on average (each year).

Number of Responses: 10 on average (each year).

Frequency of Response: On occasion.

Estimated Time per Response: (*See* table below).

Estimated Total Annual Hour Burden: 14,360 hours.

Estimated Total Annual Non-Hour Cost: $21,000,000.

OMB Control No. 1076–0104 currently authorizes the collections of information contained in 25 CFR part 83. DOI estimates that the annual burden hours for respondents (entities petitioning for Federal acknowledgment) from this final rule will decrease by a minimum by approximately 6,390 hours. Because the final rule would change sections where the information collections occur, we are including a table showing the section changes.

Current sec.	New sec.	Description of requirement	Burden hours on respondents per response	Annual burden hours (10 respondents)
83.7 (a)–(d), 83.7 (f)–(g); 83.7 (e).	83.21 (referring to 83.11 (a)–(d), 83.11 (f)–(g)); 83.21 (referring to 83.11 (e)).	Conduct the anthropological and historical research relating to the criteria (a)–(d) and (f)–(g); Conduct the genealogical work to demonstrate tribal descent.	1,221	12,210
83.7 (e)	83.21	Provide past membership rolls and complete a membership roll of about 333** members (BIA Form 8306).	38	380
83.7 (e)	83.21 (referring to 83.11 (e)).	Complete Individual History Chart (BIA Form 8304). On average, it takes 2 minutes per chart × 333** charts.	11	110
83.7 (e)	83.21 (referring to 83.11 (e)).	Complete the Ancestry Chart (BIA Form 8305). On average, it takes about 30 minutes per chart × 333** charts.	166	1,660

One comment submission, from several towns in Connecticut, was submitted specifically addressing the information collection requirements in the proposed rule. The comments and responses are summarized here.

PRA Comment 1: The estimate only considers the annual burden hours for petitioners in collecting information to meet the mandatory criteria in preparing a documented petition and responding to a Technical Assistance (TA) review, and fails to consider the burden hours on petitioners for later stages of the process.

PRA Response 1: The commenter is correct that the estimate only covers the burden hours for petitioners in collecting the information to develop and submit the documented petition. Once the documented petition is submitted, the Department opens an administrative case file for the petitioner, and all subsequent information collections are covered by the exemption in 5 CFR 1320.4(c). The comment alerted the Department to the fact that it had previously included the burden for responding to a TA review; because the TA review occurs following the opening of the administrative case file, this too is covered by the regulatory exemption. As such, the Department has removed this burden estimate. No change is necessary in response to this comment.

PRA Comment 2: The estimate fails to include burden hours for previously denied petitioners that must submit new

arguments and evidence in order to request permission from an Office of Hearings and Appeals (OHA) judge to re-petition.

PRA Response 2: The proposed rule contained a provision that allowed previously denied petitioners to seek the opportunity to re-petition. The final rule deletes this provision. This comment is no longer applicable. No change is necessary in response to this comment.

PRA Comment 3: The estimate fails to consider the burden hours on other respondents in the Federal Acknowledgment process, such as State governments, federally recognized tribes, and other petitioners that may submit information in support of or opposition to a petition.

PRA Response 3: The estimate does not consider the burden hours on those who may submit information in support of or in opposition to a petition because such information is voluntarily submitted only after the administrative case file is opened, and is therefore covered by the exemption in 5 CFR 1320.4(c). No change is necessary in response to this comment.

PRA Comment 4: The preamble to the proposed rule fails to describe the methodology used to arrive at the projections. The estimate is not based on any broad or accurate statistical data because there is no requirement or mechanism in place for petitioners to report annual burden hours.

PRA Response 4: The supporting statement submitted in conjunction with the proposed rule described the methodology for arriving at the proposed projections, and was available upon request or at *www.reginfo.gov.* A revised supporting statement, which again describes the methodology used to arrive at the projections, has been submitted to OMB in conjunction with this final rule. The comment is correct that there is no requirement or mechanism in place for petitioners to report annual burden hours—the Department examined Congressional testimony and reached out to petitioners for help in developing its estimates. No change is necessary in response to this comment.

PRA Comment 5: Most petitioners have a team of individuals working on their petitions, including group leaders and members, legal counsel, and professional researchers (such as anthropologists, historians, and genealogists). If each of these spent a quarter of their time working on a documented petition, the team would have an average of 4,160 annual burden hours. For an actual case, including all the information provided throughout the process, including the stages that the Department is not including in its estimate, the team spent approximately 10,000 hours total. This experience strongly suggests the Department underestimated the annual burden hours with its estimate of 2,075.

PRA Response 5: The burden hour estimate includes only the time that the petitioner itself expended in preparing the documented petition; the time that all professionals the petitioner had to hire to prepare the petition is accounted for as non-hour cost burden. In our development of the non-hour cost burden, we reached out to several petitioners (one of whom indicated the total hours reached 12,000 cumulative hours). No change is necessary in response to this comment.

PRA Comment 6: Provisions of the proposed rule will slow down the acknowledgment process by: Incentivizing more documented petitions; allowing denied petitioners to re-petition; requiring OFA time to redact petition narratives; providing more extensive technical assistance to petitioners; allowing petitioners to withdraw from the review process; requiring appeals to OHA rather than IBIA; and requiring appeals of a final determination to go to Federal district court.

PRA Response 6: Overall, this comment is not directly related to the Paperwork Reduction Act burdens; however, the Department disagrees with the assertions that the rule will slow down the acknowledgment process for the reasons stated elsewhere in this preamble. No change is necessary in response to this comment.

J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment because it is of an administrative, technical, and procedural nature. *See,* 43 CFR 46.210(i). No extraordinary circumstances exist that would require greater review under the National Environmental Policy Act.

K. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

List of Subjects in 25 CFR Part 83

Administrative practice and procedure, Indians-tribal government.

For the reasons stated in the preamble, the Department of the Interior, Bureau of Indian Affairs, revises part 83 in Title 25 of the Code of Federal Regulations as follows:

PART 83—PROCEDURES FOR FEDERAL ACKNOWLEDGMENT OF INDIAN TRIBES

Subpart A—General Provisions

Sec.
83.1 What terms are used in this part?
83.2 What is the purpose of the regulations in this part?
83.3 Who does this part apply to?
83.4 Who cannot be acknowledged under this part?
83.5 How does a petitioner obtain Federal acknowledgment under this part?
83.6 What are the Department's duties?
83.7 How does this part apply to documented petitions submitted before July 31, 2015?
83.8 May the deadlines in this part be extended?
83.9 How does the Paperwork Reduction Act affect the information collections in this part?

Subpart B—Criteria for Federal Acknowledgment

83.10 How will the Department evaluate each of the criteria?
83.11 What are the criteria for acknowledgment as a federally recognized Indian tribe?
83.12 What are the criteria for a previously federally acknowledged petitioner?

Subpart C—Process for Federal Acknowledgment

Documented Petition Submission

83.20 How does an entity request Federal acknowledgment?
83.21 What must a documented petition include?
83.22 What notice will OFA provide upon receipt of a documented petition?

Review of Documented Petition

83.23 How will OFA determine which documented petition to consider first?
83.24 What opportunity will the petitioner have to respond to comments before OFA reviews the petition?
83.25 Who will OFA notify when it begins review of a documented petition?
83.26 How will OFA review a documented petition?
83.27 What are technical assistance reviews?
83.28 When does OFA review for previous Federal acknowledgment?
83.29 What will OFA consider in its reviews?
83.30 Can a petitioner withdraw its documented petition?
83.31 Can OFA suspend review of a documented petition?

Proposed Finding

83.32 When will OFA issue a proposed finding?
83.33 What will the proposed finding include?
83.34 What notice of the proposed finding will OFA provide?

Comment and Response Periods, Hearing

83.35 What opportunity will there be to comment after OFA issues the proposed finding?
83.36 What procedure follows the end of the comment period for a favorable proposed finding?
83.37 What procedure follows the end of the comment period on a negative proposed finding?
83.38 What options does the petitioner have at the end of the response period on a negative proposed finding?
83.39 What is the procedure if the petitioner elects to have a hearing before an ALJ?

AS–IA Evaluation and Preparation of Final Determination

83.40 When will the Assistant Secretary begin review?
83.41 What will the Assistant Secretary consider in his/her review?
83.42 When will the Assistant Secretary issue a final determination?
83.43 How will the Assistant Secretary make the final determination decision?
83.44 Is the Assistant Secretary's final determination final for the Department?
83.45 When will the final determination be effective?
83.46 How is a petitioner with a positive final determination integrated into Federal programs as a federally recognized Indian tribe?

Authority: 5 U.S.C. 301; 25 U.S.C. 2, 9, 479a–1; Pub. L. 103–454 Sec. 103 (Nov. 2, 1994); and 43 U.S.C. 1457.

Subpart A—General Provisions

§ 83.1 What terms are used in this part?

As used in this part:

ALJ means an administrative law judge in the Departmental Cases Hearings Division, Office of Hearings and Appeals (OHA), Department of the Interior, appointed under 5 U.S.C. 3105.

Assistant Secretary or *AS–IA* means the Assistant Secretary—Indian Affairs within the Department of the Interior, or that officer's authorized representative, but does not include representatives of the Office of Federal Acknowledgment.

Autonomous means independent of the control of any other Indian governing entity.

Bureau means the Bureau of Indian Affairs within the Department of the Interior.

Continental United States means the contiguous 48 states and Alaska.

Department means the Department of the Interior, including the Assistant Secretary and OFA.

Documented petition means the detailed arguments and supporting documentary evidence submitted by a petitioner claiming that it meets the Indian Entity Identification (§ 83.11(a)), Governing Document (§ 83.11(d)), Descent (§ 83.11(e)), Unique Membership (§ 83.11(f)), and Congressional Termination (§ 83.11(g)) Criteria and claiming that it:

(1) Demonstrates previous Federal acknowledgment under § 83.12(a) and meets the criteria in § 83.12(b); or

(2) Meets the Community (§ 83.11(b)) and Political Authority (§ 83.11(c)) Criteria.

Federally recognized Indian tribe means an entity listed on the Department of the Interior's list under the Federally Recognized Indian Tribe List Act of 1994, which the Secretary currently acknowledges as an Indian tribe and with which the United States maintains a government-to-government relationship.

Historical means before 1900.

Indigenous means native to the continental United States in that at least part of the petitioner's territory at the time of first sustained contact extended into what is now the continental United States.

Member of a petitioner means an individual who is recognized by the petitioner as meeting its membership criteria and who consents to being listed as a member of the petitioner.

Office of Federal Acknowledgment or *OFA* means the Office of Federal Acknowledgment within the Office of the Assistant Secretary—Indian Affairs, Department of the Interior.

Petitioner means any entity that has submitted a documented petition to OFA requesting Federal acknowledgment as a federally recognized Indian tribe.

Previous Federal acknowledgment means action by the Federal government clearly premised on identification of a tribal political entity and indicating clearly the recognition of a relationship between that entity and the United States.

Roll means a list exclusively of those individuals who have been determined by the tribe to meet the tribe's membership requirements as set forth in its governing document. In the absence of such a document, a roll means a list of those recognized as members by the tribe's governing body. In either case, those individuals on a roll must have affirmatively demonstrated consent to being listed as members.

Secretary means the Secretary of the Interior within the Department of the Interior or that officer's authorized representative.

Tribe means any Indian tribe, band, nation, pueblo, village or community.

§ 83.2 What is the purpose of the regulations in this part?

The regulations in this part implement Federal statutes for the benefit of Indian tribes by establishing procedures and criteria for the Department to use to determine whether a petitioner is an Indian tribe eligible for the special programs and services provided by the United States to Indians because of their status as Indians. A positive determination will result in Federal recognition status and the petitioner's addition to the Department's list of federally recognized Indian tribes. Federal recognition:

(a) Is a prerequisite to the protection, services, and benefits of the Federal Government available to those that qualify as Indian tribes and possess a government-to-government relationship with the United States;

(b) Means the tribe is entitled to the immunities and privileges available to other federally recognized Indian tribes;

(c) Means the tribe has the responsibilities, powers, limitations, and obligations of other federally recognized Indian tribes; and

(d) Subjects the Indian tribe to the same authority of Congress and the United States as other federally recognized Indian tribes.

§ 83.3 Who does this part apply to?

This part applies only to indigenous entities that are not federally recognized Indian tribes.

§ 83.4 Who cannot be acknowledged under this part?

The Department will not acknowledge:

(a) An association, organization, corporation, or entity of any character formed in recent times unless the entity has only changed form by recently incorporating or otherwise formalizing its existing politically autonomous community;

(b) A splinter group, political faction, community, or entity of any character that separates from the main body of a currently federally recognized Indian tribe, petitioner, or previous petitioner unless the entity can clearly demonstrate it has functioned from 1900 until the present as a politically autonomous community and meets § 83.11(f), even though some have regarded them as part of or associated in some manner with a federally recognized Indian tribe;

(c) An entity that is, or an entity whose members are, subject to congressional legislation terminating or forbidding the government-to-government relationship; or

(d) An entity that previously petitioned and was denied Federal acknowledgment under these regulations or under previous regulations in part 83 of this title

(including reconstituted, splinter, spin-off, or component groups who were once part of previously denied petitioners).

§ 83.5 How does a petitioner obtain Federal acknowledgment under this part?

To be acknowledged as a federally recognized Indian tribe under this part, a petitioner must meet the Indian Entity Identification (§ 83.11(a)), Governing Document (§ 83.11(d)), Descent (§ 83.11(e)), Unique Membership (§ 83.11(f)), and Congressional Termination (§ 83.11(g)) Criteria and must:

(a) Demonstrate previous Federal acknowledgment under § 83.12(a) and meet the criteria in § 83.12(b); or

(b) Meet the Community (§ 83.11(b)) and Political Authority (§ 83.11(c)) Criteria.

§ 83.6 What are the Department's duties?

(a) The Department will publish in the **Federal Register**, by January 30 each year, a list of all Indian tribes which the Secretary recognizes to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians, in accordance with the Federally Recognized Indian Tribe List Act of 1994. The list may be published more frequently, if the Assistant Secretary deems it necessary.

(b) OFA will maintain guidelines limited to general suggestions on how and where to conduct research. The guidelines may be supplemented or updated as necessary. OFA will also make available examples of portions of documented petitions in the preferred format, though OFA will accept other formats.

(c) OFA will, upon request, give prospective petitioners suggestions and advice on how to prepare the documented petition. OFA will not be responsible for the actual research on behalf of the petitioner.

§ 83.7 How does this part apply to documented petitions submitted before August 17, 2015?

(a) Any petitioner who has not submitted a complete documented petition as of July 31, 2015 must proceed under these revised regulations. We will notify these petitioners and provide them with a copy of the revised regulations by July 31, 2015.

(b) By August 31, 2015, OFA will notify each petitioner that has submitted complete documented petitions but has not yet received a final agency decision that it must proceed under these revised regulations unless it chooses by September 29, 2015 to complete the petitioning process under the previous version of the acknowledgment regulations as published in 25 CFR part 83, revised as of April 1, 1994.

(c) Any petitioner who has submitted a documented petition under the previous version of the acknowledgment regulations and chooses to proceed under these revised regulations does not need to submit a new documented petition, but may supplement its petition.

§ 83.8 May the deadlines in this part be extended?

(a) The AS–IA may extend any of the deadlines in this part upon a finding of good cause.

(b) For deadlines applicable to the Department, AS–IA may extend the deadlines upon the consent of the petitioner.

(c) If AS–IA grants a time extension, it will notify the petitioner and those listed in § 83.22(d).

§ 83.9 How does the Paperwork Reduction Act affect the information collections in this part?

The collections of information contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 1076–0104. Response is required to obtain a benefit. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless the form or regulation requesting the information displays a currently valid OMB Control Number. Send comments regarding this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer—Indian Affairs, 1849 C Street, NW., Washington, DC 20240.

Subpart B—Criteria for Federal Acknowledgment

§ 83.10 How will the Department evaluate each of the criteria?

(a) The Department will consider a criterion in § 83.11 to be met if the available evidence establishes a reasonable likelihood of the validity of the facts relating to that criterion.

(1) The Department will not require conclusive proof of the facts relating to a criterion in order to consider the criterion met.

(2) The Department will require existence of community and political influence or authority be demonstrated on a substantially continuous basis, but this demonstration does not require meeting these criteria at every point in time. Fluctuations in tribal activity during various years will not in themselves be a cause for denial of acknowledgment under these criteria.

(3) The petitioner may use the same evidence to establish more than one criterion.

(4) Evidence or methodology that the Department found sufficient to satisfy any particular criterion in a previous decision will be sufficient to satisfy the criterion for a present petitioner.

(b) When evaluating a petition, the Department will:

(1) Allow criteria to be met by any suitable evidence, rather than requiring the specific forms of evidence stated in the criteria;

(2) Take into account historical situations and time periods for which evidence is demonstrably limited or not available;

(3) Take into account the limitations inherent in demonstrating historical existence of community and political influence or authority;

(4) Require a demonstration that the criteria are met on a substantially continuous basis, meaning without substantial interruption; and

(5) Apply these criteria in context with the history, regional differences, culture, and social organization of the petitioner.

§ 83.11 What are the criteria for acknowledgment as a federally recognized Indian tribe?

The criteria for acknowledgment as a federally recognized Indian tribe are delineated in paragraphs (a) through (g) of this section.

(a) *Indian entity identification.* The petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900. Evidence that the group's character as an Indian entity has from time to time been denied will not be considered to be conclusive evidence that this criterion has not been met. Evidence to be relied upon in determining a group's Indian identity may include one or a combination of the following, as well as other evidence of identification.

(1) Identification as an Indian entity by Federal authorities.

(2) Relationships with State governments based on identification of the group as Indian.

(3) Dealings with a county, parish, or other local government in a relationship based on the group's Indian identity.

(4) Identification as an Indian entity by anthropologists, historians, and/or other scholars.

(5) Identification as an Indian entity in newspapers and books.

(6) Identification as an Indian entity in relationships with Indian tribes or

with national, regional, or state Indian organizations.

(7) Identification as an Indian entity by the petitioner itself.

(b) *Community.* The petitioner comprises a distinct community and demonstrates that it existed as a community from 1900 until the present. Distinct community means an entity with consistent interactions and significant social relationships within its membership and whose members are differentiated from and distinct from nonmembers. Distinct community must be understood flexibly in the context of the history, geography, culture, and social organization of the entity. The petitioner may demonstrate that it meets this criterion by providing evidence for known adult members or by providing evidence of relationships of a reliable, statistically significant sample of known adult members.

(1) The petitioner may demonstrate that it meets this criterion at a given point in time by some combination of two or more of the following forms of evidence or by other evidence to show that a significant and meaningful portion of the petitioner's members constituted a distinct community at a given point in time:

(i) Rates or patterns of known marriages within the entity, or, as may be culturally required, known patterned out-marriages;

(ii) Social relationships connecting individual members;

(iii) Rates or patterns of informal social interaction that exist broadly among the members of the entity;

(iv) Shared or cooperative labor or other economic activity among members;

(v) Strong patterns of discrimination or other social distinctions by non-members;

(vi) Shared sacred or secular ritual activity;

(vii) Cultural patterns shared among a portion of the entity that are different from those of the non-Indian populations with whom it interacts. These patterns must function as more than a symbolic identification of the group as Indian. They may include, but are not limited to, language, kinship organization or system, religious beliefs or practices, and ceremonies;

(viii) The persistence of a collective identity continuously over a period of more than 50 years, notwithstanding any absence of or changes in name;

(ix) Land set aside by a State for the petitioner, or collective ancestors of the petitioner, that was actively used by the community for that time period;

(x) Children of members from a geographic area were placed in Indian boarding schools or other Indian educational institutions, to the extent that supporting evidence documents the community claimed; or

(xi) A demonstration of political influence under the criterion in § 83.11(c)(1) will be evidence for demonstrating distinct community for that same time period.

(2) The petitioner will be considered to have provided more than sufficient evidence to demonstrate distinct community and political authority under § 83.11(c) at a given point in time if the evidence demonstrates any one of the following:

(i) More than 50 percent of the members reside in a geographical area exclusively or almost exclusively composed of members of the entity, and the balance of the entity maintains consistent interaction with some members residing in that area;

(ii) At least 50 percent of the members of the entity were married to other members of the entity;

(iii) At least 50 percent of the entity members maintain distinct cultural patterns such as, but not limited to, language, kinship system, religious beliefs and practices, or ceremonies;

(iv) There are distinct community social institutions encompassing at least 50 percent of the members, such as kinship organizations, formal or informal economic cooperation, or religious organizations; or

(v) The petitioner has met the criterion in § 83.11(c) using evidence described in § 83.11(c)(2).

(c) *Political influence or authority.* The petitioner has maintained political influence or authority over its members as an autonomous entity from 1900 until the present. Political influence or authority means the entity uses a council, leadership, internal process, or other mechanism as a means of influencing or controlling the behavior of its members in significant respects, making decisions for the entity which substantially affect its members, and/or representing the entity in dealing with outsiders in matters of consequence. This process is to be understood flexibly in the context of the history, culture, and social organization of the entity.

(1) The petitioner may demonstrate that it meets this criterion by some combination of two or more of the following forms of evidence or by other evidence that the petitioner had political influence or authority over its members as an autonomous entity:

(i) The entity is able to mobilize significant numbers of members and significant resources from its members for entity purposes.

(ii) Many of the membership consider issues acted upon or actions taken by entity leaders or governing bodies to be of importance.

(iii) There is widespread knowledge, communication, or involvement in political processes by many of the entity's members.

(iv) The entity meets the criterion in § 83.11(b) at greater than or equal to the percentages set forth under § 83.11(b)(2).

(v) There are internal conflicts that show controversy over valued entity goals, properties, policies, processes, or decisions.

(vi) The government of a federally recognized Indian tribe has a significant relationship with the leaders or the governing body of the petitioner.

(vii) Land set aside by a State for petitioner, or collective ancestors of the petitioner, that is actively used for that time period.

(viii) There is a continuous line of entity leaders and a means of selection or acquiescence by a significant number of the entity's members.

(2) The petitioner will be considered to have provided sufficient evidence of political influence or authority at a given point in time if the evidence demonstrates any one of the following:

(i) Entity leaders or other internal mechanisms exist or existed that:

(A) Allocate entity resources such as land, residence rights, and the like on a consistent basis;

(B) Settle disputes between members or subgroups by mediation or other means on a regular basis;

(C) Exert strong influence on the behavior of individual members, such as the establishment or maintenance of norms or the enforcement of sanctions to direct or control behavior; or

(D) Organize or influence economic subsistence activities among the members, including shared or cooperative labor.

(ii) The petitioner has met the requirements in § 83.11(b)(2) at a given time.

(d) *Governing document.* The petitioner must provide:

(1) A copy of the entity's present governing document, including its membership criteria; or

(2) In the absence of a governing document, a written statement describing in full its membership criteria and current governing procedures.

(e) *Descent.* The petitioner's membership consists of individuals who descend from a historical Indian tribe (or from historical Indian tribes that combined and functioned as a single autonomous political entity).

(1) The petitioner satisfies this criterion by demonstrating that the

petitioner's members descend from a tribal roll directed by Congress or prepared by the Secretary on a descendancy basis for purposes of distributing claims money, providing allotments, providing a tribal census, or other purposes, unless significant countervailing evidence establishes that the tribal roll is substantively inaccurate; or

(2) If no tribal roll was directed by Congress or prepared by the Secretary, the petitioner satisfies this criterion by demonstrating descent from a historical Indian tribe (or from historical Indian tribes that combined and functioned as a single autonomous political entity) with sufficient evidence including, but not limited to, one or a combination of the following identifying present members or ancestors of present members as being descendants of a historical Indian tribe (or of historical Indian tribes that combined and functioned as a single autonomous political entity):

(i) Federal, State, or other official records or evidence;

(ii) Church, school, or other similar enrollment records;

(iii) Records created by historians and anthropologists in historical times;

(iv) Affidavits of recognition by tribal elders, leaders, or the tribal governing body with personal knowledge; and

(v) Other records or evidence.

(f) *Unique membership.* The petitioner's membership is composed principally of persons who are not members of any federally recognized Indian tribe. However, a petitioner may be acknowledged even if its membership is composed principally of persons whose names have appeared on rolls of, or who have been otherwise associated with, a federally recognized Indian tribe, if the petitioner demonstrates that:

(1) It has functioned as a separate politically autonomous community by satisfying criteria in paragraphs (b) and (c) of this section; and

(2) Its members have provided written confirmation of their membership in the petitioner.

(g) *Congressional termination.* Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship. The Department must determine whether the petitioner meets this criterion, and the petitioner is not required to submit evidence to meet it.

§ 83.12 What are the criteria for a previously federally acknowledged petitioner?

(a) The petitioner may prove it was previously acknowledged as a federally recognized Indian tribe, or is a portion that evolved out of a previously federally recognized Indian tribe, by providing substantial evidence of unambiguous Federal acknowledgment, meaning that the United States Government recognized the petitioner as an Indian tribe eligible for the special programs and services provided by the United States to Indians because of their status as Indians with which the United States carried on a relationship at some prior date including, but not limited to, evidence that the petitioner had:

(1) Treaty relations with the United States;

(2) Been denominated a tribe by act of Congress or Executive Order;

(3) Been treated by the Federal Government as having collective rights in tribal lands or funds; or

(4) Land held for it or its collective ancestors by the United States.

(b) Once the petitioner establishes that it was previously acknowledged, it must demonstrate that it meets:

(1) At present, the Community Criterion; and

(2) Since the time of previous Federal acknowledgment or 1900, whichever is later, the Indian Entity Identification Criterion and Political Authority Criterion.

Subpart C—Process for Federal Acknowledgment

Documented Petition Submission and Review

§ 83.20 How does an entity request Federal acknowledgment?

Any entity that believes it can satisfy the criteria in this part may submit a documented petition under this part to: Department of the Interior, Office of the Assistant Secretary—Indian Affairs, Attention: Office of Federal Acknowledgement, 1951 Constitution Ave. NW., Washington, DC 20240.

§ 83.21 What must a documented petition include?

(a) The documented petition may be in any readable form and must include the following:

(1) A certification, signed and dated by the petitioner's governing body, stating that it is the petitioner's official documented petition;

(2) A concise written narrative, with citations to supporting documentation, thoroughly explaining how the petitioner meets each of the criteria in § 83.11, except the Congressional Termination Criterion (§ 83.11 (g))—

(i) If the petitioner chooses to provide explanations of and supporting documentation for the Congressional Termination Criterion (§ 83.11 (g)), the Department will accept it; but

(ii) The Department will conduct the research necessary to determine whether the petitioner meets the Congressional Termination Criterion (§ 83.11 (g)).

(3) Supporting documentation cited in the written narrative and containing specific, detailed evidence that the petitioner meets each of the criteria in § 83.11;

(4) Membership lists and explanations, including:

(i) An official current membership list, separately certified by the petitioner's governing body, of all known current members of the petitioner, including each member's full name (including maiden name, if any), date of birth, and current residential address;

(ii) A statement describing the circumstances surrounding the preparation of the current membership list;

(iii) A copy of each available former list of members based on the petitioner's own defined criteria; and

(iv) A statement describing the circumstances surrounding the preparation of the former membership lists, insofar as possible.

(b) If the documented petition contains any information that is protectable under Federal law such as the Privacy Act and Freedom of Information Act, the petitioner must provide a redacted version, an unredacted version of the relevant pages, and an explanation of the legal basis for withholding such information from public release. The Department will not publicly release information that is protectable under Federal law, but may release redacted information if not protectable under Federal law.

§ 83.22 What notice will OFA provide upon receipt of a documented petition?

When OFA receives a documented petition, it will do all of the following:

(a) Within 30 days of receipt, acknowledge receipt in writing to the petitioner.

(b) Within 60 days of receipt:

(1) Publish notice of receipt of the documented petition in the **Federal Register** and publish the following on the OFA Web site:

(i) The narrative portion of the documented petition, as submitted by the petitioner (with any redactions appropriate under § 83.21(b));

(ii) The name, location, and mailing address of the petitioner and other information to identify the entity;

(iii) The date of receipt;

(iv) The opportunity for individuals and entities to submit comments and

evidence supporting or opposing the petitioner's request for acknowledgment within 120 days of the date of the Web site posting; and

(v) The opportunity for individuals and entities to request to be kept informed of general actions regarding a specific petitioner.

(2) Notify, in writing, the following:

(i) The governor of the State in which the petitioner is located;

(ii) The attorney general of the State in which the petitioner is located;

(iii) The government of the county-level (or equivalent) jurisdiction in which the petitioner is located; and

(iv) Notify any recognized tribe and any petitioner that appears to have a historical or present relationship with the petitioner or that may otherwise be considered to have a potential interest in the acknowledgment determination.

(c) Publish the following additional information to the OFA Web site:

(1) Other portions of the documented petition, to the extent feasible and allowable under Federal law, except documentation and information protectable from disclosure under Federal law, as identified by Petitioner under § 83.21(b) or otherwise;

(2) Any comments or materials submitted by third parties to OFA relating to the documented petition;

(3) Any substantive letter, proposed finding, recommended decision, and final determination issued by the Department;

(4) OFA's contact list for each petitioner, including the point of contact for the petitioner; attorneys, and representatives; and

(5) Contact information for any other individuals and entities that request to be kept informed of general actions regarding the petitioner.

(d) All subsequent notices that the Department provides under this part will be provided via the most efficient means for OFA to:

(1) The governor of the State in which the petitioner is located;

(2) The attorney general of the State in which the petitioner is located;

(3) The government of the county-level (or equivalent) jurisdiction in which the petitioner is located;

(4) Any recognized tribe and any petitioner that appears to have a historical or present relationship with the petitioner or that may otherwise be considered to have a potential interest in the acknowledgment determination; and

(5) Any individuals and entities that request to be kept informed of general actions regarding a specific petitioner.

Review of Documented Petition

§ 83.23 How will OFA determine which documented petition to consider first?

(a) OFA will begin reviews of documented petitions in the order of their receipt.

(1) At each successive review stage, there may be points at which OFA is waiting on additional information or clarification from the petitioner. Upon receipt of the additional information or clarification, OFA will return to its review of the documented petition as soon as possible.

(2) To the extent possible, OFA will give highest priority to completing reviews of documented petitions it has already begun to review.

(b) OFA will maintain a numbered register of documented petitions that have been received.

(c) OFA will maintain a numbered register of any letters of intent, which were allowable prior to July 31, 2015, or incomplete (*i.e.,* not fully documented) petitions and the original dates of their filing with the Department. If two or more documented petitions are ready for review on the same date, this register will determine the order of consideration.

§ 83.24 What opportunity will the petitioner have to respond to comments before OFA reviews the petition?

Before beginning review of a documented petition, OFA will provide the petitioner with any comments on the petition received from individuals or entities under § 83.22(b) and provide the petitioner with 90 days to respond to such comments. OFA will not begin review until it receives the petitioner's response to the comments or the petitioner requests that OFA proceed without its response.

§ 83.25 Who will OFA notify when it begins review of a documented petition?

OFA will notify the petitioner and those listed in § 83.22(d) when it begins review of a documented petition and will provide the petitioner and those listed in § 83.22(d) with:

(a) The name, office address, and telephone number of the staff member with primary administrative responsibility for the petition;

(b) The names of the researchers conducting the evaluation of the petition; and

(c) The name of their supervisor.

§ 83.26 How will OFA review a documented petition?

(a) *Phase I.* When reviewing a documented petition, OFA will first determine if the petitioner meets the Governing Document Criterion (§ 83.11(d)), Descent Criterion (§ 83.11(e)), Unique Membership Criterion (§ 83.11(f)), and Termination Criterion (§ 83.11(g)), in accordance with the following steps.

(1)(i) OFA will conduct a Phase I technical assistance review and notify the petitioner by letter of any deficiencies that would prevent the petitioner from meeting the Governing Document, Descent, Unique Membership, or Termination Criteria. Upon receipt of the letter, the petitioner must submit a written response that:

(A) Withdraws the documented petition to further prepare the petition;

(B) Submits additional information and/or clarification; or

(C) Asks OFA to proceed with the review.

(ii) If the documented petition claims previous Federal acknowledgment and/or includes evidence of previous Federal acknowledgment, the Phase I technical assistance review will include a review to determine whether that evidence meets the requirements of previous Federal acknowledgment (§ 83.12).

(2) Following the receipt of the petitioner's written response to the Phase I technical assistance review, OFA will provide the petitioner with:

(i) Any comments and evidence OFA may consider that the petitioner does not already have, to the extent allowable by Federal law; and

(ii) The opportunity to respond in writing to the comments and evidence provided.

(3) OFA will publish a negative proposed finding if it issues a deficiency letter under paragraph (a)(1)(i) of this section, and the petitioner:

(i) Does not withdraw the documented petition or does not respond with information or clarification sufficient to address the deficiencies; or

(ii) Asks OFA in writing to proceed with the review.

(4) OFA will publish a positive proposed finding and proceed to Phase II if it determines that the petitioner meets the Governing Document, Descent, Unique Membership, and Termination criteria.

(b) *Phase II.* If the petitioner meets the Governing Document, Descent, Unique Membership, and Termination criteria, OFA will next review whether the petitioner meets the Indian Entity Identification Criterion (§ 83.11(a)), the Community Criterion (§ 83.11(b)), and the Political Influence/Authority Criterion (§ 83.11(c)). If the petitioner claims previous Federal acknowledgment, the Department will also review whether petitioner proves

previous Federal acknowledgment and, if so, will review whether the petitioner meets the criteria under § 83.12(b).

(1) OFA will conduct a Phase II technical assistance review and notify the petitioner by letter of any deficiencies that would prevent the petitioner from meeting these criteria. Upon receipt of the letter, the petitioner must submit a written response that:

(i) Withdraws the documented petition to further prepare the petition;

(ii) Provides additional information and/or clarification; or

(iii) Asks OFA to proceed with the review.

(2) Following receipt of the petitioner's written response to the Phase II technical assistance review, OFA will provide the petitioner with:

(i) Any comments and evidence OFA may consider in preparing the proposed finding that the petitioner does not already have, to the extent allowable by Federal law; and

(ii) The opportunity to respond in writing to the comments and evidence provided.

(3) OFA will then review the record to determine:

(i) For petitioners with previous Federal acknowledgment, whether the criteria at § 83.12(b) are met; or

(ii) For petitioners without previous Federal acknowledgment, whether the Indian Entity Identification (§ 83.11(a)), Community (§ 83.11(b)) and Political Authority (§ 83.11(c)) Criteria are met.

(4) OFA will publish a negative proposed finding if it issues a deficiency letter under paragraph (a)(1) of this section, and the petitioner:

(i) Does not withdraw the documented petition or does not respond with information or clarification sufficient to address the deficiencies; or

(ii) Asks OFA in writing to proceed with the review.

(5) OFA will publish a positive proposed finding if it determines that the petitioner meets the Indian Entity Identification (§ 83.11(a)), Community (§ 83.11(b)) and Political Authority (§ 83.11(c)) Criteria or, for petitioners with previous Federal acknowledgment, that the petitioner meets the criteria at § 83.12(b).

§ 83.27 What are technical assistance reviews?

Technical assistance reviews are preliminary reviews for OFA to tell the petitioner where there appear to be evidentiary gaps for the criteria that will be under review in that phase and to provide the petitioner with an opportunity to supplement or revise the documented petition.

§ 83.28 When does OFA review for previous Federal acknowledgment?

(a) OFA reviews the documented petition for previous Federal acknowledgment during the Phase II technical assistance review of the documented petition.

(b) If OFA cannot verify previous Federal acknowledgment during this technical assistance review, the petitioner must provide additional evidence. If a petitioner claiming previous Federal acknowledgment does not respond or does not demonstrate the claim of previous Federal acknowledgment, OFA will consider its documented petition on the same basis as documented petitions submitted by petitioners not claiming previous Federal acknowledgment.

§ 83.29 What will OFA consider in its reviews?

(a) In any review, OFA will consider the documented petition and evidence submitted by the petitioner, any comments and evidence on the petition received during the comment period, and petitioners' responses to comments and evidence received during the response period.

(b) OFA may also:

(1) Initiate and consider other research for any purpose relative to analyzing the documented petition and obtaining additional information about the petitioner's status; and

(2) Request and consider timely submitted additional explanations and information from commenting parties to support or supplement their comments on the proposed finding and from the petitioner to support or supplement their responses to comments.

(c) OFA must provide the petitioner with the additional material obtained in paragraph (b) of this section, and provide the petitioner with the opportunity to respond to the additional material. The additional material and any response by the petitioner will become part of the record.

§ 83.30 Can a petitioner withdraw its documented petition?

A petitioner can withdraw its documented petition at any point in the process but the petition will be placed at the end of the numbered register of documented petitions upon re-submission and may not regain its initial priority number.

§ 83.31 Can OFA suspend review of a documented petition?

(a) OFA can suspend review of a documented petition, either conditionally or for a stated period, upon:

(1) A showing to the petitioner that there are technical or administrative problems that temporarily preclude continuing review; and

(2) Approval by the Assistant Secretary.

(b) Upon resolution of the technical or administrative problems that led to the suspension, the documented petition will have the same priority on the numbered register of documented petitions to the extent possible.

(1) OFA will notify the petitioner and those listed in § 83.22(d) when it suspends and when it resumes review of the documented petition.

(2) Upon the resumption of review, OFA will have the full six months to issue a proposed finding.

Proposed Finding

§ 83.32 When will OFA issue a proposed finding?

(a) OFA will issue a proposed finding as shown in the following table:

OFA must	within . . .
(1) Complete its review under Phase I and either issue a negative proposed finding and publish a notice of availability in the **Federal Register**, or proceed to review under Phase II.	six months after notifying the petitioner under § 83.25 that OFA has begun review of the petition.
(2) Complete its review under Phase II and issue a proposed finding and publish a notice of availability in the **Federal Register**.	six months after the deadline in paragraph (a)(1) of this section.

(b) The times set out in paragraph (a) of this section will be suspended any time the Department is waiting for a response or additional information from the petitioner.

(c) OFA will strive to limit the proposed finding and any reports to no more than 100 pages, cumulatively, excluding source documents.

§ 83.33 What will the proposed finding include?

The proposed finding will summarize the evidence, reasoning, and analyses that are the basis for OFA's proposed finding regarding whether the petitioner meets the applicable criteria.

(a) A Phase I negative proposed finding will address that the petitioner fails to meet any one or more of the following criteria: Governing Document (§ 83.11(d)), Descent (§ 83.11(e)), Unique Membership (§ 83.11(f)), or Congressional Termination (§ 83.11(g)).

(b) A Phase II proposed finding will address whether the petitioner meets the following criteria: Indian Entity Existence (§ 83.11(a)), Community (§ 83.11(b)), and Political Influence/Authority (§ 83.11(c)).

§ 83.34 What notice of the proposed finding will OFA provide?

In addition to publishing notice of the proposed finding in the **Federal Register**, OFA will:

(a) Provide copies of the proposed finding and any supporting reports to the petitioner and those listed in § 83.22(d); and

(b) Publish the proposed finding and reports on the OFA Web site.

Proposed Finding—Comment and Response Periods, Hearing

§ 83.35 What opportunity to comment will there be after OFA issues the proposed finding?

(a) Publication of notice of the proposed finding will be followed by a 120-day comment period. During this comment period, the petitioner or any individual or entity may submit the following to OFA to rebut or support the proposed finding:

(1) Comments, with citations to and explanations of supporting evidence; and

(2) Evidence cited and explained in the comments.

(b) Any individual or entity that submits comments and evidence must provide the petitioner with a copy of their submission.

§ 83.36 What procedure follows the end of the comment period on a favorable proposed finding?

(a) At the end of the comment period for a favorable proposed finding, AS–IA will automatically issue a final determination acknowledging the petitioner as a federally recognized Indian tribe if OFA does not receive a timely objection with evidence challenging the proposed finding that the petitioner meets the acknowledgment criteria.

(b) If OFA has received a timely objection and evidence challenging the favorable proposed finding, then the petitioner will have 60 days to submit a written response, with citations to and explanations of supporting evidence, and the supporting evidence cited and explained in the response. The Department will not consider additional comments or evidence on the proposed finding submitted by individuals or entities during this response period.

§ 83.37 What procedure follows the end of the comment period on a negative proposed finding?

If OFA has received comments on the negative proposed finding, then the petitioner will have 60 days to submit a written response, with citations to and explanations of supporting evidence, and the supporting evidence cited and explained in the response. The Department will not consider additional comments or evidence on the proposed finding submitted by individuals or entities during this response period.

§ 83.38 What options does the petitioner have at the end of the response period on a negative proposed finding?

(a) At the end of the response period for a negative proposed finding, the petitioner will have 60 days to elect to challenge the proposed finding before an ALJ by sending to the Departmental Cases Hearings Division, Office of Hearings and Appeals, with a copy to OFA a written election of hearing that lists:

(1) Grounds for challenging the proposed finding, including issues of law and issues of material fact; and

(2) The witnesses and exhibits the petitioner intends to present at the hearing, other than solely for impeachment purposes, including:

(i) For each witness listed, his or her name, address, telephone number, and qualifications and a brief narrative summary of his or her expected testimony; and

(ii) For each exhibit listed, a statement confirming that the exhibit is in the administrative record reviewed by OFA or is a previous final determination of a petitioner issued by the Department.

(b) The Department will not consider additional comments or evidence on the proposed finding submitted by individuals or entities during this period.

§ 83.39 What is the procedure if the petitioner elects to have a hearing before an ALJ?

(a) If the petitioner elects a hearing to challenge the proposed finding before an ALJ, OFA will provide to the Departmental Cases Hearings Division, Office of Hearings and Appeals, copies of the negative proposed finding, critical documents from the administrative record that are central to the portions of the negative proposed finding at issue, and any comments and evidence and responses sent in response to the proposed finding.

(1) Within 5 business days after receipt of the petitioner's hearing election, OFA will send notice of the election to each of those listed in § 83.22(d) and the Departmental Cases Hearings Division by express mail or courier service for delivery on the next business day.

(2) OFA will retain custody of the entire, original administrative record.

(b) *Hearing process.* The assigned ALJ will conduct the hearing process in accordance with 43 CFR part 4, subpart K.

(c) *Hearing record.* The hearing will be on the record before an ALJ. The hearing record will become part of the record considered by AS–IA in reaching a final determination.

(d) *Recommended decision.* The ALJ will issue a recommended decision and forward it along with the hearing record to the AS–IA in accordance with the timeline and procedures in 43 CFR part 4, subpart K.

AS–IA Evaluation and Preparation of Final Determination

§ 83.40 When will the Assistant Secretary begin review?

(a) AS–IA will begin his/her review in accordance with the following table:

If the PF was:	And:	AS–IA will begin review upon:
(1) Negative	The petitioner did not elect a hearing	Expiration of the period for the petitioner to elect a hearing.
(2) Negative	The petitioner elected a hearing	Receipt of the ALJ's recommended decision.
(3) Positive	No objections with evidence were received	Expiration of the comment period for the positive PF.
(4) Positive	Objections with evidence were received	Expiration of the period for the petitioner to respond to comments on the positive PF.

(b) AS–IA will notify the petitioner and those listed in § 83.22(d) of the date he/she begins consideration.

§ 83.41 What will the Assistant Secretary consider in his/her review?

(a) AS–IA will consider all the evidence in the administrative record, including any comments and responses on the proposed finding and any the hearing transcript and recommended decision.

(b) AS–IA will not consider comments submitted after the close of the comment period in § 83.35, the response period in § 83.36 or § 83.37, or the hearing election period in § 83.38.

§ 83.42 When will the Assistant Secretary issue a final determination?

(a) AS–IA will issue a final determination and publish a notice of availability in the **Federal Register** within 90 days from the date on which he/she begins its review. AS–IA will also

(1) Provide copies of the final determination to the petitioner and those listed in § 83.22(d); and

(2) Make copies of the final determination available to others upon written request.

(b) AS–IA will strive to limit the final determination and any reports to no more than 100 pages, cumulatively, excluding source documents.

§ 83.43 How will the Assistant Secretary make the determination decision?

(a) AS–IA will issue a final determination granting acknowledgment as a federally recognized Indian tribe when AS–IA finds that the petitioner meets the Governing Document (§ 83.11(d)), Descent (§ 83.11(e)), Unique Membership (§ 83.11(f)), and Congressional Termination (§ 83.11(g)) Criteria and:

(1) Demonstrates previous Federal acknowledgment under § 83.12(a) and meets the criteria in § 83.12(b); or

(2) Meets the Indian Entity Identification (§ 83.11(a)), Community (§ 83.11(b)) and Political Authority (§ 83.11(c)) Criteria.

(b) AS–IA will issue a final determination declining acknowledgement as a federally recognized Indian tribe when he/she finds that the petitioner:

(1) In Phase I, does not meet the Governing Document (§ 83.11(d)), Descent (§ 83.11(e)), Unique Membership (§ 83.11(f)), or Congressional Termination (§ 83.11(g)) Criteria: or

(2) In Phase II, does not:

(i) Demonstrate previous Federal acknowledgment under § 83.12(a) and meet the criteria in § 83.12(b); or

(ii) Meet the Indian Entity Identification (§ 83.11(a)), Community (§ 83.11(b)) and Political Authority (§ 83.11(c)) Criteria.

§ 83.44 Is the Assistant Secretary's final determination final for the Department?

Yes. The AS–IA's final determination is final for the Department and is a final agency action under the Administrative Procedure Act (5 U.S.C. 704).

§ 83.45 When will the final determination be effective?

The final determination will become immediately effective. Within 10 business days of the decision, the Assistant Secretary will submit to the **Federal Register** a notice of the final determination to be published in the **Federal Register**.

§ 83.46 How is a petitioner with a positive final determination integrated into Federal programs as a federally recognized Indian tribe?

(a) Upon acknowledgment, the petitioner will be a federally recognized Indian tribe entitled to the privileges and immunities available to federally recognized Indian tribes. It will be included on the list of federally recognized Indian tribes in the next scheduled publication.

(b) Within six months after acknowledgment, the appropriate Bureau of Indian Affairs Regional Office will consult with the newly federally recognized Indian tribe and develop, in cooperation with the federally recognized Indian tribe, a determination of needs and a recommended budget. These will be forwarded to the Assistant Secretary. The recommended budget will then be considered with other recommendations by the Assistant Secretary in the usual budget request process.

(c) While the newly federally acknowledged Indian tribe is eligible for benefits and services available to federally recognized Indian tribes, acknowledgment as a federally recognized Indian tribe does not create immediate access to existing programs. The newly federally acknowledged Indian tribe may participate in existing programs after it meets the specific program requirements, if any, and upon appropriation of funds by Congress. Requests for appropriations will follow a determination of the needs of the newly federally acknowledged Indian tribe.

Dated: June 23, 2015.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2015–16193 Filed 6–29–15; 11:15 am]

BILLING CODE 4337–15–P

FEDERAL REGISTER

Vol. 80 Wednesday,

No. 126 July 1, 2015

Part V

National Credit Union Administration

12 CFR Parts 701, 723, and 741

Member Business Loans; Commercial Lending; Proposed Rule

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 723, and 741

RIN 3133–AE37

Member Business Loans; Commercial Lending

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: As part of NCUA's Regulatory Modernization Initiative, the NCUA Board (Board) proposes to amend its member business loans (MBL) rule to provide federally insured credit unions with greater flexibility and individual autonomy in safely and soundly providing commercial and business loans to serve their members. The proposed amendments would modernize the regulatory requirements that govern credit union commercial lending activities by replacing the current rule's prescriptive requirements and limitations—such as collateral and security requirements, equity requirements, and loan limits—with a broad principles-based regulatory approach. As such, the amendments would also eliminate the current MBL waiver process, which is unnecessary under a principles-based rule. The Board emphasizes that the proposed rule represents a change in regulatory approach and supervisory expectations for safe and sound lending would change accordingly. With adoption of a final rule, NCUA would publish updated supervisory guidance to examiners, which would be shared with credit unions, to provide more extensive discussion of expectations in relation to the revised rule.

DATES: Comments must be received on or before August 31, 2015.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web site: http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name]—Comments on Proposed Rulemaking for Part 723'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Gerard S. Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

FOR FURTHER INFORMATION CONTACT: Vincent Vieten, Member Business Loan Program Officer, or Lin Li, Credit Risk Program Officer, Office of Examination and Insurance, at the above address or telephone (703) 518–6360 or Pamela Yu, Senior Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Background
A. Intent and Purpose
B. Key Changes to the Current MBL Rule
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A. Overview
B. Key Provisions of the Proposed Rule
C. Amendments to the Loan Participation Rule
D. Delayed Implementation
E. Request for Public Comment
III. Regulatory Procedures
A. Regulatory Flexibility Act
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C. Executive Order 13132
D. Assessment of Federal Regulations and Policies on Families

I. Background

Part 723 of NCUA's regulations defines MBLs, establishes minimum standards for making MBLs, and implements various statutory limits pursuant to Section 107A of the Federal Credit Union Act (FCU Act).[1] Under the current rule, an MBL is any loan, line of credit, or letter of credit, where the proceeds will be used for a commercial, corporate, other business investment property or venture, or agricultural purpose.[2] There are several exceptions to this general definition.[3]

The current rule, however, does not distinguish between commercial loans and MBLs. MBLs are defined by the FCU Act and the current MBL rule, but commercial loans are not. As a result, the safety and soundness risk management requirements contained in the MBL rule have not always been consistently applied to commercial loans that are not MBLs.

A. Intent and Purpose

In 2011, Chairman Matz announced NCUA's Regulatory Modernization Initiative, consistent with President Obama's Executive Order 13579. NCUA remains committed to regulatory modernization, including modifying, streamlining, refining, or repealing outdated regulations. In addition to making regulatory changes as the need arises, the Board has a policy of continually reviewing NCUA's regulations to ''update, clarify and simplify existing regulations and eliminate redundant and unnecessary provisions.''[4] To carry out this policy, NCUA identifies one-third of its existing regulations for review each year and provides notice of this review so the public may comment. In 2013, NCUA reviewed its MBL rule as part of this process. Public comments on the rule included general requests for regulatory relief and more flexibility in the MBL rule. Specific requests for relief focused on provisions regarding the loan-to-value (LTV) ratio requirement, the personal guarantee requirement, vehicle lending, and construction and development lending. Commenters also requested changes to streamline the waiver process. Other commenters broadly called for NCUA to eliminate from the MBL rule any prescriptive requirements that are not specifically required by the FCU Act.

Credit unions are an important source of credit for small businesses, as reflected in the average member business loan balance of $217,000, and they continued to lend during the 2008–2009 recession. Over the last ten years, credit unions' business loan portfolios have experienced significant growth.[5] Total business loans including unfunded commitments at federally insured credit unions grew from $13.4 billion in 2004 to $51.7 billion in 2014, an annualized growth rate of 14 percent. Business loans have also become a larger share of credit unions' loans and assets. During the same time period, business loans outstanding as a percentage of total assets grew from 1.9 percent to 4.3 percent, and business loans as a percentage of total loans grew from 3.0 percent to 6.8 percent. The percentage of credit unions offering business loans also increased significantly. Once an ancillary product offered by a small number of credit

[1] 12 U.S.C. 1757a.

[2] 12 CFR 723.1(a).

[3] Under the current rule, the following are not member business loans: (1) A loan fully secured by a lien on a 1 to 4 family dwelling that is the member's primary residence; (2) A loan fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions; (3) Loan(s) to a member or an associated member which, when the net member business loan balances are added together, are equal to less than $50,000; (4) A loan where a federal or state agency (or its political subdivision) fully insures repayment, or fully guarantees repayment, or provides an advance commitment to purchase in full; or (5) A loan granted by a corporate credit union to another credit union. 12 CFR 723.1(b).

[4] NCUA Interpretive Ruling and Policy Statement (IRPS) 87–2, Developing and Reviewing Government Regulations, (Sept. 18, 1987), as amended by IRPS 03–2 (May 29, 2003) and 13–1 (Jan. 18, 2013).

[5] Unless otherwise specified, all call report based data is as of December 31, 2014, and other data (such as CAMEL ratings) is as of February 24, 2015.

unions, business lending is now becoming a core service offered by many credit unions as they strive to meet the expanding needs of their small business members.

PERCENT OF CREDIT UNIONS THAT OFFER BUSINESS LOANS

Credit unions with total assets	2004	2014
Below $100 million	13	21
Between $100 and $500 million	53	77
Greater than $500 million	72	93
Total Throughout Industry	19	36

The majority of business loans are held by larger credit unions.

Credit unions with total assets	2014	
	Total business loans (in millions)	Percent of total business loans
Below $100 million	1,855	4%
Between $100 and $500 million	10,571	20%
Greater than $500 million	39,316	76%
Total Throughout Industry	51,741	100%

As the economy has recovered from the recent recession, the performance of credit unions' business lending has improved. The delinquency and charge-off rates of business loans continue to decrease and revert to pre-recession levels. Delinquency and net charge-off rates in 2014 dropped to 85bps and 28bps respectively, from 406bps and 81bps in 2010. For credit unions that have business loans at the end of 2014, 98 percent are well-capitalized. In addition, a significant majority of the credit unions with business loans have strong CAMEL ratings. At the end of 2014, 81 percent of credit unions with business loans had an overall CAMEL rating of 1 or 2, compared to 69 percent for those without business loans. Generally, credit unions have conducted business lending safely and served their small business members' needs well. However, there have been instances where some credit unions have failed to adequately manage the risks of their business lending activities and this has led to their failure and, in some cases, losses to the National Credit Union Share Insurance Fund. Poorly managed business lending activities were a contributing factor in the failure of at least five credit unions since 2010. They account for roughly $141 million, or 25 percent of total share insurance fund losses over the last five years.

The Board recognizes that credit unions generally have conducted business lending safely, and that the supervision process has been largely successful in addressing most of those credit unions that did not perform as well. Accordingly, to modernize the MBL rule and provide reasonable regulatory relief to federally insured credit unions, the Board is proposing to alter its overall approach to regulating commercial lending, by shifting from a prescriptive rule to a principles-based rule. Specifically, the proposed rule eliminates detailed collateral criteria and portfolio limits and instead focuses on broad yet well-defined principles that clarify regulatory expectations for federally insured credit unions engaged in commercial lending activities. As discussed further below, the proposed rule also distinguishes between the broad commercial lending activities in which a credit union is authorized to engage, and the more narrowly defined category of MBLs subject to the statutory aggregate limits in the FCU Act. The proposed new approach will eliminate some unintended consequences of the prescriptive approach, such as causing credit unions to manage their lending practices to regulatory restrictions instead of focusing on sound risk management practices. The uniform regulatory prescriptions also inhibit credit unions from considering all relevant risk-mitigating factors in certain borrowing relationships. The current waiver process originally was intended to address case-by-case situations. However, navigating and administering that process requires significant time and resources from both credit unions and NCUA, and can lead to delays in acting on the borrower's application. There are currently over 1,000 active MBL-related waivers. In 2014 alone, NCUA approved 115 MBL waivers.

The industry has gained valuable experience as the level of commercial loan activity has increased and credit unions navigated a deep recession. The Board now believes the principles-based regulatory approach that is reflected in this proposal is preferable to the prescriptive approach in the current rule. Under the proposed approach, NCUA supervision will focus on the effectiveness of the credit union's risk management process, which will allow credit unions greater autonomy and flexibility to soundly administer, underwrite, and service commercial loans in a manner that is consistent with regulatory objectives and accepted risk management practices. The Board expects credit unions to perform the necessary risk assessments to ensure sound lending practices. Through sound business lending, credit unions are able to manage risk and benefit their members by offering financing tailored to members' specific circumstances, needs, and financial capacity. For the principles-based regulatory approach to be effective, it is essential there be a clear set of supervisory expectations. The Board understands that providing more flexibility to credit unions to manage their business lending risks must be predicated on the notion that credit unions will carefully adhere to sound practices. Moreover, the Board believes credit unions should be expressly guided by the principle that their business loans will be designed to meet the needs of the members while at the same time ensuring credit union capital is adequately protected from unnecessary risk. Credit unions that make business loans will best meet this standard by ensuring they have the right risk management processes and staff to maintain a comprehensive understanding of the member-borrower's business operations and financial capacity. These processes need to be ongoing for the life of the loans. Credit unions that maintain a strong risk management process in their commercial lending activities will be more successful transitioning from the current rule to the proposed approach. Credit unions with less sophisticated processes or a tendency to manage risk through strict adherence to regulatory restrictions may need to update staff experience and risk management methodologies to safely manage business loan portfolios in the future.

B. Key Changes to the Current MBL Rule

As mentioned above, the proposed rule would significantly alter NCUA's overall approach to regulating and supervising credit union commercial lending activities. The proposal modernizes the regulatory requirements that govern credit union commercial lending by eliminating the current rule's prescriptive underwriting criteria and waiver requirements in favor of a principles-based approach to regulating commercial loans.

The proposed rule distinguishes between the specific category of statutorily defined MBLs and the universe of commercial loans that a credit union may extend to a borrower for commercial, industrial, agricultural,

and professional purposes.[6] Prudent risk assessment is necessary for all commercial loans, and this proposal focuses on the principles and supervisory expectations for safe and sound commercial lending. The proposed rule also adopts a broader, more practical approach to ensuring that credit unions have the pertinent staff expertise and organizational discipline necessary to support a safe and sound commercial loan program. It also reinforces the broad principle that a credit union's board of directors is responsible for the credit union's commercial loan risk, and that the board must establish adequate controls and provide sound governance for the credit union's commercial lending program.

II. Summary of the Proposed Rule

A. Overview

The proposed rule would provide federally insured credit unions with greater flexibility and individual autonomy in safely and soundly making commercial and business loans to meet the needs of their membership. The proposed amendments modernize the regulatory requirements that govern credit union commercial lending activities by replacing the current rule's prescriptive requirements and limitations, such as collateral and security requirements, equity requirements, and loan limits, with broad principles to govern safe and sound commercial lending. The principles are predicated on NCUA's expectation that credit unions will maintain prudential risk management practices and sufficient capital commensurate with the risks associated with their commercial lending activities. The Board emphasizes that the proposed rule represents a change in regulatory approach and supervisory expectations will change accordingly. NCUA remains committed to rigorous and prudential supervision of credit union commercial lending activities. Oversight will focus on the effectiveness of the risk management process and the aggregate risk profile of the credit union's loan portfolio, as opposed to compliance with prescriptive measures. Responsible risk management and comprehensive due diligence remain crucial to safe and sound commercial lending, and it is expected that credit unions subscribe to these overarching principles in administering, underwriting, and servicing commercial loans.

The key provisions of the proposed rule are discussed in more detail below.

B. Key Provisions of the Proposed Rule

§ 723.1—Purpose and Scope

Section 723.1 of the proposed rule articulates and summarizes the rule's overall purpose. The Board intends for the rule to accomplish two broad objectives. First, it establishes policy and program responsibilities that a credit union must adopt and implement as part of a safe and sound commercial lending program. Second, it incorporates the statutory constraints in Section 107A of the FCU Act, which limits the aggregate amount of MBLs that a credit union may make to the lesser of 1.75 times the actual net worth of the credit union or 1.75 times the minimum net worth required under the FCU Act for a credit union to be well capitalized.[7]

The Board recognizes that commercial lending is complex and involves different risks than consumer lending. Managing those risks entails substantially greater effort and attention than merely applying a strict limit on the aggregate amount a credit union is allowed to invest in MBLs. Accordingly, the proposed rule distinguishes between the safety and soundness objectives generally applicable to all loans for commercial, industrial, agricultural, and professional purposes and the statutory limitations affecting MBLs. The proposed rule is intended to clarify that prudential risk management is required for all commercial loans.

Proposed § 723.1 also describes which credit unions and loans are covered by Part 723, and which other regulations apply to commercial loans. Part 723 applies to commercial and member business loans made by federal natural-person credit unions and state-chartered, federally insured natural-person credit unions. The rule does not apply to (1) loans made by corporate credit unions; (2) loans made by one federally insured credit union to another federally insured credit union; (3) loans made by a federally insured credit union to a credit union service organization (CUSO); (4) loans fully secured by a lien on a 1- to 4- family residential property that is the borrower's primary residence; (5) any loan fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions; and (6) any loan(s) to a borrower or an associated borrower, the aggregate balance of which is equal to less than $50,000.

Further, the proposed rule exempts from the requirements of proposed § 723.3 and § 723.4 credit unions with both assets less than $250 million and total commercial loans less than 15 percent of net worth that are not regularly originating and selling or participating out commercial loans (qualifying credit unions). Accordingly, qualifying credit unions, especially smaller institutions, which are only occasionally granting a loan(s) that meets the proposed commercial loan definition would be alleviated from the burden of having to develop a full commercial loan policy and commercial lending organizational infrastructure. The intent is to avoid the inclusion of credit unions that infrequently originate minimal amounts of loans that technically meet the proposed commercial loan definition, or that infrequently reduce their risk profile by selling or participating part of their loan portfolio. However, the Board notes that credit unions need to have a board approved loan policy covering their lending activity in general. Qualifying credit unions would merely need to make sure their existing loan policy provides for the types of commercial loans granted, including satisfying all the other applicable commercial lending requirements in the proposed rule.

The proposed 15 percent of net worth threshold is consistent with the longstanding single-obligor limit common in the credit union and banking industries. The Board regards 15 percent as a prudent level for exempting credit unions from proposed § 723.3 and § 723.4 and it coheres to standard industry practices. The proposed $250 million asset threshold is consistent with similar provisions the Board adopted in NCUA's derivatives[8] and liquidity and contingency funding plans[9] regulations. With regard to asset size, the Board is concerned that extending this exemption to credit unions over $250 million in assets could incentivize some credit unions, regardless of their capacity and member business loan needs, to unduly restrict the volume of business lending—a vital source of working capital and job creation—to avoid higher prudential standards.

The Board recognizes that credit unions under $250 million in assets have more limited staff and facility resources and are generally not engaged in business lending on a material scale. The proposed exemption acknowledges that small portfolio exposures coupled with a generally inactive business

[6] As discussed in further detail below, there are certain exceptions to the proposed definition of commercial loan.

[7] 12 U.S.C. 1757a(a).

[8] 12 CFR part 703.

[9] 12 CFR 741.12.

lending program do not warrant the adoption of the broader risk management standards included in the proposal. Conversely, the Board views credit unions that are holding business loans, and that are $250 million in assets or greater, as having sufficient size and capacity to incorporate these common prudential standards into their operations. The Board, however, invites comment on whether all credit unions maintaining only relatively small amounts of commercial loans should be exempt from proposed § 723.3 and § 723.4.

The other regulations applying to commercial loans, which are enumerated in proposed § 723.1(c), are substantively consistent with the current MBL rule, with minor changes for clarity.

§ 723.2—Definitions

For clarity and improvement, the proposed rule modifies the current rule's definitions of the following terms:

- Associated borrower
- Loan-to-value ratio
- Net worth

Additionally, the proposed rule includes new definitions for the following terms, which are not currently defined in the MBL rule:

- Commercial loan
- Common enterprise
- Controlling interest
- Credit risk rating system
- Direct benefit
- Loan secured by a 1- to 4- family residential property
- Loan secured by a vehicle manufactured for household use
- Readily marketable collateral
- Residential property

Finally, to improve the readability of the rule, the proposal moves two definitions to more relevant sections of the proposed regulation:

- Construction and development loan
- Net member business loan balance

Each of the modified, new, and moved definitions is discussed in more detail below.

i. Modified Definitions

Associated borrower

The proposed rule replaces the current rule's definition of ''associated member'' with the term ''associated borrower,'' and updates the definition to be more consistent with the combination rules applicable to banks.[10] The proposed definition introduces the concepts of direct benefit, common enterprise, and control. This and each newly defined term, as discussed below, are also included in the definitions section of the proposed rule. Under the proposal, an ''associated borrower'' is ''any other person or entity with a shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower. This means any person or entity named as a borrower or debtor in a loan or extension of credit, or any other person or entity, such as a drawer, endorser, or guarantor, engaged in a common enterprise with the borrower, or deriving a direct benefit from the loan to the borrower.''

As discussed below, for consistency, the associated borrower definition in NCUA's loan participation rule is proposed to be amended in a parallel manner.[11]

Loan-to-value ratio

The proposed rule modifies the current definition of ''loan-to-value ratio'' (LTV) to clarify how this ratio should be calculated. Specifically, in calculating an LTV ratio, a credit union must include in the numerator all outstanding loan balances plus any unfunded commitments secured by the collateral, including those from other lenders that are senior to the credit union's lien position. Outstanding exposures from other lenders that are subordinated to the credit union's lien position do not need to be included in the LTV calculation. However, the risk assessment performed by the credit union should evaluate the impact on the borrower's cash flow all outstanding debt owed by the borrower in determining the borrower's ability to sufficiently meet all obligations. In addition, the presence of subordinate financing can have an impact on actions taken by the credit union if it has to exercise its rights to the collateral. The credit union should limit the amount of subordinate financing the borrower may obtain and require an equity investment by the borrower that is commensurate to the risk. This strengthens the credit union's position and also achieves a more meaningful risk sharing arrangement with its borrower.

In addition, the proposed definition clarifies that the denominator of the LTV ratio is the market value for collateral held longer than 12 months, and the lesser of the purchase price and the market value for collateral held 12 months or less. The Board intends this clarification to ensure that credit unions have appropriate collateral protection in the event that the appraisal value is inflated or the borrower overpays for the purchased collateral. Market value is defined in part 722 of NCUA's regulations for real estate. For other assets, the Board expects credit unions to use prudent and appropriate valuation methods aligned with commercial lending practices that will result in a reliable and accurate collateral value.

Net worth

For consistency, the proposed definition of ''net worth'' provides a cross reference to NCUA's prompt corrective action and risk-based capital rules in part 702, which more fully address the methodology for determining a credit union's net worth.

ii. New Definitions

Commercial loan

The Board is proposing to add a new definition to distinguish between the commercial lending activities in which a credit union may engage, and the statutorily defined MBLs, which are subject to the aggregate MBL cap contained in the FCU Act.[12] The Board emphasizes that all commercial loans, whether MBLs or not, are subject to the safety and soundness requirements provided in § 723.3 through § 723.7 of the proposed rule, unless the credit union is exempt from some of these provisions as provided in proposed § 723.1. Only MBLs are subject to the statutory limits on the aggregate amount of MBLs that may be held by a credit union, per § 723.8 of the proposed rule.

The proposed rule generally defines a ''commercial loan'' as any credit a credit union extends to a borrower for commercial, industrial, agricultural, and professional purposes, with several exceptions. Specifically, the proposed definition expressly specifies that the following loans are not commercial loans: (1) Loans made by a corporate credit union; (2) loans made by a federally insured credit union to another federally insured credit union; (3) loans made by a federally insured credit union to a credit union service organization; (4) loans secured by a 1- to 4- family residential property (whether or not it is the borrower's primary residence); (5) loans secured by a vehicle manufactured for household use; (6) any loan fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions; and (7) any loan(s) to a borrower or an associated borrower, the aggregate balance of which is equal to less than $50,000.

Loans by corporate credit unions and loans to other insured credit unions are excluded from the definition because

[10] 12 CFR 32.5.

[11] 12 CFR 701.22(a).

[12] 12 U.S.C. 1757a.

these loans possess characteristics that are distinct from the types of commercial loans that the proposal's safety and soundness provisions are intended to address. Loans to CUSOs are excluded from the definition because loans to CUSOs, up to 1 percent of the paid-in and unimpaired capital and surplus of the credit union, are authorized and governed by a provision of the FCU Act not related to MBLs.[13]

Loans secured by a 1- to 4-family residential property, whether or not it is the borrower's primary residence (*i.e.,* owner or non-owner occupied), are excluded from the commercial loan definition. However, the Board notes that loans secured by non-owner occupied 1- to 4-family residential properties have risk characteristics that are more similar to commercial real estate loans than those of owner-occupied 1- to 4- family residential loans. Credit unions should have credit risk management policies and processes suitable for the risks specific to this type of lending. Underwriting standards and the complexity of risk analysis should increase as the number of properties financed for a borrower and associated borrowers increases. When a borrower finances multiple properties and the repayment of the loan is dependent on the successful operation of the multiple residential rental units, a comprehensive global cash-flow analysis of the borrower and principal is generally necessary to properly underwrite and administer the credit relationship. In such cases, credit unions should analyze and administer the relationship on a consolidated basis.

The proposed definition also excludes loans secured by a vehicle generally manufactured for personal, family, and household use. As discussed in more detail below, however, loans for the purchase of fleet vehicles or to carry fare-paying passengers are commercial loans. In addition, a loan to a vehicle dealership or seller to replenish its regular inventory of vehicles for sale (*i.e.,* a so-called ''floor plan loan'' or ''vehicle inventory loan'') is included in the definition of commercial loan.

The Board emphasizes that there are several distinctions between a commercial loan and a statutorily defined MBL, whether directly offered by the credit union or purchased as a loan participation. These distinctions are also discussed in more detail below, relative to proposed § 723.8, which addresses the statutory MBL limits.

There are a two types of commercial loans that are subject to the proposed rule's safety and soundness provisions, but are not MBLs and do not count toward the aggregate MBL limit. Any commercial, industrial, agricultural, or professional loan in which a federal or state agency (or its political subdivision) has committed to fully insure repayment, fully guarantee payment, or provide an advance commitment to purchase the loan in full is a commercial loan but not an MBL. Defining these as commercial loans is intended to ensure the credit union has the requisite expertise and risk management systems to meet the requirements to maintain the government guarantee or commitment to purchase. Also, any non-member loan or non-member participation interest in a commercial, industrial, agricultural, or professional loan is a commercial loan but generally not an MBL.[14] Although these loans are not MBLs because they are loans to non-members, they are still commercial loans and thus fall within the rule's definition and must follow the same risk management practices.

There are two types of loans that are not commercial loans subject to the proposed safety and soundness provisions but they are MBLs and thus, must be counted against the credit union's net member business loan balance. Specifically, loans secured by a 1- to 4-family residential property that is *not* the borrower's primary residence,[15] and loans secured by a vehicle manufactured for household use that will be used for a commercial purpose are generally not commercial loans, but they are MBLs.

Common enterprise

As discussed in greater detail above, the proposed definition of ''associated borrower'' includes any other person or entity with a shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower, including any person or entity engaged in a common enterprise with the borrower.

Under the proposed rule, a ''common enterprise'' exists and loans to separate borrowers will be aggregated when (1) the expected source of repayment for each loan or extension of credit is the same for each borrower and no individual borrower has another source of income from which the loan (together with the borrower's other obligations) may be fully repaid; or (2) when loans are extensions of credit made to borrowers who are related directly or indirectly through common control (including where one borrower is directly or indirectly controlled by another borrower) and substantial financial interdependence exists between or among the borrowers; or (3) when separate borrowers obtain loans or extensions of credit to acquire a business enterprise of which those borrowers will own more than 50 percent of the voting securities or voting interests.

For purposes of the rule, substantial financial interdependence means 50 percent or more of one borrower's gross receipts or gross expenditures (on an annual basis) are derived from transactions with another borrower. Gross receipts and expenditures include gross revenues or expenses, intercompany loans, dividends, capital contributions, and similar receipts or payments. In addition, an employer will not be treated as a source of repayment because of wages and salaries paid to an employee, unless the standards described above in (2) are met.

Control

As discussed above, ''control'' is another element of the proposed definition of ''associated borrower'' in the proposed rule. Control exists when a person or entity directly or indirectly, or acting through or together with one or more persons or entities: (1) Owns, controls, or has the power to vote 25 percent or more of any class of voting securities of another person or entity; (2) controls, in any manner, the election of a majority of the directors, trustees, or other persons exercising similar functions of another person or entity; or (3) has the power to exercise a controlling influence over the management or policies of another person or entity.

Credit risk rating system

The proposed rule defines ''credit risk rating system'' as a formal process to identify and measure risk through the assignment of risk ratings. Assigning credit risk ratings, also referred to as credit risk grades, is the standard and accepted practice by commercial lenders and other regulators for establishing the level of risk associated with a commercial loan and the overall commercial loan portfolio. An effective credit risk rating system assigns risk ratings to commercial loans at inception. The ratings are reviewed and confirmed as frequently as necessary during the life of the loan to satisfy the credit union's risk monitoring and reporting policies. The risk ratings must

[13] *See* 12 U.S.C. 1757(5)(D).

[14] Proposed § 723.8(b)(4) stipulates, however, that for the exclusion to apply, a credit union must acquire the non-member loan or non-member participation interest in compliance with applicable laws and regulations and it must not be swapping or trading MBLs with other credit unions to circumvent the limit.

[15] Any loan fully secured by a 1- to 4-family residential property that *is* the borrower's primary residence is neither a commercial loan nor an MBL.

be supported by comprehensive analysis and have sufficient granularity to differentiate the level of credit risk associated with each borrower. The construct of a risk rating system usually consists of both quantitative and qualitative risk factors. Quantitative risk factors may include the borrower's financial condition, size, collateral, and guarantees. Qualitative risk factors may include, but are not limited to, the ability and integrity of the borrower's management, operation, and changes in the economy and industry. The Board believes that an effective, accurate, and timely risk rating system is the foundation of sound credit risk management for commercial loans. It allows credit union management to assess credit quality, identify problem loans, monitor risk performance, and manage the risk within its commercial portfolio. A well-managed risk rating system also assists the credit union's board of directors, auditors, and NCUA in monitoring and assessing the overall health of the credit union's commercial loan portfolio and the effectiveness of the credit union's management.[16]

Direct benefit

Under the proposal, ''direct benefit'' is a concept included in the amended definition of ''associated borrower,'' which is discussed above. Direct benefit means the proceeds of a loan or extension of credit to a borrower, or assets purchased with those proceeds, that are transferred to another person or entity, other than in a bona fide arm's length transaction where the proceeds are used to acquire property, goods, or services.

Loan secured by a 1- to 4-family residential property

Under the proposed rule, a ''loan secured by a 1- to 4-family residential property'' means any loan secured wholly or substantively by a lien on a 1- to 4-family residential property for which the lien is central to the extension of credit. A lien is considered central to the extension of credit if the borrower would not have been extended credit in the same amount or on as favorable terms without the lien. The proposed definition is intended to clarify that loans secured by a 1- to 4-family residential property are not commercial loans for the purposes of the rule.

Loan secured by a vehicle manufactured for household use

Loans secured wholly or substantively by a vehicle manufactured for household use for which the lien is central to the extension of credit are generally not commercial loans for the purposes of the rule. Under the proposed rule, ''vehicle manufactured for household use'' means new and used passenger cars and other vehicles such as minivans, sport-utility vehicles, pickup trucks, and similar light trucks or heavy duty trucks generally manufactured for personal, family, or household use and not used as fleet vehicles or to carry fare-paying passengers. In other words, loans for the purchase of fleet vehicles or to carry fare-paying passengers are commercial loans. For the purposes of the rule, a ''fleet'' means five or more vehicles that are centrally controlled and used for a business purpose, including for the purpose of transporting persons or property for commission or hire.[17]

Readily marketable collateral

The Board proposes to add the term ''readily marketable collateral'' to the rule to clarify the proposed collateral requirements. The proposed rule defines this term as a financial instrument or bullion that is salable under ordinary market conditions with reasonable promptness at a fair market value determined by quotations based upon actual transactions on an auction or similarly available daily bid and ask price market.

Residential property

Under the proposed rule, ''residential property'' is defined as a house, condominium, cooperative unit, manufactured home, and unimproved land zoned for 1- to 4-family residential use. The Board proposes to add this definition to the rule to clarify that loans secured by a 1- to 4-family residential property are excluded from the definition of commercial loan.[18]

iii. Definitions Moved to a Different Section

Construction and development loan

To improve the readability of the rule, the Board proposes to move the current definition of ''construction and development loan'' to proposed § 723.6. The Board believes it is more intuitive for readers for the definition to be included in that section of the rule because that is the section that addresses all of the requirements for construction and development loans.

As discussed in more detail below, the proposed definition of ''construction and development loan'' draws a distinction between construction for an income-producing property and for a commercial property. This distinction is necessary to establish the appropriate prospective market value and the financing period. In addition, the examples in the current rule have been eliminated because the proposed rule simplifies the definition of construction and development loans.

Net member business loan balance

The definition of ''net member business loan balance'' also remains substantively the same as in the current rule; however, it is moved from current § 723.21 to proposed § 723.8, which addresses the statutory limits on the aggregate amount of member business loans that may be held by a credit union. Proposed § 723.8 is discussed in greater detail below. It is more intuitive for readers for this definition to be included in § 723.8 because that is the section that addresses the method for calculating a credit union's net member business loan balance for purposes of compliance with the statutory cap and NCUA form 5300 reporting.

§ 723.3—Board of Directors and Management Responsibilities

The requirements in proposed § 723.3 address the overall elements necessary to administer a safe and sound commercial loan program. Proposed § 723.3 reinforces the NCUA Board's expectation that a credit union's board of directors is ultimately accountable for the safety and soundness of the credit union's commercial lending activities and must remain adequately informed about the level of risk in the credit union's commercial loan portfolio. The proposed rule modifies the current experience and expertise requirements for personnel involved in member business lending and delineates the qualifications required for a credit union's senior executive officers and staff. The proposal also provides options for how a credit union may meet such requirements.

The proposed rule requires a credit union's board of directors to approve a commercial loan policy that complies with proposed § 723.4. Commercial loans may be subject to business and economic changes that warrant frequent monitoring to ensure policy requirements remain effective. Consistent with the current rule, the

[16] NCUA Letter to Credit Unions 10–CU–02, Current Risks in Business Lending and Sound Risk Management Practices. (Jan. 2010) (citing the Office of Comptroller of the Currency, Comptroller's Handbook, Rating Credit Risk (April 2001); NCUA Accounting Bulletin 06–01, Attachment 1 (Dec. 2006).

[17] OGC Op. 12–0764 (Sept. 13, 2012).

[18] However, loans secured by a 1- to 4-family residential property that is *not* the borrower's primary residence are MBLs. Loans fully secured by a 1- to 4-family residential property that is the borrower's primary residence are neither commercial loans nor MBLs.

proposed rule requires a credit union's commercial loan policy to address commercial lending practices, procedures, and organizational structure, and be reviewed at least annually, or more frequently if there is material change in portfolio performance or economic conditions, and updated when warranted. The policy updates must be approved by the board of directors. In addition, the board of directors must understand the nature and level of risk associated with the credit union's commercial lending program and receive periodic updates from credit union management on the performance of its commercial loan portfolio, including, but not limited to, reports on overall credit risk ratings and trends, loan growth, adherence to policy and regulations, delinquencies, charge offs, and workout activities. It is also the board of directors' responsibility to ensure that credit union management takes the necessary steps to identify, monitor, and control these risks.

The credit union must also ensure its commercial lending program is staffed with personnel demonstrating appropriate expertise in managing the type of commercial lending in which the credit union is engaged. For example, if a credit union wishes to engage in commercial lending activities to finance farm equipment, acquisition of farmland, or production expenses related to farming or ranching, the credit union needs to ensure its staff has expertise in underwriting, servicing, and identifying and managing risks associated with agricultural loans.

In evaluating experience requirements, the Board is proposing a less prescriptive approach than that contained in the current rule. Specifically, the Board is proposing to eliminate the current two-year experience requirement and replace it with a broader, more flexible principles-based approach that evaluates the overall experience of the staff involved in a credit union's commercial loan program, with an emphasis on experience in commercial loan risk management. This includes experience requirements for any senior executive officers who oversee the credit union's lending department and are otherwise accountable for the performance of the commercial loan portfolio. It is essential for the senior executive officers to have a comprehensive understanding of its credit union's commercial lending activities and the ability to adequately oversee the management of the risks associated with those activities. Senior executive officers must ensure the credit union implements appropriate risk management processes to measure, monitor and control risks. Further, any staff involved in a credit union's commercial loan program must have sufficient expertise in assessing and managing the risks associated with the type of commercial lending in which a credit union is engaged. Skills should be commensurate with each particular individual's position and level of responsibility.

Specifically, a credit union should have:

1. Staff experience directly related to the specific types of commercial lending in which the credit union is engaged;
2. Demonstrated experience in conducting commercial credit analysis and evaluating the risk of a borrowing relationship using a credit risk rating system;
3. Demonstrated experience in underwriting, processing, and conducting workout activities for the types of commercial lending in which the credit union is engaged; and
4. Knowledge of the legal documentation necessary to protect the credit union from legal liability, and all relevant law and regulation impacting commercial lending activities.

In addition to the competencies listed above, managers responsible for a credit union's commercial lending program should have demonstrated experience in:

1. Overseeing commercial credit risk assessment and underwriting;
2. Managing and administering a credit risk rating system;
3. Managing a commercial loan portfolio and being held accountable for the risk in that portfolio; and
4. Managing commercial lenders and other risk managers.

Under the proposed rule, for greater flexibility, credit unions have multiple options to meet the experience requirements. For example, a credit union may meet the requirements by training and developing existing staff, hiring experienced professionals, or the use of a third party such as a CUSO or an independent contractor. The Board notes, however, that it is not prudent for credit unions newly adopting a commercial loan program to initially rely solely on training and developing existing staff, unless existing staff already possess the skills, competencies, and experience required.

Before employing the use of a third party, however, a credit union must ensure the third party meets the experience requirements outlined above. It is vital for the credit union to possess sufficient in-house expertise to fully evaluate the reasonableness and accuracy of risk assessments and recommendations provided by any third party and to effectively oversee the third party relationship. Final responsibility for services provided by the third party, especially risk assessments, remains with the credit union because the risks associated with the transaction are borne by the credit union. The third party may be utilized for underwriting and assessing the credit risk but the credit union must ultimately make the credit decision.

In addition, the credit union must ensure that there is no affiliation or contractual relationship between the third party and the borrower or any associated borrowers to avoid potential conflicts of interest. For example, a circumstance where a third party is performing underwriting services for a credit union while also being compensated by the borrower for obtaining the loan clearly violates the conflict of interest provisions of the proposed regulation. In addition, the risk assessment performed and provided by the third party must be based on the credit union's underwriting criteria, as reflected in its commercial loan policy.

§ 723.4—Commercial Loan Policy

Proposed § 723.4 is comparable to § 723.6 of the current rule and sets out minimum expectations for risk assessment of the commercial borrower and for active risk management of the commercial loan portfolio. Proposed § 723.4 sets out the expectations and policy requirements for credit unions offering commercial loans and is intended to facilitate a program that accomplishes the dual objectives of providing appropriate service to the members and managing the risk to the credit unions. The proposal provides more detail for credit unions by establishing the minimum risk assessment practices and procedures that are consistent with accepted, safe and sound practice within the commercial lending industry.

As noted in the introductory language of this section, the proposal specifies that each credit union engaging in commercial lending must ensure that its policies have been approved by the credit union's board of directors. Further, policies and procedures must provide for ongoing control, measurement, and management of the credit union's commercial lending activities. In short, the policies and procedures must ensure the credit union's commercial lending activities are performed in a safe and sound manner, provide for prudent and timely risk assessment and monitoring practices, and address key corresponding operational procedures. NCUA continues to expect an

appropriate separation of duties in a credit union's commercial lending procedures, to prevent potential conflicts of interest and other problems in the loan underwriting, collection, and portfolio monitoring functions. An appropriate separation of duties for underwriting, portfolio monitoring, and collection functions provides for a strong internal control to prevent fraud and error. Credit unions should strive to achieve separation of duties wherever possible.

A safe and sound lending program is beneficial to both the member and the credit union. Hence, a key principle underlying the proposal is that a credit union can meet its mission and best serve its commercial members by providing financing designed to meet the unique needs of each member, consistent with the financial capacity of both the member and the credit union. Thus, the proposed rule contemplates risk management processes that include procedures for achieving a comprehensive understanding of the borrower's operations, financial condition, and the industry and market in which the business operates. In addition, the proposal contemplates that the credit union will actively manage risks associated with its commercial loan program, which includes submitting on a regular basis to senior management and the board of directors reports on the performance of the portfolio.

Proposed § 723.4 also reinforces current supervisory expectations that credit unions will adopt a formal credit risk rating system to identify and quantify the level of risk within their commercial loan portfolios.[19] Credit risk rating systems are the standard method used by commercial lenders for identifying and quantifying credit risk at the borrower, borrowing relationship and overall commercial loan portfolio levels. The proposed rule clarifies the minimum requirements for assessing credit risk and the processes necessary to support an accurate and reliable credit risk rating system. Consistent with the proposed rule's emphasis on responsible risk management by credit unions, future examinations will benefit by greater focus on the accuracy and effectiveness of a credit union's use of its credit rating system to identify and manage risk.

Another key principle underlying the proposal is that a credit union must develop and establish its risk tolerances at both the relationship and overall portfolio levels so that risks undertaken are consistent with prudential standards and are within the managerial and financial capability of the credit union to accommodate. Accordingly, the proposal eliminates prescriptive risk management requirements for LTV ratios, minimum equity investments, portfolio concentration limits for types of loans, and personal guarantees. As a result, the need for waivers of these requirements is also eliminated. The Board emphasizes, however, that the removal of the prescriptive requirements from the rule does not relieve the credit union from setting appropriate limits as part of its overall commercial lending program. In fact, the Board believes these internal constraints are necessary risk mitigation practices and expects credit unions to establish prudent limits in their policies appropriate for the credit union's risk tolerance and management capability. NCUA will incorporate expectations regarding risk management practices, such as LTV ratios and portfolio concentration limits, into supervisory guidance issued with any final rule adopted by the Board.

As proposed, § 723.4 would require that a credit union's commercial loan policy must address each of the following areas:

1. *Types of commercial loans permitted.* This provision, which is carried over from the current rule, reflects the fundamental principle that loans offered by a credit union should meet the needs of its membership. The credit union should analyze its membership and ensure its commercial lending staff has the necessary expertise, gained through experience and training, to understand the needs of the membership and the types of loans offered.

2. *Trade area.* This provision is also carried over from the current rule. A credit union must be certain that it is capable of serving its identified trade area. Effective risk management requires that the credit union has the ability to make periodic site visits to evaluate the borrower's operations and inspect the collateral.

3. *Maximum loan amounts, both in terms of loan category and to any one borrower or group of associated borrowers.* This proposed section now combines language from current § 723.6 concerning maximum loan amounts by type of loan with language from current § 723.8, describing maximum amounts for loans to one borrower or a group of associated borrowers. The proposal would impose the same limit for one borrowing relationship as the current rule, which is a maximum of 15 percent of the credit union's net worth. However, the proposed rule will allow credit unions to exceed the general limitation by 10 percent of the credit union's net worth, if the amount above the 15 percent limit is fully secured by readily marketable collateral. This is consistent with the limit allowed by other banking regulators.[20]

4. *Qualifications and experience requirements for lending staff.* The proposal reflects the importance of a properly staffed commercial loan department, which is essential to providing competent member service and to actively managing risk. Credit unions will, in developing their staffing requirements, consider relevant factors specific to the credit union and to the needs of its commercial borrowing members. Staffing should be determined based on loan volume, projected loan growth, trade area, complexity of the borrowing relationships, types of loans permitted, and any other unique influences on the credit union's commercial loan portfolio. In determining staffing levels, the credit union should consider appropriate levels of management, relationship managers, and support staff as may be required to ensure the needs of the membership are responsibly serviced in a safe and sound manner.

5. *Loan approval processes.* This new section of the proposal specifies that the credit union's policy must establish lending authority for approving credit decisions. A credit union must establish a process that assigns credit approval authority to individuals or committees making such decisions commensurate with the individual's or committee's experience in evaluating and understanding commercial loan risk. In addition, the approval authorities and system should ensure an adequate level of review and approval by senior management prior to the loan decision for complex and/or large loans or credit relationships. All lending authority limits should be assigned based on the aggregate loan relationship of the member and associated borrowers. The system should provide for adequate oversight and review of the loan approval process, with all loan approvals or denials tracked by loan department management and periodically reported to senior management.

6. *Underwriting standards.* The proposed rule clarifies the requirements for assessing risk at inception and over the life of the loan. This new section

[19] While a credit union may use a risk rating methodology developed by a third party, the credit union must perform appropriate due diligence on the methodology and determine it meets the credit union's needs for properly categorizing the risk of commercial loans.

[20] 12 CFR 32.3.

provides in greater detail the types of considerations and analyses that are required for proper commercial loan underwriting.

The level and depth of credit analysis and risk assessment should be commensurate with the overall risk the relationship poses to the credit union based on its size, credit risk rating, and complexity. The policy must address the required analysis and depth of the financial review performed to support the credit decision. It should establish the approval process, including the lending authorities and the documentation of the credit decision. It should outline the required components of the credit approval document. The approval process and documentation should provide sufficient information to allow the approving body to make a fully informed credit decision.

The credit approval document should be in a standard, logical format and provide all relevant information. Standard formats provide for a consistent and fair process for evaluating credit to all borrowers.

The borrower analysis should focus on satisfactory borrower payment history, along with a review and explanation of the financial trends of the borrower based on a reasonably long period to establish a reliable trend. The analysis should focus on income and expense trends, debt service ability, balance sheet changes and the impact of those changes on the ability to service debt. The analysis should discuss the required evaluation of related parties and the influence of those parties on the repayment ability of the borrower.

The policy must establish due diligence requirements to evaluate the other sources of income or losses affecting the guarantors or principals to determine the global financial condition and the debt service ability of the borrower. The commercial loan policy should also set the requirements for the financial reporting to support a credit decision. It should address the minimum criteria for historic reporting at the inception of the loan, as well as regular reporting after the loan is closed, and the required quality of financial information to establish an accurate and reliable assessment of financial trends. Risks should be monitored throughout the life of the loan based on periodic review of the financial position of the borrower and site visits to detect any operational changes.

The proposal also notes that underwriting standards must address the quality of the financial information used to make the credit decision and ensure that the degree of verification reflected in the financial information is sufficient to support the financial analysis and the risk assessment of the credit decision. Financial statement quality is determined by the level of assurance provided by the preparer and the required professional standards supporting the preparer's opinion. In many cases, tax returns and/or financial statements professionally prepared in accordance with generally accepted accounting principles (GAAP) will be sufficient for less complex borrowing relationships, such as those that are limited to a single operation of the borrower and principal with relatively low debt. For more complex and larger borrowing relationships, such as those involving borrowers or principals with significant loans outstanding or multiple or interrelated operations, the credit union should require borrowers and principals to provide either (i) an auditor's *review* of the financial statements prepared consistent with GAAP to obtain limited assurance (*i.e.,* a ''review quality'' financial statement), or (ii) an independent financial statement *audit* under generally accepted auditing standards (GAAS) for the expression of an opinion on the financial statements prepared in accordance with GAAP (*i.e.,* an ''audit quality'' financial statement).

In either case, the credit union's policy should establish a threshold for the required financial reporting. The policy should also establish the requirements for financial projection, which will ensure the borrower is actually planning and managing operations to achieve future goals. Financial statement projections should be required when the historic performance does not support the proposed debt repayment, or a structural change in the future operations of the borrower is anticipated and repayment depends on the success of the changes. The borrower or principals of the borrower should prepare the projection, as it is they who must execute and achieve the projected plan.

Finally, the proposal calls for the credit union to establish underwriting standards to include LTV ratio limits and methods for valuing all types of collateral authorized. For real estate valuation, the methods need to comply with Part 722 of NCUA's regulations. The standards should set minimum collateral requirements based on the collateral characteristics and risk associated with the borrowing relationships. For dynamic assets with changing quantities and value, such as accounts receivable and inventory, LTV ratios should be lower than more stable assets such as new equipment and real estate. The LTV ratios for equipment and real estate should reflect influences on the marketability of the collateral, such as age, condition, and potential alternative uses of the collateral, and be consistent with prudent commercial lending practice.

The standards should also set forth the requirements for establishing an enforceable and perfected lien position for different types of collateral. The standards should also establish procedures and processes to determine if property proposed as collateral has been affected by contamination of hazardous material, either by the borrower's own operations, historic use by previous owners, or from neighboring commercial operations, and should outline processes to limit the exposure to the credit union for any possible liability.

7. *Risk Management Processes.* The risk associated with commercial lending is dynamic due to changing influences on the market and operational conditions of the borrower. The proposed rule requires the credit union to establish policies and procedures to identify and manage risk at the inception of the loan and throughout the life of the loan. Specific components to be addressed by the credit union are set out in the proposal and include:

(i) *Use of loan covenants, when warranted.* A change in risk is generally reflected in an adverse change in the financial condition of the borrower or associated borrowers. Thus, the credit union's policy should establish the requirements for the use of financial covenants, financial reporting and regular site visits. Early detection of adverse changes in the borrower's operation will provide the credit union with the best opportunity to assist the member and protect itself from losses.

(ii) *Periodic review.* The credit union loan policy must set forth the requirements for periodic loan relationship review. The Board notes that areas to consider include frequency of site visits, periodic financial reporting, and comprehensive review of the relationship. The Board also notes that a standard practice in this respect is to review the relationship from a financial and operational standpoint on an annual basis, simultaneous with the timely submission of the fiscal year-end financial statements.

(iii) *A credit risk rating system.* The ability to quantify and report the level of risk is the paramount responsibility of the credit union. Accordingly, the proposed rule requires the credit union to incorporate a credit risk rating system to analyze and describe the credit risk of each loan. A risk rating system is a

standard industry practice utilized by commercial lenders, a longstanding NCUA supervisory expectation, and required by other regulators to monitor and quantify risk.[21]

An effective risk rating system establishes risk grades that are applied to each loan, with grades ranging from low risk to high risk. The risk rating system should incorporate a sufficient number of risk grades to differentiate the level of credit risk in different loans, and should be supported by appropriate analysis of the borrower and associated borrowers.

The credit risk rating is assigned to each loan at origination and reviewed and adjusted periodically over the life of the loan. All credit unions should ensure the accuracy of the credit risk ratings and that the process for determining the risk ratings is periodically validated. Both the quantitative inputs and the expertise and judgment of staff responsible for assigning the ratings are critical in making the credit decision and in assigning risk ratings. The system should provide for well-defined and clear criteria for each risk rating and promote consistency in assigning and reviewing ratings.

The evaluation should include quantitative factors based on financial performance and qualitative factors based on management, market, and business environmental considerations. An effective risk rating system will allow for active risk management of individual member loans and the portfolio.

The procedures and policies outlined in NCUA Accounting Bulletin No. 06, Attachment 1, Loan Review Systems or any updates to this guidance must be reflected in the credit union's policy. This guidance outlines the minimum requirements for the application and administration of an effective risk rating and commercial loan review process. NCUA's assessment of a credit union's risk rating process will be a major emphasis of examinations.

(iv) *Loan exceptions.* The commercial loan policy may allow for exceptions to policy when necessary to meet the unique circumstances of a borrowing relationship and doing so would not create undue risk to the credit union. The policy must establish the process for approval and documentation of an exception to loan policy. All exceptions to the loan policy need to be tracked and periodically reported to senior management and the board.

§ 723.5—Collateral and Security

Collateral

All of the specific prescriptive limits and requirements related to collateral in the current rule have been eliminated and replaced with the fundamental principle that commercial loans must be appropriately collateralized. While the proposal simplifies the collateral requirements, it is predicated on NCUA's expectation that commercial loans require collateral sufficient to protect the credit union against the associated risk. The majority of loans granted support either the purchase of an asset or working capital to fund inventory or accounts receivable during the business cycle. At a minimum, those assets should collateralize the loan.

Accordingly, the proposal reflects the expectation that a credit union making a commercial loan will require the borrower to provide collateral that is appropriate for the type of transaction and the risk associated with the borrowing relationship. Credit unions must use sound judgment when requiring collateral and will require collateral coverage for each commercial loan in an amount that is sufficient to offset the credit risk associated with that loan.

The marketability and type of collateral should also be considered in determining the collateral requirements. Marketability can be influenced by the age, condition, and alternative uses of the collateral. For depreciating assets such as equipment or vehicles, newer collateral in good condition would warrant a relatively higher loan-to-value ratio. Collateral with limited alternative uses, such as single-purpose real estate, or assets with limited useful life, such as used equipment or vehicles, would warrant a lower loan-to-value ratio. The term of the loan should also be reflective of the anticipated useful life of the collateral, which is determined based on the type of collateral and its expected use. In addition, credit unions should consider the volatility of the asset as it relates to value and quantities. Specifically, current assets, especially accounts receivable and inventory, are dynamic, with changing market values and regular fluctuation in quantity on hand. Accordingly, when these assets serve as collateral, a lower loan-to-value ratio is warranted to account for the volatility. Also, when establishing loan-to-value limits, credit unions should align their policies with prudent commercial lending practices.

The proposal requires that a credit union must establish a policy for monitoring collateral, including systems and processes to respond to changes in asset values. For example, real estate in good condition and in demand may be inspected less frequently than other types of assets such as current assets, which can undergo more frequent changes in value and which require regular reporting and monitoring to ensure continued compliance with collateral requirements.

Unsecured commercial lending presents additional risk to the lender. Such lending should be limited and treated as an exception, to be offered only when the additional risk is adequately offset by appropriate risk mitigants. Examples of some of these risk mitigants include a stable record of profitability, superior and consistent debt service coverage, a low debt-to-worth ratio, and financially strong guarantors. The unsecured loans should be tracked and the volume of such loans periodically reported to senior management and the board. The credit union should set prudent portfolio limits for these types of loans, measured in terms of a reasonable percentage of the credit union's net worth.

Personal Guarantees

Consistent with the overall, principles-based approach underlying this proposal, the proposed rule removes the explicit requirement contained in the current rule that credit unions obtain a personal guarantee from the principal(s) of the borrower. The Board notes, however, that having the principal(s) of the borrower commit their personal liability to the repayment obligation is, in most cases, very important for commercial lending. Accordingly, the proposed rule makes clear that excusing principals from providing their personal guarantee for the repayment of the loan may only be done with appropriate corresponding underwriting parameters and portfolio safeguards. The credit union should set prudent portfolio limits for these types of loans, measured in terms of a reasonable percentage of the credit union's net worth. Commercial loans without a personal guarantee should be tracked and periodically reported to senior management and the board.

Personal guarantees provide an additional form of credit enhancement for a commercial loan. In small business, investor real estate, and privately held entity lending, it is standard industry practice for principals of the business to assume the majority of the risk by personally guaranteeing the loan. Business owners or principals

[21] NCUA Letter to Credit Unions 10–CU–02, Current Risks in Business Lending and Sound Risk Management Practices. (Jan. 2010) (citing The Office of Comptroller of the Currency, Comptroller's Handbook, Rating Credit Risk (April 2001); NCUA Accounting Bulletin 06–01, Attachment 1 (Dec. 2006).

will benefit the most from the success of the business operation; therefore, it is appropriate for principals to shoulder the bulk of the risk by committing their personal guarantee.

A personal guarantee by the principal offers additional financial support to back the loan, but more importantly it solidifies the long-term commitment by the principal to the success of the business operation. The most effective guarantee will be from the principals who have control of the borrower's operation and have sufficient financial resources at risk. A firm commitment by such a principal is vital to preserving the value of the borrower's business, either by improving operations or, in the worst case, by preserving asset values in the event of default and liquidation. The guarantor's economic incentive is to manage the business successfully and retain value, which will ultimately serve to offset any deficiency the guarantor might otherwise be obligated to pay.

§ 723.6—Construction and Development Loans

Construction and development lending represents an important and necessary service that credit unions can provide to their membership. The Board is also concerned, however, that construction and development lending presents risk, in addition to credit risk, in the areas of loan disbursement administration and valuation of collateral. Credit unions that elect to pursue this line of business must protect against those risks by ensuring they have specific expertise and experience, supported by appropriate systems, to mitigate those risks. In addition to these minimum requirements for evaluating credit risk, the proposed rule outlines separate requirements that pertain exclusively to construction and development lending. The proposed rule clarifies the definition of a construction and development loan, describes alternative methods for valuing a construction project, and explains which costs are considered allowable in determining value of the project and therefore may be funded from loan proceeds. Finally, the proposal outlines required procedures to be followed in the administration of construction and development loans.

The proposal sets forth a new definition for construction and development loans that distinguishes between income-producing property and projects built for a commercial purpose. This distinction is necessary for determining the duration of the financing period, as established in this section under the prospective market value method of valuing a construction project. As specified in the proposal, ''income producing'' means any property that generates income from the rental or sale of the units constructed with loan proceeds and the repayment of the loan is dependent on the successful completion of the project. ''Commercial purpose,'' by contrast, is a term that applies to structures that do not directly generate income but enhance the operation of a commercial or industrial operation, such as a warehouse, manufacturing facility, and management office space. The proposal also clarifies that a construction and development loan includes any loan for the construction or renovation of real estate where prudent practice requires multiple disbursements as the project progresses and the ultimate valuation of the project and collateral protection is determined from the completed project.

The proposed rule also establishes procedures for the valuation of collateral for construction and development loans. As noted above, in this context, there is significant risk, aside from credit risk to the lender, so the proposal provides significant detail regarding collateral value and preserving that value through diligent loan administration.

As proposed, the rule would outline two distinct methods for determining collateral value: One focused on cost, the other on market value. The proposed rule states explicitly that the credit union must use the lesser value resulting from these two valuation methods in its determination of collateral value. This protection ensures the sufficiency of the investment by the borrower into the project. Requiring credit unions to use the valuation method that projects the lesser value will ensure that the borrower has capital at risk and will help the credit union to establish the appropriate balance in the sharing of risk between lender and borrower. Requiring an evaluation of the prospective market value will guard against the risk of financing overbuilding in the local real estate market.

The first method entails an evaluation of the cost to complete the project. The proposal describes allowable costs for valuation and funding purposes consistent with prudent commercial practice. This description supersedes two legal opinion letters issued by NCUA's Office of General Counsel in 2001 and 2005, respectively.[22]

The proposal also describes a second valuation method, which is the prospective market value method. The prospective market value method is described in the Uniform Standards of Professional Appraisal Practice (Statement 4), which discusses the method for valuing a completed and stabilized construction project. The language in the proposed rule describes two different aspects of this approach, based on whether the property is held for a commercial or an income-producing use. The first method, ''as-completed,'' is for a commercial purpose building, while the second, ''as-stabilized,'' is for income-producing real estate.

Finally, the proposed rule clarifies the requirements for administering a construction and development loan process, including requiring appropriate disbursement controls, to ensure the project is adequately funded and managed to reduce risk. The proposed rule requires a submission of a line-item budget by the borrower and calls for it to be reviewed and accepted by a qualified individual representing the credit union's interest. It outlines the necessary components of the disbursement process that will ensure that funds are disbursed as planned and in accordance with the budget for work completed and to ensure that the collateral protection has not been adversely affected by intervening liens.

With the clarification of allowable costs, the establishment of the concept of prospective market value, and an outline of required loan administration practices, the proposed rule sets out policies and procedures that are in line with contemporary commercial construction lending practices.

§ 723.7—Prohibited Activities

The prohibitions contained in current § 723.2 have been moved to proposed § 723.7 and are essentially unchanged, except for minor clarifications in the wording that are not intended to reflect substantive change. This section of the proposed rule also now includes provisions governing conflicts of interest, which have been taken virtually intact from § 723.5(b) of the current rule. The proposal also adds a clause to clarify what it means to be ''independent from the transaction'' and specifically provides that any third party providing advice or support to the credit union in connection with its commercial loan program may not receive compensation of any sort that is contingent on the closing of the loan. This would include, for example, a broker or finder who anticipates receiving remuneration from the borrower or a related party upon the funding of the loan. The proposal recognizes that such a party has an

[22] OGC Op. 01–0422 (June 7, 2001); OGC Op. 05–0243 (May 25, 2005).

interest that could conflict with the interest of the credit union in making a sound credit risk decision. The Board believes that having the prohibitions and the conflicts of interest provisions in a single section of the rule makes sense from an organizational standpoint and will facilitate understanding of and compliance with its provisions.

§ 723.8—Aggregate Member Business Loan Limit; Exclusions and Exceptions

As discussed above, one of the underlying principles for the proposed revisions to the MBL rule is the recognition that there are safety and soundness risks inherent in the making of commercial loans, and that managing those risks entails substantially greater effort and attention than merely applying a rigid limit on the aggregate amount a credit union is allowed to invest in such loans. Nevertheless, the FCU Act does impose such a limit, and one purpose of the rule is to address that statutory limit. Section 723.8 of the proposed rule accomplishes that objective.

Proposed § 723.8 sets out the statutory aggregate limits of Section 107A of the FCU Act.[23] The general aggregate statutory limit on MBLs is applied in the current rule as the lesser of 1.75 times the credit union's net worth or 12.25 percent of the credit union's total assets.[24] The Board notes that while the minimum net worth requirement for most credit unions to be well-capitalized is the 7 percent leverage ratio, it can be a higher amount if a credit union is subject to a risk-based net worth requirement that is higher than the amount required by the 7 percent leverage ratio. Thus the MBL limit should not be expressed as an absolute percentage but rather as 1.75 times the applicable net worth requirement for a credit union to be categorized as well-capitalized. For greater consistency with the statute, proposed § 723.8(a) more faithfully incorporates the statutory language contained in the FCU Act.

The proposal also clarifies the distinction between commercial loans subject to the safety and soundness provisions and MBLs subject to the statutory limit. The approach taken in the proposal is to indicate that ''member business loan'' generally means any commercial loan, as defined in the rule. As discussed above, two types of MBLs are expressly excluded from the proposed commercial loan definition: Loans secured by a 1- to 4-family residential property and loans secured by a vehicle manufactured for household use. The Board emphasizes, however, that while these loans are not considered to be commercial loans subject to the safety and soundness provisions in the rule, appropriate risk management is still required.

The proposal defines two types of business loans as commercial loans that are not defined as MBLs for purposes of the statutory MBL limit. The two loans defined as commercial loans but not MBLs are:

1. Loans in which a federal or state agency (or its political subdivision) fully insures repayment, fully guarantees repayment, or provides an advance commitment to purchase the loan in full; and

2. Non-member commercial loans or non-member participation interests in a commercial loan made by another lender, provided the federally insured credit union acquired the non-member loans and participation interests in compliance with all relevant laws and regulations and it is not, in conjunction with one or more other credit unions, trading member business loans to circumvent the aggregate limit.[25]

Further, loans secured by a 1- to 4-family residential property that is *not* the primary residence of the borrower are not commercial loans but they are included in the MBL definition, and therefore, must be included in the aggregate limit calculation.

TABLE—COMPARISON OF MEMBER BUSINESS LOAN AND COMMERCIAL LOAN DEFINITIONS

Type of loan	MBL	Commercial loan
Loan fully secured by a 1- to 4-family residential property (borrower's primary residence).	No	No.
Member business loan secured by a 1- to 4-family residential property (*not* the borrower's primary residence).	Yes[26]	No.
Member business loan secured by a vehicle manufactured for household use.	Yes[27]	No.
Business loan with aggregate net member business loan balance less than $50,000.	No	No.
Commercial loan fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions.	No	No.
Commercial loan in which a federal or state agency (or its political subdivision) fully insures repayment, fully guarantees repayment, or provides an advance commitment to purchase the loan in full.	No	Yes.[28]
Non-member commercial loan or non-member participation interest in a commercial loan made by another lender.	No	Yes.[29]

The Board emphasizes that a credit union's non-member commercial loans or participation interests in non-member commercial loans made by another lender[30] continue to be excluded from

[23] 12 U.S.C. 1757a.

[24] In the current rule, the 12.25 percent figure is a shorthand reference to how the cap applies to the requirement to maintain at least 7 percent of total assets to be well capitalized—1.75 times 7 percent equals 12.25 percent.

[25] Non-member loans and non-member participation interests are excluded from the statutory MBL limit, but credit unions are currently subject to a regulatory requirement to seek prior approval from NCUA for non-member loan balances to exceed the lesser of 1.75 times the credit union's net worth or 12.25 percent of the credit union's total assets.

[26] If the outstanding aggregate net member business loan balance is greater than $50,000.

[27] If the outstanding aggregate net member business loan balance is greater than $50,000.

[28] If the outstanding aggregate net member business loan balance is greater than $50,000.

[29] If the outstanding aggregate net member business loan balance is greater than $50,000.

[30] Federally insured credit unions are authorized to purchase participation interests in loans made by other lenders to credit union members. 12 U.S.C. 1757(5)(E); 12 CFR 701.22. The borrower need not be a member of the purchasing credit union, only a member of one of the participating credit unions. 12 CFR 701.22(b)(4). Additionally, federal credit unions generally may purchase eligible obligations of its members from any source if the loans are those the FCU is empowered to grant. 12 U.S.C. 1757(13); 12 CFR 701.23(b). Certain well capitalized federal credit unions may also purchase whole loans from other federally insured credit unions, including commercial loans, without regard to

Continued

the MBL definition [31] and are not counted for call report purposes or in calculating the statutory aggregate amount of MBLs, provided the credit union acquired the loan or participation interest in compliance with all relevant laws and regulations and the credit union is not, in conjunction with one or more other credit unions, trading MBLs to circumvent the aggregate limit. However, the proposed rule eliminates the need to apply for prior approval from the NCUA regional director for a credit union's non-member loan balances to exceed the lesser of 1.75 times the credit union's net worth or 12.25 percent of the credit union's total assets.[32]

The current rule's application requirement was driven in part by safety and soundness concerns.[33] Under the proposal, however, safety and soundness is of paramount concern, and the bulk of the rule focuses on those considerations. Accordingly, rather than continuing to impose the requirement that the total of a credit union's non-member loan balances may not exceed the lesser of 1.75 times the credit union's net worth or 12.25 percent of the credit union's total assets unless it receives prior NCUA approval, the proposal's focus is on the risks associated with that balance and how the credit union should manage the risks. The application requirement in the current rule was also intended to address concerns that the MBL rule's treatment of participation interests could create a loophole to the statutory limit, and that some credit unions may use the authority to purchase non-member loans and non-member participation interests as a device to swap loans and evade the aggregate limit.[34] To preserve the existing safeguard against evasion, the proposal retains in substance the current rule's stipulation that, for the exclusion to apply, a credit union must acquire the non-member loan or non-member participation interest in compliance with applicable laws and regulations and it must not be swapping or trading MBLs with other credit unions to circumvent the aggregate limit.[35] The Board notes that participation interests in member business loans and member business loans purchased from other lenders continue to count against a credit union's aggregate limit on net member business loan balances.

The proposed rule also identifies those credit unions that are, by statute, exempt from the aggregate MBL limit. Specifically, it provides that credit unions that have a low-income designation or that participate in the Community Development Financial Institutions program are exempt from compliance with the aggregate MBL limit. Credit unions chartered for the purpose of making commercial loans are also exempt from compliance with the aggregate MBL limit. An additional statutory exemption was provided for credit unions that had a history of primarily making member business loans, determined as of the date of enactment of the Credit Union Membership Access Act of 1998 (CUMAA), which amended the FCU Act to include certain new restrictions on member business loans. The Board continues to apply the ''history of primarily making member business loans'' exemption by reference to the date of CUMAA's enactment; [36] therefore, the proposal removes the outdated provisions in the current rule that relate to the evidentiary documentation necessary to demonstrate a credit union's qualification for the exemption. The Board also emphasizes that, regardless of the status of a credit union's exemption from the aggregate limit, all credit unions are subject to the safety and soundness provisions of the rule.

Finally, the proposal establishes the method for calculating a credit union's net member business loan balances for the purpose of complying with the statutory cap and reporting on NCUA form 5300. That method is consistent with the current rule, but the requirements for calculating the net member business loan balances is moved from the definitions section in current § 723.21 to proposed § 723.8 for greater ease of reference and improved readability. Consistent with the current rule, the proposal provides that a federally insured credit union's net member business loan balance is determined by calculating the outstanding loan balance plus any unfunded commitments, reduced by any portion of the loan that is secured by shares in the credit union, or by shares or deposits in other financial institutions, or by a lien on the member's primary residence, or insured or guaranteed by any agency of the federal government, a state or any political subdivision of such state, or subject to an advance commitment to purchase by any agency of the federal government, a state or any political subdivision of such state, or sold as a participation interest without recourse and qualifying for true sales accounting under generally accepted accounting principles.

§ 723.9—Transitional Provisions

Proposed § 723.9 would implement the transition from the current prescriptive rule to the proposed, principles-based rule. This section covers two different scenarios and describes the way in which the proposed rule, if adopted, would impact those credit unions currently operating under a waiver or an enforcement action.

As discussed more fully below, the Board is additionally soliciting comment on potential approaches with respect to those federally insured, state-chartered credit unions currently operating under an NCUA-approved state rule.

i. Existing Waivers or Enforcement Constraints

In view of the principles-based approach taken in the proposed rule, proposed § 723.9(a) provides that any waiver previously issued by NCUA concerning any aspect of the current rule becomes moot upon the effective date of any final MBL rule except waivers that were granted for a single borrower or borrowing relationship to exceed the limits set forth in § 723.8 of the current rule, or for federally insured state chartered credit unions in states that have grandfathered rules where NCUA is required to concur with a waiver to the state's rule. Waivers granted to credit unions for single borrowing relationships will remain in effect until the aggregate balance of the loans outstanding associated with the relationship are reduced and in compliance with the requirements of § 723.4(c) of the proposed rule.

All blanket waivers granted to credit unions for current § 723.8 will terminate on the effective date of any final MBL rule. The Board notes that any credit union that qualified for a waiver concerning any of the hard regulatory limits contained in the former rule will, for the most part, already have the types of policies and procedures in place regarding its commercial loan program

whether they are obligations of their members. 12 CFR 701.23(b)(2).

[31] *See* 68 FR 56537, 56543 (Oct. 1, 2003) (''[P]urchases of nonmember loans and participation interests, as authorized under certain conditions in NCUA's rules and some state laws and rules, do not involve the provision of member loan services, and the acquired loan assets are not MBLs . . . [and] they need not count against the purchasing credit union's aggregate MBL limit. The Board believes it is important to avoid unnecessary interference with the ability of credit unions to place their excess funds in a member that best serves the credit union, its members, and the credit union system.'')

[32] 12 CFR 723.16(b).

[33] *See* 68 FR at 56544.

[34] *Id.*

[35] 12 CFR 723.16(b)(2)(iv).

[36] *See* 64 FR 28721, 28726 (May 27, 1999).

that are contemplated by the proposed rule. Accordingly, the Board anticipates that there will be little if any disruption arising from this transition. In keeping with the principles-based approach, waivers and waiver requests are not part of the proposed rule.

In contrast to the effect of the proposed rule on waivers, proposed § 723.9(b) clarifies that any constraints imposed on a credit union in connection with its commercial lending program, such as may be contained in a Letter of Understanding and Agreement, would survive the adoption of the proposed rule and remain intact. Thus, the proposed rule specifies that any particular enforcement measure to which a credit union may uniquely be subject takes precedence over the more general application of the regulation. A constraint may take the form of a limitation or other condition that is actually imposed as part of a waiver. In such cases, the constraint would survive the adoption of the proposed rule in final form.

ii. State Regulation of Business Lending

The Board solicits comment on how best to approach the issue of state regulation of business lending. Broadly speaking, there are two threshold questions that arise in this context: first, how to address those states that currently have an NCUA-approved MBL rule in place; and second, whether to continue the convention, as set out in the current rule, of permitting states to submit a version of an MBL rule to the Board for its approval as provided for in § 723.20 of the current rule. Each of these questions is addressed below.

As a preliminary matter, the Board notes that, while it may authorize a state supervisory authority (SSA) to play a role in the regulation of business lending, that role is necessarily limited. Congress granted the Board the sole authority to interpret the MBL provisions of the FCU Act and to promulgate implementing regulations, and FCUs and federally insured, state-chartered credit unions (FISCUs) alike are subject to them.[37] An SSA does not have independent ability to interpret the FCU Act, but under the current rule may make its case to the Board that its proposed state rule is consistent with NCUA's interpretation of the FCU Act and Part 723. Until now, the Board has chosen to delegate authority to SSAs to administer a state MBL regulation under the conditions outlined in current § 723.20. In making this delegation in any given case, the Board has been focused on whether the state regulation contains comparable risk management requirements and properly applies the statutory limit on MBLs. There are, at present, seven states in which the Board has approved the state rule.[38]

To address the regulation of business lending by FISCUs, the Board is seeking comment on three options currently under consideration, as well as any alternative approaches.

The following chart briefly highlights key provisions of the three options. Below the chart, each option is described in further detail.

Key provisions	Grandfathers 7 States with MBL rules previously approved by NCUA Board	Permits States to submit new MBL rules for NCUA Board approval
Option A	Yes	No.
Option B	No	Yes.
Option C	Yes	Yes.

The first option (Option A), for which comment is solicited, would be to allow SSAs that currently administer a state MBL rule to preserve their rules in their current format, thus allowing FISCUs in those states to continue to operate in compliance with the pertinent state rule. In this respect, the Board notes that each of the seven state rules is based on the model of Part 723 in its current form.

Under this approach, FISCUs in these seven states would continue to comply with the applicable provisions in their state. However, no other SSA would be permitted to submit a rule for NCUA consideration and approval. Instead, aside from FISCUs operating in the seven grandfathered states, all other FISCUs would be subject to Part 723.

A second option (Option B), for which comment is also solicited, would be for NCUA to require SSAs in these seven states to make conforming amendments to their rules and resubmit them to NCUA for an updated approval. For these SSAs (and any other SSA that seeks to implement its own rule), the new state MBL rules would need to reflect the same principles and incorporate the guidance contained in any final rule, but could be more restrictive if the state so chose.

A third option (Option C), for which comment is solicited, would combine certain provisions of Option A and Option B. Specifically, Option C would permit SSAs that currently administer a state MBL rule to preserve their rules in their current format, thus permitting FISCUs in those states to continue to operate in compliance with the applicable state rule. However, rather than prohibiting other SSAs from submitting their own state rules for NCUA consideration and approval, Option C would permit SSAs to submit such rules as long as they conform with language similar to the beginning of current § 723.20(a). In determining whether or not to approve a state MBL rule, current § 723.20(a) notes, ''the Board is guided by safety and soundness considerations and reviews whether the state regulation minimizes the risk and accomplishes the overall objectives of NCUA's member business loan rule. . . .'' In past practice, the Board has generally approved state rules that are substantially similar to NCUA's rule or more restrictive if the state so chose.

The Board invites public comment on whether Option A, Option B, or Option C should be adopted in the final rule, and how any federal parity provisions in state law would affect these options. The Board also welcomes commenters' suggestions for any alternative approaches to addressing the state regulation of business lending.

C. Amendments to the Loan Participation Rule

As discussed above, the proposed rule amends the definition of ''associated member'' in the current MBL rule to be more consistent with the combination rules applicable to banks by introducing the concepts of direct benefit, common enterprise, and control.[39]

NCUA's loan participation rule contains a similar definition for ''associated borrower,''[40] which was amended by the Board in 2013 to track closely with the definition in the MBL rule.[41] In order to maintain that consistency, the proposed rule also makes parallel amendments to § 701.22(a) by modifying the current definition of ''associated borrower,'' and by adding new definitions of ''common enterprise,'' ''control,'' and ''direct benefit'' to the loan participation rule.

D. Delayed Implementation

The Board recognizes that the proposed shift to a principles-based rule represents a significant change in approach that will require a period of adjustment for both credit unions and examiners. Accordingly, should this proposal be finalized, the Board will delay implementation of the final rule

[37] 12 U.S.C. 1757a.

[38] The seven states currently operating with NCUA Board-approved MBL rules are Connecticut, Illinois, Maryland, Oregon, Texas, Washington, and Wisconsin.

[39] 12 CFR 32.5.

[40] 12 CFR 701.22(a).

[41] 78 FR 37946 (June 25, 2013).

for 18 months, to allow NCUA and state supervisory authorities adequate time to adjust to the new requirements, including training staff, and for affected credit unions to make necessary changes to their commercial lending policies, processes, and procedures in compliance with the new rule.

D. Request for Public Comment

The Board invites comment on all issues discussed in this proposal. In particular, the Board solicits specific comment on the proposal's principles-based regulatory approach and on how best to approach the issue of state regulation of business lending. Further, commenters should not feel constrained to limit their comments to the issues discussed above. Rather, commenters are encouraged to discuss any other relevant MBL issues they believe NCUA should consider that are consistent with and permissible under the existing statute.

III. Regulatory Procedures

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities. A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include credit unions with assets less than $50 million) [42] and publishes its certification and a short, explanatory statement in the **Federal Register** together with the rule.

As of December 2014, of the 4,050 federally insured credit unions with total assets less than $50 million, 619 credit unions hold business loans on their balance sheets, including both member and non-member loans. Among the 619 credit unions, 317 credit unions have business loans less than 15 percent of net worth and are not regularly originating and selling or participating out business loans. Therefore, they would be exempt from § 723.3 (board of directors and management responsibilities) and § 723.4 (commercial loan policy) under the proposed rule—where the incremental paperwork burden associated with the transition for this rule stems from.

The remaining 302 credit unions with assets less than $50 million would be subject to § 723.3 and § 723.4 under the proposed rule because their level of activity in commercial lending is material to their financial and operational safety and soundness. However, the revised definition of commercial loan generally excludes loans secured by vehicles manufactured for household use and 1- to 4-family non-owner occupied residential property that trigger the safety and soundness provisions of the current rule. The average member business loan balance for credit unions with less than $50 million in assets is only $70,891. Thus, it is likely many of the outstanding member business loans currently held by small credit unions, and subject to the current rule, would be exempt under the proposed rule. Thus, NCUA anticipates fewer than 302 small credit unions would actually be subject to the proposed rule (except for § 723.8—the statutory limit provisions). The 302 credit unions only represent 7% of total credit unions with assets less than $50 million.[43] They hold approximately $513 million in business loans in aggregate, which represents 1% of the total business loans in the credit union industry.

	2014	
	Number of credit unions	Percent of total
Credit unions with total assets below $50 million	4,050	100
Credit unions with total assets below $50 million and with MBLs	619	15
Credit unions with total assets below $50 million, with MBLs, and are exempted from § 723.3 and § 723.4	317	8
Credit unions with total assets below $50 million, with MBLs, and are not exempted from § 723.3 and § 723.4	302	7

The proposed amendments would provide federally insured credit unions with significant regulatory relief via greater flexibility and individual autonomy in safely and soundly providing commercial and business loans. This is achieved by eliminating the current rule's prescriptive underwriting criteria, various limits on the composition of the commercial loan portfolio, the limit on participations in non-member business loans, and the associated waiver requirements. What remains in the proposed rule is largely consistent with existing fundamental regulatory requirements and supervisory expectations for commercial lending, and therefore not a significant impact on the operation of these institutions. NCUA has determined and certifies that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small credit unions within the meaning of the RFA.[44]

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden.[45] For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. NCUA recognizes that this proposed rule requires credit unions to comply with certain requirements that constitute an information collection within the meaning of the PRA. Under the proposed rule, credit unions that are engaged in business lending activities and not exempted from § 723.3 and § 723.4 will need to ensure their loan policies and procedures cohere to these requirements, including a formal credit risk rating system to identify and quantify the level of risk within their commercial loan portfolios. However, by replacing the prescriptive requirements in the current rule with a principles-based regulatory approach,

[42] Recently, the Board proposed to increase the asset threshold used to define small entity under the RFA from $50 million to $100 million. 80 FR 11954 (Mar. 5, 2015).

[43] These credit unions hold $7.8 billion in total assets and $869 million in total net worth, which account for 0.7% of total assets and 0.7% of total net worth in the credit union industry, respectively.

[44] 5 U.S.C. 601–612.

[45] 44 U.S.C. 3507(d); 5 CFR part 1320.

the proposed rule also relieves credit unions from the current requirement to obtain MBL related waivers and provides a high degree of flexibility in designing and operating their commercial loan programs.

Currently, NCUA receives a significant number of MBL-related waiver requests each year. NCUA processed 630 and 336 MBL related waiver requests, in 2013 and 2014 respectively. The average number of hours for a credit union to prepare a waiver request is an estimated 8 hours. Accordingly, NCUA expects that the proposed rule will provide an estimated total of 3,864 hours relief to credit unions, on an annual basis.

Eliminating the waiver requirement:

Total number of MBL related waivers requested by FICUs annually: 483
Frequency of response: Annually
Number of hours to prepare 1 waiver request: 8
Total number of hours: 8 hours × 483 = 3,864

Under the proposed rule, credit unions that are engaged in business lending activities and not exempted from § 723.3 and § 723.4 may need to revise their loan policies and procedures. As the end of 2014, there were a total of 1,553 federally insured credit unions that may need to revise their policies. For purposes of this analysis, NCUA estimates that it will take roughly 16 hours on average for a credit union to meet this requirement. Using these estimates, information collection obligations imposed by this aspect of the rule are analyzed below:

Revising commercial loan policies and procedures:

FICUs that are engaged in business lending and are not exempted from § 723.3 and § 723.4: 1,553
Frequency of response: one-time
Initial hour burden: 16
16 hour × 1,553 = 24,848

The proposed rule also requires credit unions that are engaged in business lending activities and not exempted from § 723.3 and § 723.4 to have a formal risk rating system to quantify and manage risks associated with their business lending activities. The majority of credit unions already have risk rating systems in place. Based on a survey of NCUA field staff, NCUA estimates that a total of 142 federally insured credit unions do not currently have a formal risk rating system. The information collection obligations imposed by this aspect of the rule are analyzed below.

Number of FICUs developing a risk rating system: 142
Frequency of response: one-time
Initial hour burden: 160
160 hour × 142 = 22, 720

The total estimated one-time net paperwork burden for this proposal is 43,704 hours, with annual recurring paperwork burden reduction of 3,864 hours. In accordance with the requirements of the PRA, NCUA intends to obtain a modification of its OMB Control Number, 3133–0101, to support these changes. Simultaneously with its publication of this rule, NCUA is submitting a copy of the proposed rule to OMB, along with an application for a modification of the OMB Control Number.

The PRA and OMB regulations require that the public be provided an opportunity to comment on the paperwork requirements, including an agency's estimate of the burden of the paperwork requirements. The Board invites comment on: (1) Whether the paperwork requirements are necessary; (2) the accuracy of NCUA's estimates on the burden of the paperwork requirements; (3) ways to enhance the quality, utility, and clarity of the paperwork requirements; and (4) ways to minimize the burden of the paperwork requirements.

Comments should be sent to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov*.

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

C. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency,[46] voluntarily complies with the Executive Order. The proposed rule, if adopted, will also apply to federally insured, state-chartered credit unions. By law, these institutions are already subject to numerous provisions of NCUA's rules, based on the agency's role as the insurer of member share accounts and the significant interest NCUA has in the safety and soundness of their operations. The proposed rule may have an occasional direct effect on the states, the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The proposed rule may supersede provisions of state law, regulation, or approvals. The proposed rule could lead to conflicts between the NCUA and state financial institution regulators on occasion. Accordingly, NCUA requests comment on ways to eliminate, or at least minimize, potential conflicts in this area. As noted above, NCUA solicits specific comment on how best to approach the issue of state regulation of business lending. Commenters may also wish to provide recommendations on the potential use of delegated authority, cooperative decision-making responsibilities, certification processes of federal standards, adoption of comparable programs by states requesting an exemption for their regulated institutions, or other ways of meeting the intent of the Executive Order.

D. Assessment of Federal Regulations and Policies on Families

NCUA has determined that this rulemaking will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act of 1999.[47]

List of Subjects

12 CFR Part 701

Advertising, Aged, Civil rights, Credit, Credit unions, Fair housing, Individuals with disabilities, Insurance, Marital status discrimination, Mortgages, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination, Signs and symbols, Surety bonds.

12 CFR Part 723

Credit, Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 741

Bank deposit insurance, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on June 18, 2015.

Gerard S. Poliquin,

Secretary of the Board.

For the reasons discussed above, NCUA proposes to amend 12 CFR parts 701, 723, and 741 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

■ 1. The authority citation for part 701 continues to read as follows:

[46] 44 U.S.C. 3502(5).

[47] Public Law 105–277, 112 Stat. 2681 (1998).

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1786, 1787, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.;* 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

■ 2. Amend § 701.22(a) by revising the definition for Associated borrower and adding the definitions for Common enterprise, Control, and Direct benefit to read as follows:

§ 701.22 Loan participations.

* * * * *

(a) For purposes of this section, the following definitions apply:

Associated borrower means any other person or entity with a shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower. This means any person or entity named as a borrower or debtor in a loan or extension of credit, or any other person or entity, such as a drawer, endorser, or guarantor, engaged in a common enterprise with the borrower, or deriving a direct benefit from the loan to the borrower.

Common enterprise means (1) The expected source of repayment for each loan or extension of credit is the same for each borrower and no individual borrower has another source of income from which the loan (together with the borrower's other obligations) may be fully repaid. An employer will not be treated as a source of repayment because of wages and salaries paid to an employee, unless the standards described in paragraph (2) are met;

(2) Loans or extensions of credit are made:

(i) To borrowers who are related directly or indirectly through common control, including where one borrower is directly or indirectly controlled by another borrower; and

(ii) Substantial financial interdependence exists between or among the borrowers. Substantial financial interdependence means 50 percent or more of one borrower's gross receipts or gross expenditures (on an annual basis) are derived from transactions with another borrower. Gross receipts and expenditures include gross revenues or expenses, intercompany loans, dividends, capital contributions, and similar receipts or payments; or

(3) Separate borrowers obtain loans or extensions of credit to acquire a business enterprise of which those borrowers will own more than 50 percent of the voting securities or voting interests.

Control means a person or entity directly or indirectly, or acting through or together with one or more persons or entities:

(1) Owns, controls, or has the power to vote 25 percent or more of any class of voting securities of another person or entity;

(2) Controls, in any manner, the election of a majority of the directors, trustees, or other persons exercising similar functions of another person or entity; or

(3) Has the power to exercise a controlling influence over the management or policies of another person or entity.

* * * * *

Direct benefit means the proceeds of a loan or extension of credit to a borrower, or assets purchased with those proceeds, that are transferred to another person or entity, other than in a bona fide arm's length transaction where the proceeds are used to acquire property, goods, or services.

* * * * *

PART 723—MEMBER BUSINESS LOANS; COMMERCIAL LENDING

■ 3. The authority citation for Part 723 continues to read as follows:

Authority: 12 U.S.C. 1756, 1757, 1757A, 1766, 1785, 1789.

■ 3. Revise §§ 723.1 through 723.8 and add § 723.9 to read as follows:

Sec.

* * * * *

723.1 Purpose and scope.
723.2 Definitions.
723.3 Board of directors and management responsibilities.
723.4 Commercial loan policy.
723.5 Collateral and security.
723.6 Construction and development loans.
723.7 Prohibited activities.
723.8 Aggregate member business loan limit; exclusions and exceptions.
723.9 Transitional provisions.

* * * * *

§ 723.1 Purpose and scope.

(a) *Purpose.* This part is intended to accomplish two broad objectives. First, it sets out policy and program responsibilities that a federally insured credit union must adopt and implement as part of a safe and sound commercial lending program. Second, it incorporates the statutory limit on the aggregate amount of member business loans that a federally insured credit union may make pursuant to Section 107A of the Federal Credit Union Act. The rule distinguishes between these two distinct objectives.

(b) *Credit unions and loans covered by this part.* This part applies to federally insured natural person credit unions, except that credit unions with both assets less than $250 million and total commercial loans less than 15 percent of net worth that are not regularly originating and selling or participating out commercial loans are not subject to § 723.3 and § 723.4 of this part. This part does not apply to loans:

(1) Made by a corporate credit union, as defined in part 704 of this chapter;

(2) Made by a federally insured credit union to another federally insured credit union;

(3) Made by a federally insured credit union to a credit union service organization, as defined in part 712 and § 741.222 of this chapter; or

(4) Fully secured by a lien on a 1- to 4- family residential property that is the borrower's primary residence.

(c) *Other regulations that apply.* (1) The requirements of § 701.21(a) through (g) of this chapter apply to commercial loans granted by a federally insured credit union to the extent they are consistent with this part. As required by part 741 of this chapter, a federally insured, state-chartered credit union is generally not required to comply with the provisions of § 701.21(a) through (g) of this chapter, except it must comply with § 701.21(c)(8) of this chapter concerning prohibited fees, and § 701.21(d)(5) of this chapter concerning nonpreferential loans.

(2) If a federal credit union makes a commercial loan through a program in which a federal or state agency (or its political subdivision) insures repayment, guarantees repayment, or provides an advance commitment to purchase the loan in full, and that program has requirements that are less restrictive than those required by this rule, then the federal credit union may follow the loan requirements of the relevant guaranteed loan program. A federally insured, state-chartered credit union that is subject to this part and that makes a commercial loan as part of a loan program in which a federal or state agency (or its political subdivision) insures repayment, guarantees repayment, or provides an advance commitment to purchase the loan in full, and that program has requirements that are less restrictive than those required by this rule, then the federally insured, state-chartered credit union may follow the loan requirements of the relevant guaranteed loan program, provided that its state supervisory authority has determined that it has authority to do so under state law.

(3) The requirements of § 701.23 of this chapter apply to a federal credit union's purchase, sale, or pledge of a

commercial loan as an eligible obligation.

(4) The requirements of § 701.22 of this chapter apply to a federally insured credit union's purchase of a participation interest in a commercial loan.

§ 723.2 Definitions.

For purposes of this part, the following definitions apply:

Associated Borrower means any other person or entity with a shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower. This means any person or entity named as a borrower or debtor in a loan or extension of credit, or any other person or entity, such as a drawer, endorser, or guarantor, engaged in a common enterprise with the borrower, or deriving a direct benefit from the loan to the borrower.

Commercial loan means any loan, line of credit, or letter of credit (including any unfunded commitments), and any interest a credit union obtains in such loans made by another lender, to individuals, sole proprietorships, partnerships, corporations, or other business enterprises for commercial, industrial, agricultural, or professional purposes, but not for investment or personal expenditure purposes. Excluded from this definition are loans made by a corporate credit union; loans made by a federally insured credit union to another federally insured credit union; loans made by a federally insured credit union to a credit union service organization; loans secured by a 1- to 4- family residential property (whether or not it is the borrower's primary residence); any loan(s) to a borrower or an associated borrower, the aggregate balance of which is equal to less than $50,000; any loan fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions; and loans secured by a vehicle manufactured for household use.

Common enterprise means

(1) The expected source of repayment for each loan or extension of credit is the same for each borrower and no individual borrower has another source of income from which the loan (together with the borrower's other obligations) may be fully repaid. An employer will not be treated as a source of repayment because of wages and salaries paid to an employee, unless the standards described in paragraph (2) of this definition are met;

(2) Loans or extensions of credit are made:

(i) To borrowers who are related directly or indirectly through common control, including where one borrower is directly or indirectly controlled by another borrower; and

(ii) Substantial financial interdependence exists between or among the borrowers. Substantial financial interdependence means 50 percent or more of one borrower's gross receipts or gross expenditures (on an annual basis) are derived from transactions with another borrower. Gross receipts and expenditures include gross revenues or expenses, intercompany loans, dividends, capital contributions, and similar receipts or payments; or

(3) Separate borrowers obtain loans or extensions of credit to acquire a business enterprise of which those borrowers will own more than 50 percent of the voting securities or voting interests.

Control means a person or entity directly or indirectly, or acting through or together with one or more persons or entities:

(1) Owns, controls, or has the power to vote 25 percent or more of any class of voting securities of another person or entity;

(2) Controls, in any manner, the election of a majority of the directors, trustees, or other persons exercising similar functions of another person or entity; or

(3) Has the power to exercise a controlling influence over the management or policies of another person or entity.

Credit risk rating system means a formal process that identifies and assigns a relative credit risk score to each commercial loan in a federally insured credit union's portfolio, using ordinal ratings to represent the degree of risk. The credit risk score is determined through an evaluation of quantitative factors based on financial performance and qualitative factors based on management, operational, market, and business environmental factors.

Direct benefit means the proceeds of a loan or extension of credit to a borrower, or assets purchased with those proceeds, that are transferred to another person or entity, other than in a bona fide arm's length transaction where the proceeds are used to acquire property, goods, or services.

Immediate family member means a spouse or other family member living in the same household.

Loan secured by a 1- to 4-family residential property means a loan that, at origination, is secured wholly or substantially by a lien on a 1- to 4-family residential property for which the lien is central to the extension of the credit; that is, the borrower would not have been extended credit in the same amount or on terms as favorable without the lien. A loan is wholly or substantially secured by a lien on a 1- to 4-family residential property if the estimated value of the real estate collateral at origination (after deducting any senior liens held by others) is greater than 50 percent of the principal amount of the loan.

Loan secured by a vehicle manufactured for household use means a loan that, at origination, is secured wholly or substantially by a lien on a new and used passenger car and other vehicle such as a minivan, sport-utility vehicle, pickup truck, and similar light truck or heavy duty truck generally manufactured for personal, family, or household use and not used as a fleet vehicle or to carry fare-paying passengers, for which the lien is central to the extension of credit. A lien is central to the extension of credit if the borrower would not have been extended credit in the same amount or on terms as favorable without the lien. A loan is wholly or substantially secured by a lien on a vehicle manufactured for household use if the estimated value of the collateral at origination (after deducting any senior liens held by others) is greater than 50 percent of the principal amount of the loan.

Loan-to-value ratio means, with respect to any item of collateral, the aggregate amount of all sums borrowed and secured by that collateral, including outstanding balances plus any unfunded commitment or line of credit from another lender that is senior to the federally insured credit union's lien position, divided by the lesser of the purchase price or market value for collateral held 12 months or less, and market value for collateral held longer than 12 months. The market value of the collateral must be established by prudent and accepted commercial lending practices and comply with all regulatory requirements. For a construction and development loan, the collateral value is the lesser of cost to complete or prospective market value, as determined in accordance with § 723.6 of this part.

Net worth means a federally insured credit union's net worth, as defined in part 702 of this chapter.

Readily marketable collateral means a financial instrument or bullion that is salable under ordinary market conditions with reasonable promptness at a fair market value determined by quotations based upon actual transactions on an auction or similarly available daily bid and ask price market.

Residential property means a house, condominium unit, cooperative unit, manufactured home (whether completed or under construction), or unimproved land zoned for 1- to 4-family residential use. A boat or motor home, even if used as a primary residence, or timeshare property is not residential property.

§ 723.3 Board of directors and management responsibilities.

Prior to engaging in commercial lending, a federally insured credit union must address the following board responsibilities and operational requirements:

(a) *Board of directors.* A federally insured credit union's board of directors, at a minimum, must:

(1) Approve a commercial loan policy that complies with § 723.4 of this part. The board must review its policy on an annual basis, prior to any material change in the federally insured credit union's commercial lending program or related organizational structure, and in response to any material change in portfolio performance or economic conditions, and update it when warranted.

(2) Ensure the federally insured credit union appropriately staffs its commercial lending program in compliance with paragraph (b) of this section.

(3) Understand and remain informed, through periodic briefings from responsible staff and other methods, about the nature and level of risk in the federally insured credit union's commercial loan portfolio, including its potential impact on the federally insured credit union's earnings and net worth.

(b) *Required expertise and experience.* A federally insured credit union making, purchasing, or holding any commercial loan must internally possess the following experience and competencies:

(1) *Senior executive officers.* A federally insured credit union's senior executive officers overseeing the commercial lending function must understand the federally insured credit union's commercial lending activities. At a minimum, senior executive officers must have a comprehensive understanding of the role of commercial lending in the federally insured credit union's overall business model and establish risk management processes and controls necessary to safely conduct commercial lending.

(2) *Qualified lending personnel.* A federally insured credit union must employ qualified staff with experience in the following areas:

(i) Underwriting and processing for the type(s) of commercial lending in which the federally insured credit union is engaged;

(ii) Overseeing and evaluating the performance of a commercial loan portfolio, including rating and quantifying risk through a credit risk rating system; and

(iii) Conducting collection and loss mitigation activities for the type(s) of commercial lending in which the federally insured credit union is engaged.

(3) *Options to meet the required experience.* A federally insured credit union may meet the experience requirements in paragraphs (b)(1) and (2) of this section by conducting internal training and development, hiring qualified individuals, or using a third-party, such as an independent contractor or a credit union service organization. However, with respect to the qualified lending personnel requirements in paragraph (b)(2) of this section, use of a third-party is permissible only if the following conditions are met:

(i) The third-party has no affiliation or contractual relationship with the borrower or any associated borrowers;

(ii) The actual decision to grant a loan must reside with the federally insured credit union;

(iii) Qualified federally insured credit union staff exercises ongoing oversight over the third party by regularly evaluating the quality of any work the third party performs for the federally insured credit union; and

(iv) The third-party arrangement must otherwise comply with § 723.7 of this part.

§ 723.4 Commercial loan policy.

Prior to engaging in commercial lending, a federally insured credit union must adopt and implement a comprehensive written commercial loan policy and establish procedures for commercial lending. The board approved policy must ensure the federally insured credit union's commercial lending activities are performed in a safe and sound manner by providing for ongoing control, measurement, and management of the federally insured credit union's commercial lending activities. At a minimum, a federally insured credit union's commercial loan policy must address each of the following:

(a) Type(s) of commercial loans permitted.

(b) Trade area.

(c) Maximum amount of assets, in relation to net worth, allowed in secured, unsecured, and unguaranteed commercial loans and in any given category or type of commercial loan and to any one borrower or group of associated borrowers. The policy must specify that the aggregate dollar amount of commercial loans to any one borrower or group of associated borrowers may not exceed the greater of 15 percent of the federally insured credit union's net worth or $100,000, plus an additional 10 percent of the credit union's net worth if the amount that exceeds the credit unions 15 percent general limit is fully secured at all times with a perfected security interest by readily marketable collateral as defined in section 723.2 of this part.

(d) Qualifications and experience requirements for personnel involved in underwriting, processing, approving, administering, and collecting commercial loans.

(e) Loan approval processes, including establishing levels of loan approval authority commensurate with the individual's or committee's proficiency in evaluating and understanding commercial loan risk, when considered in terms of the level of risk the borrowing relationship poses to the federally insured credit union.

(f) Underwriting standards commensurate with the size, scope and complexity of the commercial lending activities and borrowing relationships contemplated. The standards must, at a minimum, address the following:

(1) The level and depth of financial analysis necessary to evaluate the financial trends and condition of the borrower and the ability of the borrower to meet debt service requirements;

(2) Thorough due diligence of the principal(s) to determine whether any related interests of the principal(s) might have a negative impact or place an undue burden on the borrower and related interests with regard to meeting the debt obligations with the credit union;

(3) Requirements of a borrower-prepared projection when historic performance does not support projected debt payments. The projection must be supported by reasonable rationale and, at a minimum, must include a projected balance sheet and income and expense statement;

(4) The financial statement quality and the degree of verification sufficient to support an accurate financial analysis and risk assessment;

(5) The methods to be used in collateral evaluation, for all types of collateral authorized, including loan-to-value ratio limits. Such methods must be appropriate for the particular type of collateral. The means to secure various types of collateral, and the measures

taken for environmental due diligence must also be appropriate for all authorized collateral; and

(6) Other appropriate risk assessment including analysis of the impact of current market conditions on the borrower and associated borrowers.

(g) Risk management processes commensurate with the size, scope and complexity of the federally insured credit union's commercial lending activities and borrowing relationships. These processes must, at a minimum, address the following:

(1) Use of loan covenants, if appropriate, including frequency of borrower and guarantor financial reporting;

(2) Periodic loan review, consistent with loan covenants and sufficient to conduct portfolio risk management. This review must include a periodic reevaluation of the value and marketability of any collateral;

(3) A credit risk rating system. Credit risk ratings must be assigned to commercial loans at inception and reviewed as frequently as necessary to satisfy the federally insured credit union's risk monitoring and reporting policies, and to ensure adequate reserves as required by generally accepted accounting principles (GAAP); and

(4) A process to identify, report, and monitor loans approved as exceptions to the credit union's loan policy.

§ 723.5 Collateral and security.

(a) A federally insured credit union must require collateral commensurate with the level of risk associated with the size and type of any commercial loan. Collateral must be sufficient to ensure adequate loan balance protection along with appropriate risk sharing with the borrower and principal(s). A federally insured credit union making an unsecured loan must determine and document in the loan file that mitigating factors sufficiently offset the relevant risk.

(b) A federally insured credit union that does not require the full and unconditional personal guarantee from the principal(s) of the borrower who has a controlling interest in the borrower must determine and document in the loan file that mitigating factors sufficiently offset the relevant risk.

§ 723.6 Construction and development loans.

In addition to the foregoing, the following requirements apply to a construction and development loan made by any federally insured credit union.

(a) For the purposes of this section, a construction or development loan means any financing arrangement to enable the borrower to acquire property or rights to property, including land or structures, with the intent to construct or renovate an income producing property, such as residential housing for rental or sale, or a commercial building, such as may be used for commercial, agricultural, industrial, or other similar purposes. It also means a financing arrangement for the construction, major expansion or renovation of the property types referenced in this section. The collateral valuation for securing a construction or development loan depends on the satisfactory completion of the proposed construction or renovation where the loan proceeds are disbursed in increments as the work is completed. A loan to finance maintenance, repairs, or improvements to an existing income producing property that does not change its use or materially impact the property is not a construction or development loan.

(b) A federally insured credit union that elects to make a construction or development loan must ensure that its commercial loan policy includes adequate provisions by which the collateral value associated with the project is properly determined and established. For a construction or development loan, collateral value is the lesser of the project's cost to complete or its prospective market value.

(1) For the purposes of this section, cost to complete means the sum of all qualifying costs necessary to complete a construction project and documented in an approved construction budget. Qualifying costs generally include on- or off-site improvements, building construction, other reasonable and customary costs paid to construct or improve a project, including general contractor's fees, and other expenses normally included in a construction contract such as bonding and contractor insurance. Qualifying costs include the value of the land, determined as the lesser of appraised market value or purchase price for land held less than 12 months, and as the appraised market value for land held longer than 12 months. Qualifying costs also include interest, a contingency account to fund unanticipated overruns, and other development costs such as fees and related pre-development expenses. Interest expense is a qualifying cost only to the extent it is included in the construction budget and is calculated based on the projected changes in the loan balance up to the expected ''as-complete'' date for owner-occupied non-income producing commercial real estate or the ''as-stabilized'' date for income producing real estate. Project costs for related parties, such as developer fees, leasing expenses, brokerage commissions, and management fees, are included in qualifying costs only if reasonable in comparison to the cost of similar services from a third party. Qualifying costs exclude interest or preferred returns payable to equity partners or subordinated debt holders, the developer's general corporate overhead, and selling costs to be funded out of sales proceeds such as brokerage commissions and other closing costs.

(2) For the purposes of this section, prospective market value means the market value opinion determined by an independent appraiser in compliance with the relevant standards set forth in the Uniform Standards of Professional Appraisal Practice. Prospective value opinions are intended to reflect the current expectations and perceptions of market participants, based on available data. Two prospective value opinions may be required to reflect the time frame during which development, construction, and occupancy occur. The prospective market value ''as-completed'' reflects the property's market value as of the time that development is to be completed. The prospective market value ''as-stabilized'' reflects the property's market value as of the time the property is projected to achieve stabilized occupancy. For an income producing property, stabilized occupancy is the occupancy level that a property is expected to achieve after the property is exposed to the market for lease over a reasonable period of time and at comparable terms and conditions to other similar properties.

(c) A federally insured credit union that elects to make a construction and development loan must also assure its commercial loan policy meets the following conditions:

(1) Qualified personnel representing the interests of the federally insured credit union must conduct a review and approval of any line item construction budget prior to closing the loan;

(2) A credit union approved requisition and loan disbursement process is established;

(3) Release or disbursement of loan funds occurs only after on-site inspections, documented in a written report by qualified personnel representing the interests of the federally insured credit union, certifying that the work requisitioned for payment has been satisfactorily completed, and the remaining funds available to be disbursed from the construction and development loan is sufficient to complete the project; and

(4) Each loan disbursement is subject to confirmation that no intervening liens have been filed.

§ 723.7 Prohibited activities.

(a) *Ineligible borrowers.* A federally insured credit union may not grant a commercial loan to the following:

(1) Any senior management employee, including the federally insured credit union 's chief executive officer, any assistant chief executive officers, and the chief financial officer (*i.e.,* comptroller), and any of their immediate family members;

(2) Any person meeting the definition of an associated borrower with respect to persons identified in paragraph (a)(1) of this section; or

(3) Any compensated director, unless the federally insured credit union's board of directors approves granting the loan and the compensated director was recused from the board's decision making process.

(b) *Equity agreements/joint ventures.* A federally insured credit union may not grant a commercial loan if any additional income received by the federally insured credit union or its senior management employees is tied to the profit or sale of any business or commercial endeavor that benefits from the proceeds of the loan.

(c) *Conflicts of interest.* Any third party used by a federally insured credit union to meet the requirements of this part must be independent from the commercial loan transaction and may not have a participation interest in a loan or an interest in any collateral securing a loan that the third party is responsible for reviewing, or an expectation of receiving compensation of any sort that is contingent on the closing of the loan, with the following exceptions:

(1) A third party may provide a service to the federally insured credit union that is related to the transaction, such as loan servicing.

(2) The third party may provide the requisite experience to a federally insured credit union and purchase a loan or a participation interest in a loan originated by the federally insured credit union that the third party reviewed.

(3) A federally insured credit union may use the services of a credit union service organization that otherwise meets the requirements of § 723.3(b)(3) of this part even if the credit union service organization is not independent from the transaction, provided the federally insured credit union has a controlling financial interest in the credit union service organization as determined under GAAP.

§ 723.8 Aggregate member business loan limit; exclusions and exceptions.

This section incorporates the statutory limits on the aggregate amount of member business loans that may be held by a federally insured credit union and establishes the method for calculating a federally insured credit union's net member business loan balance for purposes of the statutory limits and NCUA form 5300 reporting.

(a) *Statutory limits.* The aggregate limit on a federally insured credit union's net member business loan balances is the lesser of 1.75 times the actual net worth of the credit union, or 1.75 times the minimum net worth required under section 1790d(c)(1)(A) of the Federal Credit Union Act.

(b) *Definition.* For the purposes of this section, member business loan means any commercial loan as defined in 723.2 of this part, except that the following commercial loans are not member business loans and are not counted toward the aggregate limit on a federally insured credit union's member business loans:

(1) Any loan in which a federal or state agency (or its political subdivision) fully insures repayment, fully guarantees repayment, or provides an advance commitment to purchase the loan in full; and

(2) Any non-member commercial loan or non-member participation interest in a commercial loan made by another lender, provided the federally insured credit union acquired the non-member loans and participation interests in compliance with all relevant laws and regulations and it is not, in conjunction with one or more other credit unions, trading member business loans to circumvent the aggregate limit.

(c) *Exceptions.* Any loan secured by a lien on a 1- to 4-family residential property that is not the borrower's primary residence, and any loan secured by a vehicle manufactured for household use that will be used for a commercial, corporate, or other business investment property or venture, or agricultural purpose, is not a commercial loan but it is a member business loan (if the outstanding aggregate net member business loan balance is greater than $50,000) and must be counted toward the aggregate limit on a federally insured credit union's member business loans.

(d) *Statutory exemptions.* A federally insured credit union that has a low-income designation, or participates in the Community Development Financial Institutions program, or was chartered for the purpose of making member business loans, or which as of the date of enactment of the Credit Union Membership Access Act of 1998 had a history of primarily making commercial loans, is exempt from compliance with the aggregate member business loan limits in this section.

(e) *Method of calculation for net member business loan balance.* For the purposes of NCUA form 5300 reporting, a federally insured credit union's net member business loan balance is determined by calculating the outstanding loan balance plus any unfunded commitments, reduced by any portion of the loan that is secured by shares in the credit union, or by shares or deposits in other financial institutions, or by a lien on the member's primary residence, or insured or guaranteed by any agency of the federal government, a state or any political subdivision of such state, or subject to an advance commitment to purchase by any agency of the federal government, a state or any political subdivision of such state, or sold as a participation interest without recourse and qualifying for true sales accounting under generally accepted accounting principles.

§ 723.9 Transitional provisions.

This section governs circumstances in which, as of the effective date of this part, a federally insured credit union is operating in accordance with an approved waiver from NCUA or is subject to any enforcement constraint relative to its commercial lending activities.

(a) *Waivers.* Upon the effective date of this part, any waiver approved by NCUA concerning a federally insured credit union's commercial lending activity is rendered moot except for waivers granted for borrowing relationships limits as required in section 723.8 of the previous rule or similar provision in a grandfathered state rule. Borrowing relationships granted a waiver from that provision will be grandfathered however the debt associated with those relationships may not be increased

(b) *Enforcement Constraints.* Limitations or other conditions imposed on a federally insured credit union in any written directive from NCUA, including but not limited to items specified in any Document of Resolution, any published or unpublished Letter of Understanding and Agreement, Regional Director Letter, Preliminary Warning Letter, or formal enforcement action, are unaffected by the adoption of this part. Included within this paragraph are any constraints or conditions embedded within any waiver issued by NCUA. As of the effective date of this part, all such

limitations or other conditions remain in place until such time as they are modified by NCUA.

PART 741—REQUIREMENTS FOR INSURANCE

■ 5. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766(a), 1781–1790, and 1790d; 31 U.S.C. 3717.

Subpart B—[Amended]

■ 6. Amend § 741.203 by revising paragraph (a) to read as follows:

§ 741.203 Minimum loan policy requirements.

* * * * *

(a) Adhere to the requirements stated in part 723 of this chapter concerning commercial lending and member business loans, § 701.21(c)(8) of this chapter concerning prohibited fees, and § 701.21(d)(5) of this chapter concerning non-preferential loans; and

* * * * *

[FR Doc. 2015–15466 Filed 6–30–15; 8:45 am]

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Wednesday, July 1, 2015

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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**.

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When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Date of FR publication	15 days after publication	21 days after publication	30 days after publication	35 days after publication	45 days after publication	60 days after publication	90 days after publication
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July 2	Jul 17	Jul 23	Aug 3	Aug 6	Aug 17	Aug 31	Sep 30
July 6	Jul 21	Jul 27	Aug 5	Aug 10	Aug 20	Sep 4	Oct 5
July 7	Jul 22	Jul 28	Aug 6	Aug 11	Aug 21	Sep 8	Oct 5
July 8	Jul 23	Jul 29	Aug 7	Aug 12	Aug 24	Sep 8	Oct 6
July 9	Jul 24	Jul 30	Aug 10	Aug 13	Aug 24	Sep 8	Oct 7
July 10	Jul 27	Jul 31	Aug 10	Aug 14	Aug 24	Sep 8	Oct 8
July 13	Jul 28	Aug 3	Aug 12	Aug 17	Aug 27	Sep 11	Oct 13
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July 21	Aug 5	Aug 11	Aug 20	Aug 25	Sep 4	Sep 21	Oct 19
July 22	Aug 6	Aug 12	Aug 21	Aug 26	Sep 8	Sep 21	Oct 20
July 23	Aug 7	Aug 13	Aug 24	Aug 27	Sep 8	Sep 21	Oct 21
July 24	Aug 10	Aug 14	Aug 24	Aug 28	Sep 8	Sep 22	Oct 22
July 27	Aug 11	Aug 17	Aug 26	Aug 31	Sep 10	Sep 25	Oct 26
July 28	Aug 12	Aug 18	Aug 27	Sep 1	Sep 11	Sep 28	Oct 26
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July 30	Aug 14	Aug 20	Aug 31	Sep 3	Sep 14	Sep 28	Oct 28
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